



Technical Assistance for
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Needs Assessment

Report

Kosovo



Updated 2016

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2016 CSO Needs Assessment Report

Kosovo

May 2016

Table of contents

List of Abbreviations.....	4
Summary	6
Introduction.....	8
1. Legal Framework	10
1.1. The Constitution.....	10
1.2. Law on Freedom of Association in Nongovernmental Organizations (the NGO Law).....	11
1.3. Law on Prevention of Money Laundry and Financing of Terrorism.....	12
1.4. Law on Access to Public Documents.....	13
1.5. Regulation on the Public Communication Service of the Government	14
1.6. Law on Local Self Government.....	14
1.7. Law on Legislative Initiatives	15
1.8. Rules of Procedure of the Assembly of the Republic of Kosovo.....	16
1.9. Rules of Procedure of the Government of the Republic of Kosovo.....	16
1.10. Regulation on the Minimum Standards for public consultation process	17
1.11. The Law on Public Gatherings.....	17
2. Cooperation between civil society and institutions, mechanisms, will and capacities ..	19
2.1. <i>The Presidency and Civil Society</i>	19
<i>Advocacy</i>	19
<i>Partnerships</i>	21
<i>Conclusions:</i>	22
2.2. <i>The Assembly and Civil Society</i>	22
<i>Conclusions:</i>	24
2.3 <i>The Government and Civil Society</i>	25
<i>Conclusions:</i>	29
2.4. <i>Local Governments and Civil Society</i>	29
<i>Conclusions:</i>	31

3. Civil Society Organizational Capacities.....	32
<i>Internal governance:</i>	32
<i>Profiling and Networking:</i>	33
<i>Kosovo Local Advisory Group (LAG)</i>	34
<i>CiviKos Platform</i>	34
<i>Constituency building and Visibility:</i>	35
<i>Visibility:</i>	35
<i>Perception of importance and impact of CSO activities:</i>	36
4. Financial sources and donations for civil society.....	37
<i>External assistance to civil society in Kosovo</i>	38
<i>Conclusion</i>	41
Recommendations.....	42
<i>Legislation:</i>	42
<i>Cooperation Mechanisms:</i>	42
<i>Institutional Bodies:</i>	43
<i>Civil Society capacities:</i>	43

List of Abbreviations

AMP - Aid Management Platform

BTD - Balkan Trust for Democracy

CSF - Civil Society Facility

CSOs - Civil Society Organisation

DANIDA - Danish Development Cooperation Agency

DSP - Democratic Society Promotion

EC – European Commission

EIDHR - European Instrument for Democracy and Human Rights

FINIDA - Finish Development Cooperation Agency

FIU-K – Financial Intelligence Unit of Kosovo

FLC - Fund for Local Cooperation

KFOS - Kosovo Foundation for Open Society

LAG – Local Advisory Group

NAR - Needs Assessment Report

NFCSD - Norwegian Fund for Civil Society Development

NGO – Nongovernmental Organisation

NGOD - NGO Department

NORAD - Norwegian Agency for Development Cooperation

MPs – Members of Parliament

OGG OPM - The Office of Good Governance of the Office of Prime Minister

OPM – Office of the Prime Minister

OSCE – Organisation for Security and Cooperation in Europe

PBS - Public Benefit Status

SAEK - Support to Anti-corruption Efforts project in Kosovo

SDC - Swiss Development Cooperation



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Sida - Swedish International Development Cooperation Agency

SME – Small and Medium Enterprises

VAT - Value Added Tax

Summary

This Needs Assessment Report (NAR) treats civil society in Kosovo in the perspective of a key element in building a democratic state and important contributor to Kosovo's aspirations of becoming a member of the European Union. Despite Kosovo being still at the initial stages of this process, Kosovar civil society seeks to reach best European standards not only in its internal governance, but also in its relations with public institutions.

Through elaborating relations between civil society and public institutions, its constituencies and general public, NAR intends to reveal and analyze challenges of the Civil Society Organisations (CSOs) in advancing their capacities and their role in the society and policymaking processes in the country, as well as in transparency and accountability of the institutions.

Not much has changed since 2014 in most of the elements covered in this report. All levels of governance have committed declaratively to cooperate with civil society. However, translation of these commitments into concrete results has faced significant challenges. The initiatives of civil society from 2012-2013 to ask for use of President's constitutional powers in support of their advocacy causes have faced a systematic silence and resulted in a significant decrease of similar initiatives ever since. The recently elected President still needs to demonstrate his approach towards civil society. Some positive steps have been noted at the level of Government, mainly within the scope of the Government Strategy for Cooperation with Civil Society 2013-2017. The main developments in this framework have been the establishment and functioning of joint bodies between both sectors. While a couple of legal acts or policy documents have been adopted or initiated, still the majority of the planned activities are either at a very early stage or not initiated at all. This leaves the Government with less than two years to complete its ambitious commitments to advance the legal framework and practices of cooperation with civil society. Little changes have been present at the local level, as ad-hoc cooperation remains the main form of cooperation between municipalities and civil society. Few examples of sectoral cooperation do not change the overall impression of closed governance across Kosovo municipalities.

In the course of years, the European Commission Progress Reports for Kosovo has acknowledged some advancement concerning this cooperation. From what was identified in 2008 as a lack of effective civil society participation and a weak civil society, the course developed through identifying the flaws and the needs, to a situation in 2015, where some progress was made in improving cooperation between the government and civil society. However, this report recognized the lack of systematic involvement of civil society in decision-making, as well as low level of implementation of Government commitments towards this sector. Civil Society needs to tackle issues within the sector as well.

A section of this NAR also discusses CSOs internal governance; profiling (expertise) and networking; constituency building and visibility. It is evident that there are visible differences between declarations from CSOs on their own organizations and internal and external perceptions for the sector as a whole. While the first appears quite positive, the latter remains relatively negative. As a result, civil society needs to push for more advancement in internal governance, as well as better communicating its work to the general public.

While the level of networking among Kosovar CSOs remains far from being satisfactory, there are a couple of good examples which demonstrate that by joint work more achievements are possible. The lack of exact data on civil society sources of funding remains a problem. Nevertheless, foreign donors followed by state funding remain the main sources of funding for



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the largest part of the sector. Despite some positive examples, foreign donors need to do more on reaching out to smaller and local CSOs.

All of the above is also part of the “EU Guidelines for Support to Civil Society in Enlargement Countries 2014-2020”, which aims for a conducive environment for development of civil society and skilled CSOs to play their role in the development of the society. It is very positive that Kosovar civil society representatives, by participating, in parallel in development of both national and EU level strategic documents, have achieved alignment most of the objectives at both levels. By implementing the activities of the Government Strategy for Cooperation with Civil Society, there will be a direct contribution to achieving the benchmarks set within the EU Guidelines. At the other side, by pressuring for achievement of the EU Guidelines benchmarks, it will result in increased motivation and mobilization in implementing the national strategy.

Issues raised above are discussed and analyzed below in the Civil Society Needs Assessment Report for Kosovo.

Introduction

The aim of this analysis is to review the needs assessment conducted in Kosovo in 2013 and to update it according to TACS 2 methodology used for Need Assessment Report (NAR). The analysis was undertaken by TACS Kosovo in partnership with TACS Resource Centre and provides insight into strengths and weaknesses of the civil society sector. It presents impacts of the civil society to date and the challenges it faces to its further development.

With the aim to contribute as much as it was possible to the indicators reflecting the ones in the Annex A - Monitoring and Evaluation and Proposed Results Framework of the “DG Enlargement Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020”, within the context of the civil society in Kosovo data of the same type from different sources were compared and discussed in order to serve as initial baseline and to encourage further researches.

Information provided are based on the desk research of relevant documentation including the most recent studies and analysis of different aspects of the environment civil society organisations (CSOs) operate in (such as TACS IPSOS Civil Society Report, 2016), legislative changes, policy documents, conference reports etc¹. In this way, all mentioned stakeholders, primarily CSOs contributed to the report through their active involvement in other country-wide processes by providing inputs, identifying the needs and presenting the statements on general overview of the state of civil society in Kosovo as well as prospects for possible improvements.

The study provides the premise for the majority of project activities by serving as the basis of the development of the national as well as regional work plans to be implemented during the project’s duration.

In line with the project’s Terms of Reference and SIPU’s technical proposal, as well as with the previous needs assessment report prepared for period 2013-2015, the report understands civil society in the following two complementary ways:

1. All organisational structures whose members have objectives and responsibilities that are of general interest and who also act as mediators between the public authorities and citizens. This definition clearly emphasises the associational character of civil society, while also accentuating its representational role. Civil society would include a variety of organisational types, including NGOs, mass movements, cooperatives, professional associations, cultural and religious groups, trades unions and grassroots community groups (CBOs), etc.
2. A space for views, policies and action supportive of alternatives to those promoted by government and the private sector. This definition places the emphasis on social inclusion, social and political pluralism and the rights of expression in developing a participatory democracy.

¹ The list of studies, conference reports, analysis and research documents is presented in the [Bibliography](#) of the Report.

The report is composed of four sections:

- Section one provides an analysis of the civil society environment, including the legal framework governing CSOs and their work; the current donor opportunities and other sources of civil society funding; the government mechanisms for cooperation with civil society and support of civil society; the policy framework determining government-civil society relations and public perceptions and support for civil society and its activities.
- Section two gives an overview of the main features of civil society: the types of organisations represented and their key organisational characteristics, the types of activity they carry out and their main sector of interest, their geographical distribution and way they are structured within overall civil society architecture. CSOs are assessed according to their technical, organisational and institutional capacities, including human resources and technical skills, strategic strengths, analytical capabilities, external relations with other actors including other CSOs, government and the community, and material and financial stability and resilience.
- Section three summarises the main achievements of civil society to date, noting key milestone achievements and broader social impacts, and also identifies shortfalls in civil society performance in their intention to improve their strengths and further development.
- Section four sums up the most important institutional and organisational capacity needs of civil society in the country and identifies key strategic issues for the implementation of the project. By way of conclusion, recommendations are proposed for both the project's regional work plan and country-specific work plan.

Finally, the Needs Assessment Reports serves as a broader base for cross-referencing data included in the so called "Traffic Lights Reports" or "Monitoring Reports of the Guidelines for EU support to civil society, 2014-2020" for 2016 progress reporting.

1. Legal Framework

The Freedom of Speech, Freedom of Assembly and Freedom of Association are constitutional rights in Kosovo. While the first lacks a specific legal framework, the last two are regulated by specific legislation. Generally, the legal framework is considered to be in line with international standards, despite isolated provisions on Freedom of Association which are considered restrictive for the civil society sector. The implementation is moderate, while the capacities of responsible institutions for their implementation remain a challenge.

The legal framework that supports the financial viability of civil society is either missing or is ambiguous, in particular in the area of public funding for CSOs and tax and fiscal benefits for CSOs and their donors. Despite some progress in setting a general policy on public funding for CSOs, there is still work to be done in translating the general policy decisions into specific regulations and implementation mechanisms.

Participation of citizens in the work of the public institutions is a constitutional right. In terms of regulatory framework, civil society inclusion in decision-making at the level of the government has seen some progress, in particular through adoption of the Regulation on Minimum Standards on Public Consultation Process. However, implementation of the existing legal requirements remains a challenge, both at central and local level.

Below is a list and brief overview of the legislation relevant to civil society in Kosovo :

Constitution of the Republic of Kosovo

Law on Freedom of Association in Non-Governmental Organizations and its secondary legislation

Law on Prevention of Money Laundry and Financing of Terrorism

Law on Access to Public Documents and its secondary legislation

Regulation on the Public Communication Service of the Government

Law on Local Self Government and its secondary legislation

Law on Legislative Initiatives

Rules of Procedure of the Assembly of the Republic of Kosovo

Rules of Procedures of the Government of the Republic of Kosovo

Regulation on Minimum Standards on Public Consultation Process

Law on Public Gatherings

1.1. The Constitution

Despite the amendments of the Constitution of the Republic of Kosovo twice in 2015 and 2016, no changes have been made with regards to the fundamental freedoms. Under Chapter II, on the Fundamental Rights and Freedoms, the Constitution of the Republic of Kosovo guarantees the

freedom of speech,² freedom of association³ and freedom of gathering.⁴ The Constitution guarantees the right to express oneself, to disseminate and receive information, opinions and other messages without impediment – it can be restricted only if necessary to prevent violence or racial, ethnic or religious hate. It provides the right to establish an organization without obtaining any permission, and is subject to above similar restrictions. It also grants everyone the right to organize gatherings, protests and demonstrations and the right to participate in them. Moreover, the second Chapter of the Constitution guarantees the right of access to public documents⁵ that are considered public except those that are limited by law due to privacy, business trade secrets or security classification.

The Constitution requires that the Assembly and Government define rules of procedure, while it specifically guarantees the right of citizens for legislative initiatives.⁶ At the local level, it obliges active participation of all citizens in the decision-making process of the municipal bodies.⁷

There are a number of laws and by-laws that cover these areas in more detail and they will be dealt with further in this report.

1.2. Law on Freedom of Association in Nongovernmental Organizations (the NGO Law)

The Law on Freedom of Association in NGOs did not change since 2011, while a new by-law deriving from this law was adopted in 2014. This Law sets out the establishment, registration, internal management, activity, dissolution and removal from the register of legal persons organized as NGOs in Kosovo. It does not apply to political parties, trade unions and unions' organizations as well as religion centres or temples and other fields regulated with special laws.

The notion of "NGO", according to this Law, includes associations and foundations. An association is a membership organization, whereas a foundation is an organization without membership, established to manage properties and assets.⁸ The registration deadline is 60 days, while there are no costs for registering an NGO.⁹ While the NGO Department officials claim that there are no complaints or dissatisfaction on the registration process,¹⁰ there are reports of longer period of registration procedure or restrictive interpretations from the NGO Department at the Ministry of Public Administration on the Statutes of the NGOs.¹¹

The law defines the minimal requirements for internal organization of the NGOs,¹² it allows them to engage in economic activities and other fundraising activities,¹³ while it prohibits them to engage in elections or fund or support political parties and candidates.¹⁴

2 Constitution of the Republic of Kosovo, Article 40 - <http://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=1&InstID=1&CatID=1>

3 Constitution of the Republic of Kosovo, Article 44 - <http://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=1&InstID=1&CatID=1>

4 Constitution of the Republic of Kosovo, Article 43 - <http://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=1&InstID=1&CatID=1>

5 Constitution of the Republic of Kosovo, Article 41 - <http://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=1&InstID=1&CatID=1>

6 Constitution of the Republic of Kosovo, Article 79 - <http://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=1&InstID=1&CatID=1>

7 Constitution of the Republic of Kosovo, Article 124 - <http://gzk.rks-gov.net/ActsByCategoryInst.aspx?Index=1&InstID=1&CatID=1>

8 Law on freedom of association in non-governmental organisations, Article 5 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

9 Law on freedom of association in non-governmental organisations, Article 9 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

10 Kosovo In depth interview report for TACS0 NAR 2016

11 Legal assessment and implementation report on the Kosovar Law on Freedom of Association in NGOs, KCSF & ECNL 2015

12 Law on freedom of association in non-governmental organisations, Chapter III - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

NGOs registered under this law may apply for Public Benefit Status (PBS),¹⁵ at the moment of their registration or later during their operation, which entitles them to **tax and fiscal benefits**. However, as these benefits are left to be set with the respective tax and fiscal legislation, the entitlements of the NGO Law are very general. The Government failed to draft a secondary legislation on the PBS that was required to be drafted nine months after entry into force of the law (2011).

The NGO Law also includes general provisions on the cooperation and relations between the NGOs and public institutions. It requires for non-interference of public institutions in the work of NGOs, as well as publishing all types of cooperation and support. Moreover, it is required that all public funds for NGOs shall be given based on predetermined criteria and made public.¹⁶ Ideally, these general provisions are the minimum requirements to be fulfilled by all other documents (laws, strategies and policies) which deal with the cooperation between the state and NGOs.

During 2014, a secondary legislation deriving from the NGO Law was adopted by the Government and detailed the rules for registration and operation of the NGOs.¹⁷ While the process of its drafting was inclusive and CSOs provided significant contribution, an article on suspension of NGOs was introduced after the drafting process was officially closed. CSOs, including those directly involved in the drafting process, were informed only after its adoption and publication. Concretely, Article 18 of the Administrative Instruction GRK – No:02/2014 on Registration and Functioning of NGOs allows the department for registration and liaison with NGOs at the the Ministry of Public Administration to suspend the operation of an NGO, upon a written request and justification of an authorized security institution. The maximum duration of the suspension is one year, and its justification can be based in cases where NGO activities are alleged not to coincide with the legal and constitutional order of the Republic of Kosovo and international law. This article allows for unwarranted state interference in the internal governance and activities of CSOs. In practice, this interference was reported immediately after the adoption of the Administrative Instruction GRK – No:02/2014 on Registration and Functioning of NGOs. Based on this, 14 NGOs have been suspended in September 2014.¹⁸ Similarly, 13 NGOs have also been suspended in October 2015.¹⁹

A Concept Document on the NGO Law was initiated by the Ministry of Public Administration in the second part of 2015 and is expected to be adopted by the first part of 2016. If adopted, this may open the way for an amendment process of this law.

1.3. Law on Prevention of Money Laundry and Financing of Terrorism

In 2010, a new law on prevention of the money laundry and financing of terrorism was adopted,²⁰ some minor provisions were amended in 2013.²¹ NGOs are the only sector which shall require prior authorization from FIU-K to receive funds above 1,000 EUR from a single sender or pay more

13 Law on freedom of association in non-governmental organisations, Article 16 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

14 Law on freedom of association in non-governmental organisations, Article 15 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

15 Law on freedom of association in non-governmental organisations, Chapter IV - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

16 Law on freedom of association in non-governmental organisations, Article 22 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

17 Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10287>

18 Monitoring Matrix on Enabling Environment for Civil Society Development, Kosovo Country Report 2014, KCSF 2015 – pg. 14 - <http://goo.gl/eERP6K>

19 Traffic Lights Report 2016 for Kosovo,

20 Law on Prevention of Money Laundry and Financing of Terrorism - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2715>

21 Law on Amendment of the Law on Prevention of Money Laundry and Financing of Terrorism - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=8652>

than 5,000 EUR to a single recipient within the same day. To make or receive payments that exceed the amounts specified above, the NGO shall require from the Financial Intelligence Unit of Kosovo (FIU-K) a one-time or recurring exemption from these obligations. Written request submitted by NGOs to the FIU-K should stress the required type of exemption and the reasons for this exemption, while FIU-K must respond to this request within thirty (30) days. FIU-K answers can be: 1) granted 2) conditionally granted or 3) or denied exemption. However, the entire process of request and response is not associated with the criteria that should be considered by FIU-K when taking a decision. This creates a base for different interpretation or arbitrary decisions. These requirements are burdensome for CSOs as they create problems for receiving funds from donors or paying funds from local grant makers to their grantees. Moreover, the sanctions for breaching of these limitations are problematic in three aspects: first, breaching the set limitations is considered a criminal act and is sanctioned with imprisonment, in addition to high monetary fines; second, they are not proportional to the extent of the breach, as they allow even the dissolution of NGOs; third, they give to the NGO Registration and Liaison Office the authority to dissolve the NGO, which is not in line with the provisions of the Law on Freedom of Association in NGOs. The implementation of this law is limited and most of the CSOs are not aware of these obligations.²²

During 2015, the Ministry of Finance and Financial Intelligence Unit have initiated the amendment of this law, including the provisions on the NGOs. Civil society was active in requiring removal of restrictive provisions for NGOs, and the draft adopted by the Government in April 2016 has removed most of them. However, some of them still remain and are a cause of concern for the sector.

1.4. Law on Access to Public Documents

No changes on the Law on Access to Public Documents have occurred since 2014. This law guarantees the right of every natural and legal person to have access, without discrimination on any grounds, following a prior application, to official documents maintained, drawn or received by the public institutions. Terms for the realization of the right for access to public documents, defined with this Law, may be continued at most a fortnight.²³

Public institutions are obliged to assign units or officers that will be responsible for receiving and processing applications for access to documents, as well as for preparing regular reports to the Prime Minister's Office, which is then responsible to draft and issue an overall report of public institutions on the exercise of the right of access to public documents.²⁴

The Government has adopted the Regulation on the public communication service that defines mechanisms for the execution of these provisions. Not much has changed in the period 2014-2016 with regards to its implementation. Numerous reports by different civil society organizations and media, show poor implementation of this law at all levels. The implementation does not always depend on procedural issues or technical staff, but rather on the political will of the ministers or mayors.²⁵ Another problem that CSOs and media face is the hesitation of institutions

22 Monitoring Matrix on Enabling Environment for Civil Society Development, Kosovo Country Report 2014, KCSF 2015 – pg. 15 - <http://goo.gl/fercSc>

23 Law on access to public documents, Article 7 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2724>

24 Law on access to public documents, Article 5 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2724>

25 Interview with Bekim Salihu, GAP Institute.

to share detailed financial and budgetary data.²⁶ In order to make ‘a tick in the box’ they just provide broad figures.²⁷

Article 27 of the Law on Access to Public Documents contains punitive provisions is not being applied. In the cases when applicants initiated procedures in the competent court, no measures were taken. GAP Institute sued the Ministry for Economic Development in the 2014, but the case has not been dealt since. Not addressing the cases for such a long times makes those cases prescribe, and this is considered to be one of the ways to avoiding punitive provisions.²⁸

On the other side, the annual reports on the implementation of this Law, issued on annual basis by the Office of the Prime Minister (OPM), show that the level of implementation is quite satisfactory. It also shows that the majority of the applicants are journalists, followed then by CSOs²⁹. According to the OPM Annual Report, currently the main problem regarding the implementation of the law remains the issuance of a decision in writing regarding the permission or refusal of access to a document requested.

The Administrative Instruction (MPA) 01/2015 on the web sites of public institutions, adopted in 2015, obliges publication of the draft normative acts for the purpose of public consultations. In practice, there are reports that few ministries fulfil this obligation and drafts are not published regularly.

1.5. Regulation on the Public Communication Service of the Government

This regulation derives from the Law on the Access to Public Documents and was not changed since its adoption in 2010. Its purpose is to establish and functionalize a coordinated system for communicating to the public the policies and activities of the public institutions. This regulation covers the functions of the public communication offices in the OPM; the Ministries; Agencies and Municipalities. They are all obliged to receive and process the requests for access to official documents and submit reports on the implementation of this law to OPM’s Office for Public Communication.

This Office is responsible for preparing the comprehensive report that covers all public institutions. In its reports the Office has continuously raised as a problem the fact that the many independent agencies, as institutions founded by the Assembly, do not report on their requests for access to public documents. However, the situation seems to have improved recently, as only a few independent agencies and municipalities have not submitted their reports for 2015.³⁰

1.6. Law on Local Self Government

The Law on Local Self Government has not changed since its adoption in 2008, despite numerous initiatives for amendment during the last couple of years. This law establishes the legal basis for a sustainable local self-government system and sets mechanisms for citizen participation at local level governance. Every municipality is obliged to hold a public meeting at least twice a year, at

26 Interviews with Driton Selmanaj KDI, Bekim Salihu GAP and Besnik Krasniqi, senior journalist “Koha Ditore”

27 Interview with Besnik Krasniqi, senior journalist “Koha Ditore”

28 Interview with Bekim Salihu, researcher at GAP Institute.

29 Comprehensive report on the implementation of the right to access public documents by public institutions for 2015 - <http://goo.gl/9d21cg>

30 Comprehensive report on the implementation of the right to access public documents by public institutions for 2015, Pg.10 - <http://goo.gl/8RVKJf>

which any person or organization with an interest in the municipality, may participate.³¹ In addition, municipalities are obliged to inform its citizens of any important plans or programs of public interest, which shall be regulated by the Municipal Statute.³² A new Administrative Instruction on Municipal Transparency was adopted in the last days of 2015, requiring from Municipal Assemblies to adopt municipal regulation promoting the transparency, enhancing the public participation in the decision making and facilitating the public access to official documents of the municipalities. A similar requirement was applicable even before this by-law and despite some municipalities having adopted such regulations, the implementation was reported to be very vague.

The law contains a number of direct democracy mechanisms, such as the right of any person or organization to present a petition to the Municipal Assembly,³³ the right of the citizens to take initiatives to propose regulations³⁴ and to request that a regulation of the Municipal Assembly adopted by it, be submitted to a referendum by the citizens.³⁵ Moreover, according to the Law, the citizens of a municipality may take the initiative to remove a mayor from office.³⁶ Furthermore, under the Article on Consultative Committees, the Law requires for the Municipal Assembly to establish sectoral consultative committees, for the purpose of enabling citizen participation in the decision making process. It is foreseen that the committees include citizens and representatives of nongovernmental organizations as members.³⁷

Regulations on transparency and public communication have been adopted for the central and local level of governance, however the level of transparency remain low in Kosovo. Detailed analysis of all laws, by-laws, municipal acts and strategic documents as far as local government transparency is concerned, can be found in TACS Report: *Local Government – Civil Society Cooperation*, published in 2013. The cooperation between CSOs and local governments will be discussed in another section of this report.

1.7. Law on Legislative Initiatives

No changes on the Law on Legislative Initiatives have occurred since 2014. This Law establishes rules and procedures for legislative initiatives, which aside from the President, Members of the Parliament and the Government, can also be taken by at least ten thousand citizens with the right to vote.³⁸ The terms in the case of the latter are set in the Law, which at the time of drafting was one of the successful cases of cooperation and partnership between the government and civil society. For more than four years since it was adopted, only one legislative initiative from the citizens was formally adopted by the Assembly,³⁹ despite a number of other initiatives submitted from different NGOs and citizen initiatives.

31 Law on local self-government, Article 68 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

32 Ibid

33 Law on local self-government, Article 69 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

34 Law on local self-government, Article 70 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

35 Law on local self-government, Article 71 on - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

36 Law on local self-government, Article 72 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

37 Law on local self-government, Article 73 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

38 Law on legislative initiatives, Article 5 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2776>

39 The transcript of the Assembly Session of 30th of March 2016 - <http://goo.gl/dTWPRd> and the media reports on this initiative <http://koha.net/?id=27&l=105796>

1.8. Rules of Procedure of the Assembly of the Republic of Kosovo

The process of drafting new Rules of Procedure of the Assembly has been ongoing for many years now, but no formal step in its adoption have been made. The existing document defines the organization and functioning of the Assembly, its working bodies and the rights and duties of the Members of the Assembly.

It provides that sessions of the Assembly shall be public, unless otherwise decided,⁴⁰ and that committee meetings shall, in principle, be open to the public,⁴¹ except in cases where confidential security or commercial matters are discussed; important reports to the Assembly are prepared, or when it is considered otherwise.

The language used in this document as far as transparency is concerned is not mandatory: Committee is not obliged to invite civil society to attend its meetings, same as it is not obliged to hold public hearings. Committees **may** invite representatives of institutions and of civil society to attend its meetings in order to present evidence or produce important documents.⁴² Committees **may** hold public hearings by inviting experts, public organizations, representatives of interests groups and other persons.⁴³ The issue of the language of the Rules of Procedure, which was also raised in the previous Needs Assessment Report, is being discussed for many years now between the civil society and the Assembly, but with the absence of the developments in terms of the new Rules of Procedures, no progress has been made so far. This and other matters related to the Assembly and Civil Society relations will be discussed in another section of this Report.

1.9. Rules of Procedure of the Government of the Republic of Kosovo

The Rules of Procedure of the Government are applicable since 2011, without any change during this period. This document identifies the phases in which the government is obliged to consult the citizens when preparing a law, strategy, policy or other important documents. Internally, it envisages **prior consultation**, which means that before the government body submits a concept document, explanatory memorandum, draft law or sub-legal act and strategy, the body preparing the material is responsible for ensuring that all the highest institutional bodies and other relevant bodies which the Government is obligated to consult in accordance with the Constitution or whose work might be affected by the concerned proposal (draft law, sub-legal act or policy) have the opportunity to comment upon it.⁴⁴

Under **public consultation** this document requires that in relation to any proposal for which a concept document is required, the originating ministry shall publish the proposal for public comment and shall specifically seek the comments of any NGO that would be substantially affected by the proposal. In conducting this consultation, the originating body shall provide sufficient information in an understandable form to permit the public to understand the nature and consequences of the proposal. The originating body shall also publicly announce the beginning of the consultation exercise, and shall permit sufficient time for the public and NGOs to consider the recommendations and offer a response.⁴⁵ Based on this Article, a new Regulation on

40 Rules of procedure of the assembly of the Republic of Kosovo, Article 43 - <http://goo.gl/hb6io0>

41 Rules of procedure of the assembly of the Republic of Kosovo, Article 65 - <http://goo.gl/2EKsWW>

42 Rules of procedure of the assembly of the Republic of Kosovo, Article 65 - <http://goo.gl/2EKsWW>

43 Rules of procedure of the assembly of the Republic of Kosovo, Article 66 - <http://goo.gl/tnHp3j>

44 Rules of procedure of the government of the Republic of Kosovo, Article 7 - <http://goo.gl/JCTjW>

45 Rules of procedure of the government of the Republic of Kosovo, Article 32 - <http://goo.gl/yF67eO>

the Minimum Standards for public consultation process was adopted by the Government in the first week of May 2016. The relations between the Government and Civil Society will be elaborated in another section of this report.

1.10. Regulation on the Minimum Standards for public consultation process

Adopted by the Government, this regulation is based on a proposal by civil society⁴⁶ and drafted jointly within the framework of the Government Strategy for Cooperation with Civil Society. It is based on the existing legal framework, but sets detailed requirement of a public consultation process to be fulfilled by each legislative or policy proposal of the Government. It calls for involvement of all interested parties, including CSOs, and envisages different public consultation types since the agenda-setting phase. While it sets only the minimum requirements to be fulfilled, it also encourages the proposing authorities to go beyond in consulting with the general public and civil society. As it has just been adopted, no assessment on the level of its implementation can be made. Nevertheless, based on the Action Plan of the Government Strategy for Cooperation with Civil Society, a capacity building program is to be initiated for all civil servants in charge of drafting policies and legislation.

1.11. The Law on Public Gatherings

The Law 03/L-118 on Public Gatherings⁴⁷ guarantees all Kosovar citizens the right to organize and participate in public gatherings. This law requires for prior notification for public gatherings, except in those places where no additional security measures are required. When no response is provided by authorities in due time (48 hours prior to public gathering),⁴⁸ the public gathering can take place without any restriction. If any restrictions following the notification for public gatherings is noted, the organizers can appeal to court through a fast-track procedure. Counter-assemblies are not explicitly restricted, although specific provisions imply that if another protest is announced in a same or nearby location, this can serve as a ground for not issuing the permission for organizing a protest/public gathering.⁴⁹ In general, there were no reports from civil society activists and organizations on excessive use of force exercised by law enforcement bodies, including pre-emptive detentions during 2015. Nevertheless, in assemblies/protests organized by political parties such cases have been common during 2015 and 2016.⁵⁰

Voluntarism in Kosovo

During the last 20 years, CSOs in the Western Balkans have benefitted from external donor support. Gradually, these sources have to be replaced by more sustainable, domestic and diverse alternatives. Thus, new approaches need to be promoted. These include income-generation through service provision, membership fees, social entrepreneurship, co-operation with private sector, voluntarism, philanthropy, crowd-funding and similar measures.

Voluntarism is not a well-established phenomenon in Kosovo. At the moment, there is no law in Kosovo that regulates volunteering as an activity in general. The only legal act of relevance, the

46 Incomplete Chain - Policy Brief on Minimum Standards for Public Consultation, KCSF 2014 - <http://goo.gl/ZKTObl>

47 The Law on Public Gatherings - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2633>

48 The Law on Public Gatherings – Article 6 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2633>

49 Monitoring Matrix on Enabling Environment for Civil Society Development, Kosovo Country Report 2014, KCSF 2015 – pg. 18 - <http://goo.gl/1AGhDB>

50 Traffic Lights Report 2016 for Kosovo

Law on Strengthening and Participation of Youth, is limited to volunteers aged 15-24, while volunteering in general remains unregulated.

Measures have been taken to prepare the ground for legislation on volunteering. The government has established a working group also for this purpose. As an initial activity, the group has prepared a list of contacts and stakeholders involved in this area. In February 2015, it also decided to establish a cross-sectorial group for voluntarism. This group will lead the planned analysis and process for designing models of voluntarism in Kosovo. In May 2015, the Office for Good Governance organised an information session together with working group established by Government on models of volunteering. All major CSOs and other stakeholders dealing with voluntarism were invited to this event.

In parallel, the Ministry of Culture, Youth and Sport has started the process of amending the current administrative instruction dealing with voluntarism. The current administrative instruction established age limitations for of volunteer work. This limitation is not in line with the basic principles on which the government's Strategy rests. Awaiting new legislation, as a short-term measure the government is expected to establish a working group to review and improve the mentioned administrative instruction. CSOs that will participate in this endeavour have already been selected.

As a medium-term objective, a new legal framework on volunteering is expected to be developed and adopted. This is important since volunteering can give a substantive boost to civil society and is considered as one of the key contributors to CSO's financial viability.

Identification of the stakeholders and analyses of the profile of volunteering and code of ethics for volunteering are key issues to be addressed toward establishing a functional framework for stimulating voluntarism in Kosovo. The functional framework should be in line with European practices for supporting development of volunteering.

2. Cooperation between civil society and institutions, mechanisms, will and capacities

In the course of five years, European Commission (EC) Progress Reports for Kosovo have evidenced some advancement concerning the cooperation between institutions and civil society, and their development. From what was identified in 2008 as a lack of effective civil society participation and a weak civil society⁵¹, the course developed through identifying the flaws and the needs, to a situation in 2015, where some progress was made in improving cooperation between the government and civil society. The Progress Reports recognized the fact that the Government's Strategy for Cooperation with Civil Society was adopted, but it needs to be fully implemented and monitored effectively. Similarly, it required from the Assembly to implement standards for consultations with civil society. With regards to involvement of civil society in decision-making, it required that additional measures should be taken to ensure that civil society organizations are properly included in public consultations. Last but not least important, the 2015 EC Progress Report concluded that the public funding provided to civil society is non-transparent and unregulated, thus required from the government to set standards and criteria governing public funding for CSOs so as to instil transparency, accountability and credibility in the process.⁵²

The objective is to upgrade the cooperation from informing to partnership building. However, apart from drafting rules of procedure and strategies, civil society representatives discussed the need for changing the mindset within the institutions (political and administration staff) about the civil society – its role and importance. This cannot be achieved only by adopting formal documents that prove democracy oriented policies; it is rather a process that challenges and develops both sectors.

Elaboration of these relations reveals issues which both, institutions and civil society need to address in order to improve the cooperation, respectively the impact of civil society in policymaking, transparency and accountability.

This section of the Report deals with four segments of cooperation: the Presidency and Civil Society; the Parliament and Civil Society; the Government and Civil Society; Local Governments and Civil Society. Mechanisms, will and capacities are also discussed below.

2.1. The Presidency and Civil Society

There is a twofold opportunity for the civil society to interact with the President, regardless of the fact that the institution has a rather symbolic and representative role. It is through advocacy and partnership:

Advocacy

Citizens, civil society and any interested group have a possibility to address the President when their recommendations have not been taken into account during the procedure of drafting and adopting a law by the Government and/or the Assembly. Since 2012, there have been several

51 EC Progress Report 2008, page 9 and page 19 - <http://goo.gl/cMZ0e9>

52 Kosovo 2015 Report from the European Commission, page 7, 9 and 11 - <http://goo.gl/rfYEgP>

cases when civil society turned to President in their attempts to block laws from entering into force, in the form that were sent to the President for promulgation.

It is the Constitution of the Republic of Kosovo that provides the President with the right to return a law to the Assembly for changes, after it has been adopted and sent to the President for promulgation. Upon the return, the President should state the reasons, and may exercise this right only once per law within eight days of the receipt. It is then again the Assembly that decides about how to proceed with the law. If the President does not make any decision for the promulgation or return of a law within eight days from its receipt, such law shall be considered promulgated without her/his signature.⁵³

While the period of 2012 and 2013 was marked with higher numbers of such requests to the President, the last couple of years involved no such initiatives. It may be assumed that the low response rate from the President in the first years decreased the trust of the sector that the institution will positively respond to other potential initiatives from the civil society. Civil society addressed the President regarding four laws in 2012, providing their arguments for the breach of Constitution or collision with other laws. The President did not support the call of civil society to return the laws in the Assembly, in three cases: the Law on Historic Centre of Prizren, the Law on the Village of Hoçë e Madhe/Velika Hoca and the Law on Banks, Microfinance Institutions and Non-Bank Financial Institutions.

For the latter, the civil society organizations followed the very last procedure that the Constitution provides – that of requesting an interpretation of the Constitutional Court on the compatibility of the Law with the Constitution. Through the institution of the Ombudsperson, 58 CSOs initiated this procedure which eventually concluded in favor of the civil society, as decided by the Constitutional Court.⁵⁴ It found the provisions of the Law on Banks, Microfinance Institutions and Non-Bank Financial Institutions, that enabled the transformation of microfinance NGOs into joint stock companies, to be unconstitutional. The President did not sign the law but neither did she return it to the Assembly.

Two other laws, regardless of the huge civil society and citizen reaction and efforts, entered into the force. They derived from the Ahtisaari Plan, which was adopted by the Institutions as a package therefore its laws were treated as untouchable.

Though the President did not respond positively to the civil society in these three cases in 2012, she recognized the arguments of the group of journalists addressed to her through the Association of Professional Journalists, that the Criminal Code breached the media freedoms guaranteed by the Constitution. The Law was returned to the Assembly and it was amended. The mobilization of the community of journalists was absolute - as a group of interest and as media. The issue came to the point where considerable number of MPs and Government officials publicly started advocating the amendments, even before the President requested it. This case proves that for better results, civil society needs to find ways to attract and include media in all their advocacy campaigns.

In 2013, another big effort in which the civil society was engaged and addressed the President was the draft Law on Amnesty. A petition with 12,765 signatures of citizens was submitted by

⁵³ Constitution of the Republic of Kosovo, Article 80 - <http://goo.gl/Y1JU6L>

⁵⁴ The ruling of the Constitutional Court - <http://goo.gl/EKz7RF>

seven CSOs to the President. They expressed concerns regarding the version of the law approved by the Assembly and requested its return to parliamentary deliberations and amendment. The President did not support the request and signed the Law, which according to the government derived from the political agreement for the normalization of relations between **Kosovo** and Serbia. However, an opposition party that opposed the Law requested an interpretation from the Constitutional Court. It ruled that several parts of the legislation should be struck out,⁵⁵ which were more or less provisions that the civil society opposed as well.

These cases show that the President as an institution with a constitutional right to return Laws to the Assembly, does not provide safe ground for the civil society to have an impact in changing the Laws before they enter into the force. If the recommendations are not taken into account by the Government or the committees of the Assembly, the President's role remains symbolic, as well as the efforts of the civil society in this phase. With the new President elected in April 2016, no assessment on the advocacy efforts by the civil society can be done in such a short period of time.

Partnerships

The President established two national councils in 2012, with the aim to foster a broad consensus on the issues of national priority. Another national council was established in 2014. The civil society is represented in all of these councils. The National Council against Corruption,⁵⁶ the National Council on European Integration⁵⁷ and the National Council for the Survivors of Sexual Violence during War⁵⁸ are national bodies that include a broad range of stakeholders, such as the President, Government, Parliament, political parties, academia, civil society, business, media, etc.

The previous President of the Republic of Kosovo has expressed her commitment for sustainable partnership between institutions and civil society, by regularly meeting their representatives.⁵⁹

However, CSOs that are part of the National Council on European Integration say that there is more space for improvements, regardless of the fact that some of their recommendations were accepted. The number of civil society representatives was raised from three to five and the meetings were opened to the media, however the Council needs further improvements when it comes to being consistent in its work, reporting and monitoring.⁶⁰ An analytical report⁶¹ on the work of this Council, published one year after its establishment (2013), points out many flaws and brings recommendations for all the parties involved. The report recommends for the Council to "transform its political rhetoric about European integration into tangible reforms". Despite being charged as the institution responsible for uniting political forces to advance European integration, the Council has been divided, and its work has been non-transparent and ineffectual.⁶² The Presidency officials' approach is that they are open and willing to address all issues that civil society and other stakeholders raise,⁶³ in the efforts of both Councils to coordinate the building of

55 The ruling of the Constitutional Court - http://www.gik-ks.org/repository/docs/gikk_ko_108_13_ang.pdf

56 <http://www.president-ks.gov.net/?page=1,132>

57 <http://www.president-ks.gov.net/?page=1,138>

58 <http://www.president-ks.gov.net/?page=1,145>

59 Interview with President's Political Advisor for European Integration, Adrian Prenkaj

60 Interview with Valdete Idrizi, Executive Director of CiviKos

61 Complicit in Dysfunction – Analysis of the National Council for European Integration's performance in Kosovo", Page 6

62 "Complicit in Dysfunction – Analysis of the National Council for European Integration's performance in Kosovo", Page 6 - <http://goo.gl/g9WZ82>

63 Interview with President's Political Advisor for European Integration, Adrian Prenkaj

institutional and social consensus. However, from the recommendations of civil society, only those of technical nature have been addressed, while the strategic and political concerns raised by civil society still remain at the same level.

The new President is still to perform on these Councils, as none of them has held any meeting during the first month since the new President took the office.

Conclusions:

The previous President was open and willing to interact with civil society, mainly by involving her representatives in different national bodies led by the President. However her role was rather symbolic, in particular in responding to specific advocacy issues raised by civil society. As a result, civil society efforts in using of her constitutional rights have decreased significantly during the last two years. The new President is yet to perform any action with regards to cooperating with civil society.

2.2. The Assembly and Civil Society

When discussing the Assembly of Kosovo, it is important to note that the period 2014 to 2016 have been highly problematic years for the functioning of this institution, due to political crisis. Initially, following the Parliamentary Elections in June 2014, a serious political deadlock between parliamentary political parties disabled the functioning of the Assembly for the entire second part of 2014. Even before this, due to pre-election campaign the normal functioning of the Assembly was disrupted since spring 2014. With the coalition agreement of two biggest political parties in December 2014, the functioning of the Assembly resumed normally in January 2015. However, this lasted only for a semester, until the signature of two agreements between the Governments of Kosovo and Serbia, and respectively with the Government of Montenegro in August 2015. The opposition political parties strongly opposed these agreements by not allowing the meetings of the Assembly for a number of months, until spring 2016. It is only since April 2016 that the Assembly has resumed its operation, however with the absence of MPs from the opposition political parties, who are boycotting this institution. This deep political crisis has had its effects in all the segments of the work of the Assembly, including its cooperation with the civil society.

In general, the main field of engagement of the civil society in the Assembly's work is participating in the meetings of the parliamentary committees, where draft laws are discussed. Civil society, though, considers that it should also be engaged in the process of law implementation monitoring,⁶⁴ although this procedure is not being applied sufficiently even by the responsible Assembly committees.⁶⁵

Relations between the Assembly and civil society involve a range of issues that both sectors have identified for each other, while EC's Progress Report for 2015 states that the Assembly should implement standards for consultations with civil society.⁶⁶ Citizen participation in the legislative process is a principle that is formally and publicly embraced by the Assembly. However there are matters that need to settle in order to have an effective engagement.

64 Interview with Driton Selmanaj KDI

65 Monitoring report of the performance of the assembly of Kosovo, OSCE: "Assembly Committees oversaw implementation of only a third of those laws scheduled for oversight in the Assembly's 2012 work programme" - <http://www.osce.org/kosovo/104217>

66 EC Progress Report 2015, page 7 - <http://goo.gl/DN5430>

Currently, there are only few legal instruments of inclusion of civil society in the parliamentary procedures, while the general obligations for the transparency of public institutions apply also to the Assembly. The institutional cooperation between the Assembly and the civil society has been initiated in 2014, but few concrete results have been achieved since.

The civil society considers that the participation of CSOs in committees' meetings is done randomly. The non-mandatory language used in the Rules of Procedure of the Assembly when regulating the work of committees, reported in both previous Needs Assessment reports, remains the same: Committees **may** invite representatives of Civil Society to attend its meetings and committees **may** hold public hearings. CSOs have requested that these provisions change from "may" to "must".⁶⁷ At the other hand, the civil society request to access the meetings of the Presidency of Assembly⁶⁸ has been adopted by the new Speaker of the Assembly in the beginning of 2015. While for some months this decision was implemented in practice, civil society was refused the access to the Presidency meetings during the political crisis of the second part of 2015.

The outcomes of the TACSOS survey carried out in spring 2016, show that only 29.9% of CSOs have been consulted for a specific law (both at Government or Assembly level), and from those who were consulted only 21% declared that all or most of their comments have been taken into account. The majority of CSOs (52%) declared that only some of their comments were taken into account when participating in public consultation process. With regards to the feedback provided by public institutions on the submitted comments from CSOs, the same survey shows that only 9% of CSOs declared to have received detailed feedback, 49% of them declared that some feedback was provided, while 33% declare not to have received any feedback and results of the consultation were not published.

The Strategy for Information and Public Relations 2012-2014, the Assembly drafted in cooperation with OSCE served as basis for further improvement and the institutionalization of the CSOs inclusion in the work of the Assembly.⁶⁹ A joint strategic process between both sectors resulted in the Declaration for Partnership between the Assembly and the civil society, adopted in April 2014,⁷⁰ followed by an Action Plan which was drafted during 2015.

The civil society recognizes that the Assembly has advanced its level of cooperation, but stresses that this institution needs to set up a more organized system of information on the work of committees, not only on the schedule of the meetings and the draft laws the committees receive, but also on the follow up data and incentives for CSO participation. Since 2013, the Assembly has introduced the position of the Senior Officer for Donor Coordination and Relations with Civil Society. Nevertheless, the outreach of this position has been limited, similar to offices for cooperation with the civil society at government level. According to a survey conducted by TACSOS in spring 2016, only 27% of CSOs consider the structures and mechanisms for cooperation with civil society at central level as useful, while 35% of them are not familiar with such structures.⁷¹ According to civil society, the assembly needs to develop further and to promote its services,

67 Rules of procedure of the assembly of the Republic of Kosovo, Article 65 and 66 - <http://goo.gl/x0gGtV>

68 Interview with Driton Selmanaj KDI

69 Conclusive findings and recommendations of the twinning project "Support to the Assembly of Kosovo", page 31

70 http://www.kuvendikosoves.org/common/docs/Declaration_Assembly_Society.pdf

71 IPSOS Survey for TACSOS, 2016

including its database. It should engage in organizing discussions with CSOs and update them.⁷² CSOs are often not familiar with the work of the Assembly and the possibilities of cooperation, therefore training sessions on different topics are needed for registered CSOs.⁷³

Since 2014, the number of NGOs registered in the Assembly Database is still low,⁷⁴ while in December 2015 the Assembly organized the first ever conference dedicated to the cooperation with civil society.⁷⁵ However, despite this conference being dedicated to promotion of the partnership between them, the statements by the Speaker of the Assembly were considered by the civil society as provocative and against this partnership.⁷⁶ Furthermore, the tracking system that was supposed to include all phases of a law drafting is still not in place, although it was initiated long time ago.

In the previous report, the issue of CSO profiles was raised by the civil society officer of the Assembly, by saying that it is impossible for one CSO to cover the meetings of all 13 committees, because it happens that three to five meetings take place on the same day and at the same time.⁷⁷ Few developments have been present since 2014 in this regard. While CSOs registered in the Assembly database are required to select which particular committees they want to be engaged with, there are only a dozen of CSOs that are really active in the work of the committees.

However, it is not just technical and formal aspects that play a role in Civil Society's inclusion in legislative processes. The political will of the parties represented in the Assembly matters when it comes to more sensitive legislation. The Office for Cooperation with CSOs argues that comments and recommendations by the Civil Society are not always submitted in writing and in cases when they are, according to the Office they lack argumentation. But, the practice of not considering the arguments provided by CSOs as well as not providing any replies as to why is so, is evident. The Assembly replies rarely, and often the answers are negative. Much noise needs to be produced in order to get a response.⁷⁸ The lack of political will is illustrated also in the case of drafting the Action Plan for the Declaration of Partnership between the Assembly and the Civil Society. There were reports that during the entire process of drafting the Action Plan, the level of participation from the MPs in this process was extremely low, leaving CSOs as the sole carriers of this process.

The cases of the laws elaborated under the section "The President and the Civil Society" are still valid illustrations of civil society not being taken into account on issues which are considered to involve political or economic interest of different interest groups. Each of those laws have previously passed through the Assembly and the arguments from civil society were totally ignored by respective Parliamentary Committees.

Conclusions:

The Assembly initiated the first formal steps in upgrading its cooperation with the civil society in 2014, by adopting the Declaration for Partnership between the Assembly and the Civil Society, followed by an Action Plan for this Declaration. Nevertheless, despite some very slight

72 Interview with Driton Selmanaj KDI

73 Conclusive findings and recommendations of the twining project "Support to the Assembly of Kosovo", page 34

74 http://www.kuvendikosoves.org/?cid=2,1007&rtp=ojg_list

75 <http://www.kuvendikosoves.org/?cid=1,128,7506>

76 <http://koha.net/?id=&l=89518>

77 Interview with Shqipë Krasniqi, senior official for donor coordination and relations with Civil Society in the Assembly

78 Interview with Driton Selmanaj, KDI

improvements, the commitments expressed in this declaration are far from being fulfilled. The non-mandatory provisions on involvement of civil society in the work of the Parliamentary Committees continue to allow for many laws being passed without any inclusion from CSOs, while the civil society database of the Assembly produced little results in addressing this. The civil society believes that still there is insufficient political will for a proper cooperation between these sectors, while Assembly administration considers that CSOs should profile themselves and be more professional in their contributions to the Assembly. Nevertheless, the long political deadlocks of 2014 and 2015/2016 may have hindered the ongoing initiatives to structure the cooperation and deliver on the formal commitments made.

2.3 The Government and Civil Society

The Government Strategy for Cooperation with the Civil Society 2013-2017 is the main document setting the cooperation principles and measures between the two sectors. Few documents that have existed before the strategy contained some positive provisions on the involvement of the civil society, which are still not fully implemented. Other documents have been drafted or adopted recently, mostly within the scope of the Strategy. During the period 2014-2016, the cooperation between government and the civil society has been among the areas with the most engagement in policy making from both parties.

The Office of Good Governance of the Office of Prime Minister (OGG OPM) is the single government body responsible for developing the cooperation with civil society, while previously the NGO Registration and Liaison Department has reduced its mission by removing its “liaison” role and concentrating only at the registration part. Other institutions have no designated body or officer for cooperation with civil society, while a few bodies have also permanent civil society representatives.

According to the 2015 EC Progress Report “some progress was made in improving cooperation between the government and the civil society. However, input from the civil society needs to be systematically sought and followed up. The government’s Strategy for cooperation with the civil society needs to be fully implemented and monitored effectively. Additional measures should be taken to ensure that the civil society organizations are properly included in public consultations. Public funding for civil society organizations has to be provided in a transparent way using clearly defined criteria.”⁷⁹

Most of the above mentioned issues are addressed within the **Government Strategy for Cooperation with Civil Society 2013-2017**, which was approved on July 5, 2013.

The strategy envisages five years (2013-2017) objectives and focuses on:

- **Strategic objective 1:** *Ensure strong participation of the civil society in drafting and implementation of policies and legislation,*
- **Strategic objective 2:** *Building a system of contracting public services from CSOs,*
- **Strategic objective 3:** *Building a system and define criteria to support CSOs financially,*
- **Strategic objective 4:** *Promoting an integrated approach to development of volunteering.*

⁷⁹ EC Progress Report 2015, page 9 - <http://goo.gl/cDJnG7>

Only after more than a year, in late 2014, the first bodies for Strategy implementation were established, while first concrete activities started to be implemented only during 2015. The Council for Implementation of the Strategy held its first meeting in October 2014 and meets on quarterly basis ever since. It is composed of 29 members, 15 of whom are representatives of the civil society elected through the open call. The selection process is managed by the Civikos Platform, whose representative is a co-chair of the Council together with the General Secretary of the Office of Prime Minister. Based on the Rules of Procedures of the Council, four thematic working groups have been established for each of the Strategic Priorities, with three of them being coordinated by civil society representatives. The OGG OPM serves as a Secretariat to the Council, responsible for overall coordination of the implementation of the Strategy, as well as its monitoring and reporting. A detailed Action Plan for 2015 was drafted and adopted in the beginning of the year, setting clear guidelines for all responsible institutions on the activities and results to be achieved. A monitoring system was established by the end of 2015 and was applied for creation of the first annual report about Strategy implementation.⁸⁰ According to this report, only 40.3% of the planned activities were implemented during 2015. Taking into consideration that originally most of these activities were planned to be completed during 2013 or 2014, this level of implementation may be considered problematic for achieving a positive rate by 2017, when the Strategy will expire. According to the Annual Report, the main challenges faced during this period were the lack of responsibility by respective institutions for implementation of activities and reporting, lack of timely allocation of the required budget for the planned activities, low rate of participation of both civil servants and civil society representatives in the work of the Council and its working groups, as well as insufficient staff for the OGG OPM in its role of the Secretariat of the Council. Similar concerns have been raised also by the civil society, which also reports that even in cases when civil servants participated in different meetings, only a few of them provided any qualitative contribution. While similar concerns are also with regards to participation of civil society representatives, it has been civil society who has proposed and contributed the most to the majority of the implemented activities.

With regards to the Strategic Objectives, there has been a difference in the level of implementation and quality of implemented activities. Two of them have seen some progress also in terms of drafted and/or approved documents (see below for Public Consultation and Public Funding for CSOs). Service provision by CSOs has faced numerous problems with both quality of contribution and leadership, while volunteering has been very active in meetings held, but with few concrete results achieved.

The Strategic Objective 1 on **public consultation** has been on the focus of both government and civil society, in particular with regards to the documents regulating this area. The Regulation on Minimum Standards on Public Consultation Process has been adopted in April 2016 and its standards will be applicable as of January 2017 (see Section 1.10 above for details of the Regulation). A series of trainings for civil servants and CSOs is planned to be done during 2016 and onwards, while a monitoring and reporting system is also part of this strategic objective.

Until its implementation, there are numerous challenges faced in involving civil society in drafting of laws and policies by the Government. Among the main challenges identified by a study specifically in this area are the lack of standardized approach by different government units, late consultations, limited methods on public consultations, limited scope of documents undergoing

⁸⁰ Annual Report for the implementation of the Government Strategy for cooperation with civil society for 2015 - <http://goo.gl/duKC78>

public consultations, lack of feedback on public consultations results and lack of selection mechanisms for CSO representatives.⁸¹ All of the above are true in cases when some public consultations are held. Even more challenging is the total lack of public consultations for numerous laws, policies and strategies. From 80 draft-laws adopted by the Government during 2015, only 21 of them have been sent for public consultations through the CiviKos Platform.⁸²

According to the TACS survey conducted in spring 2016, only 32% of surveyed CSOs declared to have participated in the development of national and local strategies, strategic documents and other similar documents. Out of these, slightly more than half (55%) consider to have had enough time to comment. Only 2% of CSOs that have taken part in public consultation processes consider that all their suggestions/comments were considered, and 19% consider that most of their suggestions were considered. More than half of CSOs (52%) consider that only some of their suggestions have been considered, while 8% declare that none of their suggestion has been considered. Only 9% of CSOs that have taken part in public consultation processes consider that public administration provided detailed enough feedback, and consultation results were easily available to all parties, with almost half of CSOs (49%) considering that there was some feedback and 33% considering that there was no feedback at all. More positive results are only in the area of adequate access to information, with around 2/3 of the CSOs that have taken part in public consultation processes considering to have had adequate access to information.⁸³

As elaborated in the previous TACS Needs Assessment Report, **the public funding for CSOs** was one of the least regulated areas with regards to cooperation between the Government and the civil society. The Kosovar Civil Society Index from 2013 suggested that the public funds for CSOs are significantly present,⁸⁴ but distributed without any defined criteria and transparency. Similar situation is reported also for the following years.⁸⁵ According to the TACS Survey conducted in spring 2016, around 40% of surveyed CSOs declared to have received funds from local level during 2015, with similar results being true also for central government funds.⁸⁶

The predetermined criteria and transparency of public funding for CSOs are required by the Law on Freedom of Association in NGOs⁸⁷ and are supposed to be the general principles to be applied by all state institutions providing any support to CSOs. This has been the only specific provision in any primary legislation with regards to this area, while a few ministries have lately drafted specific administrative instructions to serve as a legal basis for the funds they provide to particular CSOs. According to an experts report commissioned by TACS in 2015, these administrative instructions have numerous problems and cannot be considered as a proper legal basis for public funding to CSOs. Concretely, most of them refers to public grants to NGOs as 'subsidies', they lack a definition as to what is deemed as a programme or project, they lack any harmonized criteria for distribution of funds, some of them do not provide the mandatory content of the agreement, and finally do not suggest that public calls are the only way to distribute any funds to CSOs. Furthermore, the rules governing the evaluation of applications are scarce and vary to certain

81 Incomplete Chain - Policy Brief on Minimum Standards for Public Consultation, pg.13 KCSF 2014 - <http://goo.gl/Nm60AL>

82 Report on Public Consultation with CiviKos member organizations for 2015, <http://goo.gl/FnFKRX>

83 IPSOS Survey for TACS, 2016

84 Kosovar Civil Society Index, KCSF, 2013

85 Monitoring Matrix on Enabling Environment for Civil Society Development, Kosovo Country Report 2014, KCSF 2015 – <http://goo.gl/OPGYPg>

86 IPSOS Survey for TACS, 2016

87 Law on freedom of association in non-governmental organisations, Article 22 - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

extent, while none of the regulations provides a comprehensive framework to govern the whole cycle of public funding for CSOs (planning, distribution, monitoring, reporting and evaluation).⁸⁸

In order to address the above, and within the Strategic Objective 3, the working group for this objective worked throughout 2015 and came out with a model on public funding for CSOs in Kosovo. The mixed model agreed by the group, the ultimate responsibility for setting out and execution of funding for CSOs lies with line ministries, but they have to abide certain rules and criteria which are unique for the each of them. Being the first policy orientation on this area, this model will serve as a basis for drafting specific regulation which will govern the entire public funding for CSOs at government level. According to the Annual Plan for 2016 of the Strategy for Cooperation with the Civil Society 2013-2017,⁸⁹ the Ministry of Finance is mandated to draft and adopt the necessary regulations to operationalize this model.

With regards to the **tax benefits for CSO donors**, there have been very few changes during the last two years. The main improvement has been noted in the new law on corporate income, adopted in September 2015, which doubled the tax exemption for corporate donors to a number of public benefit activities. Concretely, the Law 05/L-029 on Corporate Income Tax provides tax deductions for corporate donations of 10% of their taxable income, if those donations are for humanitarian, health, educational, religious, scientific, cultural, environment protection or sports purposes.⁹⁰ If determined with other laws, this tax relief can increase up to 20%. However, while the Law on Freedom of Association in NGOs allows for tax and fiscal benefits for Public Benefit Organizations, such benefits are ambiguous in the tax legislation and are not harmonized with the Public Benefit chapter of the Law on Freedom of Association in NGOs. Similar provisions are also in the new Law on Personal Income Tax.⁹¹ However, there are no data from the Tax Administration on the amount of funds or number of corporate or individual donations based on these provisions. The studies suggest that these tax exemptions are not a reason why a private company or individual would donate to a public benefit activity of a CSO.⁹²

No changes have occurred also with regards to **financial reporting of CSOs**. According to the Law 03/L-222 on Tax Administration and Procedures,⁹³ tax reporting rules for CSOs are identical to businesses. Financial reporting regulated through the Law 04/L-014 on Accounting, Financial Reporting and Audit⁹⁴ does not specifically address CSOs, although in practice same standards are applied also by CSOs. The results of the TACS Survey conducted in spring 2016 suggest that almost half (49%) of the CSOs consider the financial rules as mainly or completely simple to implement, while almost the same percentage applies to the opposite assessment. This survey also suggests that slightly more than half (56%) of CSOs consider the financial rules, including bookkeeping and accounting rules, as mainly reasonable (49%) or completely reasonable (7%). However, with exception of the obligation for independent audit for Public Benefit Organizations exceeding 100,000 EUR of annual turnover, most of the provisions of the tax reporting rules are not scaled according to the turnover or size of the CSOs. With regards to the support system and tax officers, the same survey suggest that 58% of CSOs consider that support system provides

88 Legal and institutional framework for public grants distribution to NGOs in Kosovo: A proposal for reforms

89 The Annual Plan 2016 of the Strategy - <http://goo.gl/Ty2mpj>

90 The Law 05/L-029 on Corporate Income Tax – Article 10 - <http://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=11016>

91 The Law 05/L-028 on Personal Income Tax – Article 28 - <http://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=11014>

92 Monitoring Matrix on Enabling Environment for Civil Society Development, Kosovo Country Report 2014, KCSF 2015 – <http://goo.gl/SU9U66>

93 The Law 03/L-222 on Tax Administration and Procedures - <http://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2689>

94 The Law 04/L-014 on Accounting, Financial Reporting and Audit - <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2755>

clear instructions regarding implementation of financial rules and half of CSOs consider the tax officers to be competent and knowledgeable.

The Government Strategy for Cooperation with the Civil Society is in line with objectives of the Civil Society Facility (CSF): *Creating an enabling environment for CSOs and strengthening their cooperation with decision makers and other stakeholders (private sector, media)*. TACS project - Office in Kosovo, in consultations with Local Advisory Group (LAG) members, the EU Office in Kosovo and OGG/OPM has decided to support the implementation of the Strategy with the focus on the Strategic Objective 3: *Building system and defined criteria to support CSOs financially*.

As a result of extensive and comprehensive process of analysis, deliberations and consultations with relevant government authorities with broad participation of CSOs, led by TACS expert on public funding issues in February 2016, the third working group responsible to coordinate the work related to public funding necessary infrastructure identified the most suitable model of public funding structures for Kosovo. The mixed model was identified as the appropriate solution to best address the needs of Kosovo for structured and regulated infrastructure for public funding of CSOs. This consensus is elaborated in the Explanatory Memorandum and accompanied with extensive analyses was submitted to OGG/OPM for further approval procedures in February 2016. TACS has supported this process continuously since autumn 2014 and finally tangible results are being achieved. Two intensive workshops (June and December 2015) and an expert mission (February 2016) were provided by the project to ensure that all issues, challenges and analysis related to public funding are addressed while the group discussed pros and cons issues of different models for public funding of CSOs in Kosovo. Supporting this process and in order to facilitate the discussions the TACS project produced several analysis and papers. In addition, an expert mission was delivered to work directly with relevant units of the government administration, responsible for the public funding for CSOs in finalizing the Explanatory Memorandum. Besides Council members, OGG/OPM, Ministry of Finance and CSOs, additional relevant institutions such as the Office of the Treasury, Legal Office of the Prime Minister, Ministry of European Integration, and Office for Communities contributed to discussions and participated in the workshops.

Conclusions:

The Government has formally recognized the role of the civil society and committed to advance the cooperation with the sector by adopting the Strategy. The comprehensive measures embedded in the Strategy make this document a framework for most of the developments related to the civil society at government level. 2015 was a very dynamic year in the implementation of this document. However, three years from its adoption, only a part of the planned activities have been implemented and very few concrete results have derived from the Strategy. Moreover, few positive developments have been noted in areas or issues which are not directly included in the Strategy. Lack of proper involvement from the line ministries and problems in allocation of the budget for its implementation have been the major challenges during the last two years. The main strategic objectives still need direct involvement and contribution from the civil society or external experts, as there are insufficient capacities for qualitative implementation of many measures of the Strategy.

2.4. Local Governments and Civil Society

The relations between local governments and the civil society have been largely unchanged during the last two years. The major part of the assessment of 2014 remains still valid.

While central government cooperation with civil society is mainly framed within the Strategy for Cooperation with the Civil Society, at local level the existing cooperation is mainly sectoral. No cases exist of any horizontal strategy or agreement for cooperation and the latter continues to be done on an ad-hoc basis. There are many issues to be addressed by both sides: local institutions in terms of applying the basic legal requirements for citizen participation and transparency; civil society in increasing their capacities to exert the necessary pressure to local governments for an open and transparent decision-making and governance.

The legal framework for involvement of the civil society at local level has not changed. The Law on Local Self-Government mainly sets the terms for public participation in the local decision-making processes. Other laws that regulate specific aspects of this cooperation include: the Law on Local Public Finances; the Law on Public Financial Management and Accountability; the Law on Empowerment and Participation of Youth; the Law on Spatial Planning and the Law on Access to Public Documents. There is also a number of bylaws and municipal regulations, such as the statutes, regulation on transparency, rules of procedure, etc.

However, all the above have not resulted in any consistent or systematic approach of any municipality in involving civil society and citizens in its work. One cannot find a case where a local government and Civil Society have developed or signed a strategic document to establish principles of systemic cooperation. Instead of a structured dialogue between the two, the practice up to date has shown a focus on sectoral cooperation.⁹⁵ To illustrate, while the Prizren Municipality has scored the lowest from all in the Municipal Transparency Reform Index,⁹⁶ the same municipality has signed an agreement with the Network of Cultural Organizations aiming to jointly draft the Municipal Strategy of Culture.⁹⁷

One of the most common ways of interaction between both sectors is through monitoring the work of the local government. While this is present in many municipalities across Kosovo, a significant number of these municipalities are still monitored from central level CSOs, which usually establish partnership with local CSOs from respective municipalities. This practice showed in many cases that there is a need for expertise and trainings of local CSOs, which are willing to be engaged. The numbers of consolidated CSOs is small, while other CSOs lack experience and have limited managerial and human resources' capacities.⁹⁸

The regional centres have a higher presence of more established CSOs, particularly in bigger cities such as Prizren, Peja or Mitrovica. On the other side, smaller municipalities suffer both in terms of number of CSOs as well as their capacities. There are only few cases where CSOs from small towns are active regularly, thus able to become permanent partners or watchdogs to the local governments. According to some, the small CSOs from these municipalities feel frustrated when in joint projects Prishtina based CSOs are not patient while working with them.⁹⁹

For international donors, which are the main funders of civil society in Kosovo, Prishtina based CSOs have been always more attractive than CSOs from other towns. Numerous reasons for this have been mentioned for a long time now, with the main one being the limited capacities of CSOs

95 Kosovo Report: Local Government – Civil Society Cooperation, TACS

96 Municipal Transparency Reform Index 2015, pg.11 – EC Ma Ndryshe - <http://goo.gl/E7zC1r>

97 <http://koha.net/?id=4&l=114219>

98 Interview with Bekim Salihu, GAP Institute

99 Interview with Valdete Idrizi, CiviKos

from twons other than Prishtina, to respond to relatively burdensome donor requirements for application, implementation and reporting on funds expenditures. Nevertheless, recently one can note a slight trend of increased focus for smaller and grass-root CSOs by international donors and domestic re-granting organizations. To illustrate, in 2016 the European Union Office in Kosovo for the first time has dedicated around half a million euros specifically for grass-root advocacy initiatives, aiming for easier application procedures and more outreach to those CSOs who have not been traditional recipients of EU funds.¹⁰⁰

When it comes to advocacy initiatives at the local level, the very first precondition for this is the access to information on the work of municipalities. According to Municipal Transparency Reform Index 2015, the situation is still far from being positive and the majority of municipalities have low scores on many of the measured indicators. This index has monitored 13 indicators for seven major municipalities of Kosovo. The majority of the monitored municipalities score negatively on indicators related to fight against inappropriate behaviour and abuses and those related to urban planning, while all of them have scored negatively in the level of public information regarding municipal authorities' management of public wealth. The situation is slightly more positive with regards to publishing information on elected and political appointees. Among the most positive indicators are those related to measures of cooperation of municipality with civil society.¹⁰¹ Even in the area of cooperation with civil society, the local level remains quite closed and tends to engage civil society at ad-hoc basis. From all municipalities of Kosovo, only the municipality of Mitrovica South has a designated civil society officer/contact point.¹⁰²

Citizen participation, which most commonly should be exercised at the local level, remains very low. According to the UNDP Public Pulse results, during a period of six months in 2015, 91 percent of the respondents did not participate in any citizen initiatives or in any NGOs. Public discussions seem to fare slightly better, with 12 percent of the respondents claiming to have participated in such an activity. Community-based initiatives, which include neighbourhood initiated activities, initiatives organized by religious organizations, and initiatives related to women, had a participation of only eight percent of the respondents, out of which only two percent were active participants.¹⁰³

Conclusions:

In order to improve the cooperation between CSOs and local governments, the strengthening of civil society sector at local level is an imperative. Assessments of needs in municipalities individually would provide the ground for tailored supporting approach. Local authorities hesitate to enter structured dialogue with civil society, with few exceptions at sectoral level. At the other side, citizen participation remains low and only few CSOs - mainly from larger municipalities – are able to exert a permanent pressure towards local governments for increased transparency and higher involvement of CSOs and citizens.

¹⁰⁰ <http://kcsfoundation.org/eugrants/en/home>

¹⁰¹ Municipal Transparency Reform Index 2015 – EC Ma Ndryshe - <http://goo.gl/OLGYJC>

¹⁰² LAG validation meeting for Kosovo Monitoring of EU Guidelines for support to civil society in enlargement countries, 17th of March 2016 – Discussions from Valdete Idrizi

¹⁰³ Public Pulse Analysis of civil society in Kosovo, UNDP 2016 - <http://goo.gl/d6WMJs>

3. Civil Society Organizational Capacities

There are several layers in which civil society capacities can be discussed. In the previous Needs Assessment Report, this section dealt with civil society internal governance; profiling (expertise) and networking; constituency building and visibility. A number of other elements are added to this section in order for increased alignment of specific indicators part of the “EU Guidelines for Civil Society Support in Enlargement Countries 2014-2020”. The new elements are related to external perception of importance and impact of CSO activities and strategic planning and fundraising. Due to non-existence of updated primary data, the specific sub-section dedicated to civil society challenges in the northern part of Kosovo has been removed from this report.

In 2016, the number of registered NGOs has reached more than 8,500, with the vast majority of them being associations. Only around 250 of them have the Public Benefit Status. According to many, it is assessed that no more than 10-15% of them are active. The legal provision enabling the NGO Department to initiate the de-registration procedure for prolonged inactivity has still not been applied. The NGO Department has issued a number of public calls to all registered NGOs to submit the annual update/confirmation of information, and the response rate has been quite low.¹⁰⁴ Besides these estimates, no other public institution publishes or provides more specific data on NGOs, although a significant part of the data exists in their internal systems. As a result, it is very difficult for a researcher or policy analyst to come out with exact data on the sector and representative sample surveys remain the best available tool to measure most of the characteristics of civil society in Kosovo.

Internal governance:

Internal governance of CSOs is largely related to the size of organization, type of activities and the degree of formality they wish to have internally. The Law on Freedom of Association in NGOs determines some minimum requirements for internal governance of an NGO, such as the highest governing body, its annual meetings and exclusive competences of the highest body. Besides the above, the majority of other elements comprising internal governance are an autonomous decision of the organization, which is in line with international standards on this area. In general, most of the studies throughout the years have demonstrated that many CSOs are relatively good on paper, but not all of them properly implementing their internal documents. The good level of formal documents might be a result of high exposure to international donors, which is true for many CSOs that have been active for a number of years now. To illustrate, the KCSF Civil Society Index 2014 found out that 47% of the surveyed associations said that the Board is their highest governing body,¹⁰⁵ while the legal requirement for associations determines that the Assembly of Members should be their highest governing body.

According to the TACSO Survey conducted in spring 2016, most of the surveyed CSOs declare that their internal documents are accessible to the public – 56% of CSOs have accessible statutes, 52% of CSOs have accessible internal rulebook, 57% of CSOs have accessible Annual Activity report, 53% of CSOs have accessible financial reports and 44% of CSOs have accessible financial statements that are audited. However, there are significant differences when asked about their own organization and the sector in general. All of these indicators are at least twice lower when

¹⁰⁴ Legal assessment and implementation report on the Kosovar Law on Freedom of Association in NGOs, KCSF & ECNL 2015

¹⁰⁵ Kosovar Civil Society Index, KCSF, 2013

asked for the entire sector: on Annual activity report it's 57% (their own organization) and 31% (the entire sector); on financial reports it's 53% and 27%; on financial statements that are audited is 44% and 23%. Furthermore, when asked whether the decisions in the CSOs are taken in compliance with the prescribed laws and internal rules, 71% of the surveyed CSOs responded positively for the entire sector while 94% of them responded positively for their own organization. Positive trends have been reported also with regards to project evaluations, although in absence of any means of verification, the positive results might not be the best reflection of the real situation in practice.¹⁰⁶

With regards to human resources, it has been a long time assessment that the vast majority of CSOs are dependent on specific projects, thus cannot retain their staff beyond the duration of the respective projects. The low amount of funds raised by alternative sources continues to be one of the reasons for difficulties in developing and retaining human resources. Nevertheless, the results of the TACSO Survey conducted in spring 2016 show a slightly more positive situation. Less than a half of surveyed CSOs (45%) declare not having any human resources development plan which would aim to attract and keep talented associates/staff. The rest declares to have such a plan (28%) or being in the process of developing one (27%). Furthermore, the majority of them declare that they are able to keep talented associates/staff (79%) or attract quality new people (80%).

As stated in the previous Needs Assessment Report, donors however see CSOs weak in financial and procurement management, as well as in transparency. Apart from around 30 CSOs, they do not have a set and stable area of expertise; they have frequent staff changes and have no sustainable identity. Think tanks are the most stable and well-established.¹⁰⁷

While there is a perception of low level of internal management in civil society in Kosovo, the statements from CSOs on their organizations are much more positive. These differences may be a good ground for more detailed analysis on this area, in particular with regards to the level of understanding of the good governance principles.

Profiling and Networking:

One of the most frequently raised issues when discussing relations between institutions and civil society is CSOs' profiling and expertise – a subject discussed by donors, as well. Tendencies to have a broader field of activities, in order to be open to as many funding possibilities as possible have produced a reverse effect to many CSOs. While a number of them have managed to follow specific sectors and develop their capacities in that direction, many CSOs have remained undetermined in expertise, narrowing their chances to remain functional in the long-term perspective.

Well-established CSOs have more focused missions to which they generally try to abide. Only a handful of CSOs, mostly professional organizations and those required to by their donors, have developed detailed strategic plans. However, similar to internal regulations, the declarations from CSOs are much more positive than general perceptions from those who are in daily contact with the sector. According to the TACSO Survey conducted in spring 2016, 58% of surveyed CSOs declared that they have a strategic plan. Out of these, 52% declared that they mainly stick to their strategic plan and only 21% of them declared that they mainly adapt to the donor priorities. More

¹⁰⁶ IPSOS Survey for TACSO, 2016

¹⁰⁷ Interview with Visare Gorani Gashi, SIDA, Embassy of Sweden

negative perceptions are present when asked about the entire sector: only 29% of surveyed CSOs believe that the civil society sector in general mainly sticks to the strategic plans, while 41% of them believe that the sector mainly adapts to donor priorities.¹⁰⁸

With regards to the networking, Kosovo has no accurate database of civil society networks. A number of them are more present in the public, while many others exist, but far from the eye of general public. The Kosovo Women Network is one of the oldest networks in Kosovo which gathers around 100 women organizations throughout Kosovo. Democracy in Action is another national network, which becomes active only when there are local or national elections. Recently, a number of local networks of cultural organizations have been established in different regions of Kosovo, mainly within the auspices of the national network of independent cultural organizations.¹⁰⁹ An increasingly active network is the NGO Coalition for Child Protection (KOMF),¹¹⁰ which gathers more than 20 NGOs active in this area. Other initiatives are also present occasionally, mainly as a reaction to ad-hoc developments or specific issues which need urgent attention and action by the sector. There are also two representative platforms of a more general nature.

Kosovo Local Advisory Group (LAG)

Kosovo Local Advisory Group was established on December 17, 2009 becoming the first such advisory group within TACSO project. Currently it is comprised of three government representatives, four representatives from donor community, one media, and 11 civil society organizations. Among civil society members CiviKos Platform, the biggest national CSO network, and three associations¹¹¹ are members of the LAG. The composition and its role are harmonized with the objectives of TACSO project and needs of the the civil society in Kosovo. Throughout the years Kosovo LAG served as a **national wide resource group** for civil society development and a strategic forum contributed substantially in the progress of the civil society development and shaping the IPA support for the civil society at national level.

Local Advisory Group is continuously engaged to improve: legal and functioning environment for civil society; the role of the CSOs in the democratic processes; general funding conditions and capacities of CSOs; institutionalized cooperation between government and CSO and public trust and image of CSO.

CiviKos Platform

CiviKos Platform¹¹² was established to create a suitable environment for formal cooperation of the civil society and institutions. In 2007 it signed a Memorandum of Cooperation with the Government, which represented the first formal document showing mutual commitment for institutional cooperation and partnership. After a period of inactivity and failure of mutual commitments foreseen in the Memorandum, CiviKos Platform has in 2010 resumed its activity towards structuring the cooperation between public institutions and Civil Society. During 2011-2013, it has been the civil society platform to gather CSOs and push for drafting and adoption of the Government Strategy for Cooperation with the Civil Society, while as of 2013 it is playing the

108 IPSOS Survey for TACSO, 2016

109 <http://www.forumikulturor.net>

110 <http://www.komfkosova.org/>

111 Kosovo Anti Poverty network, Kosovo Association for Information Technology and Communication and Kosova Association of Broadcast Media

112 <http://civikos.net/>

same role in terms of its implementation. In 2016, it has reached the number of around 170 members. The network is focused only in structuring the cooperation and dialogue between the civil society and the state institutions, with the Government being the main level of governance for the last couple of years. In addition, it serves occasionally as a representative body of the civil society in cases of open elections for CSO representatives in joint bodies.

Constituency building and Visibility:

In the last Needs Assessment Report, the relations between CSOs and their constituencies have been assessed as vague or inexistent, as the civil society priorities do not necessarily reflect public priorities but rather donor priorities. There were only limited sub-groups of civil society that were considered to have more direct connections with their constituencies or members.

Discussing the constituency and legitimacy of the sector is a very complex task, with different perspectives even within civil society. First of all, not all CSOs are required to necessarily have any constituency, as some of them can base their legitimacy either on their funds (foundations), arguments (think-tanks) or expert services (service provision CSOs). Second, it is quite understandable that whoever provides the most support for a CSOs (either financial or other type of support) will be having the most influence in that organization. With international donors being the main supporters of the sector and very low level of citizen engagement in civil society or financial and other contributions to the sector from the general public, the first is expected to have more say in the priorities of respective CSOs. However, there are others who believe that regardless of who supports them, CSOs should always aim to represent the citizens and the common good.¹¹³ As a result, the perceptions of lack of sufficient accountability and involvement of citizens in civil society sector are highly present.

While this may be true in the perception of many, the existing data present a very mixed situation. According to the TACS Survey conducted in spring 2016, 80% of surveyed CSOs declared to have prescribed obligation to inform others about the results of their work. From them 90.9% declared that they inform the members of their organization and 58.3% declared to inform the general public. However, it is quite paradoxical that only 50.3% of CSOs declare that they inform their Assembly, which in reality should be equal to their members (at least for the vast majority of CSOs, which are registered as associations).¹¹⁴

Visibility:

One form of being present and including the public on the issues raised or dealt with by CSOs is by being visible. As elaborated above (the sub-section on Internal Governance), the majority of surveyed CSOs declare that they publish the majority of their internal documents or results of their work, although the same does not hold true when responding for the entire sector.

Another very effective way of communicating with the public is through media presence. A study conducted some years ago by TACS on relations between media and CSOs shows that civil society presence in media is rather low, while communication and understanding between sectors is vague. Media representatives elaborate that civil society events are attractive when they provide quality information and innovative ways of transmitting their messages. CSOs argue that media are more interested in covering political developments and scandals. Challenges listed by

113 Who guards the guardians, KFOS 2013 - <http://goo.gl/lvd9Sj>

114 IPSOS Survey for TACS, 2016

media and those by CSOs in advancing cooperation between these two sectors do not have at least one matching point. This is a significant indicator, which shows that facilitating discussions among them should be the first step of any engagement toward improving relations among media and civil society.¹¹⁵

The results of the TACSO Survey conducted in spring 2016 show that the general public believes that CSOs are not sufficiently present in the public (55%), with only 5% of them believing that CSOs are too present in the public. When asked about the reasons for the insufficient presence in the public, 54% of the respondents believe that it is the insufficient interest of media in reporting on CSO activities, while only 28% of them believe that insufficient or inadequate CSO activity is the reason for this. However, around half of the population declares to be very well informed (47%) or somewhat well informed (46%) about the CSOs and their activities in Kosovo. Media appears as the main source of information for CSO activities, with 86% of respondents declaring this source of information.¹¹⁶ These results indicate that although there are citizens who know on the work of the civil society, CSOs should do more in making their work and impact visible to the general public, which at the other hand could result in more positive response from the public in engaging with and supporting civil society.

Perception of importance and impact of CSO activities:

Both the relations with the constituencies and general public, as well as their visibility have an impact of how the civil society is perceived in terms of importance and impact. It is interesting to see that, despite all above mentioned problems, civil society remains among the most trusted sectors in Kosovo. This situation is present for quite a long time now, and it is confirmed also by the TACSO Survey conducted in spring 2016. Although there are slight differences between the self-perception and perception of the general public, still the sector is positively ranked. When asked on whether they believe if people trust the CSOs, majority of surveyed CSOs declare that people completely (5%) or mainly (59%) trust the sector. Similar results come from the side of general population - 52% of them completely or mainly trust CSOs in Kosovo, ranking this sector among the most trusted ones, together with Police and Media. Similar results are also when citizens were asked whether they believe that CSOs support dealing with problems that Kosovo is faced with.

When citizens are asked on their priorities and CSOs activity in these priorities, some areas appear to be very aligned between priorities of citizens and CSOs, while others more distant. For example, employment is highly important for both sectors, same as the fight against corruption, education, human rights and security. In terms of CSO activity, the general public believes that civil society is active more on the rights of women, human rights and education, while slightly more passive in security, employment and fight against corruption. While the first three are similar also from CSOs perspective, the sector believes that they are more active in the fight against corruption and security.¹¹⁷

115 Better cooperation- mutual interest Report on relations between Media and CSOs in Kosovo, TACSO 2013 - http://www.tacso.org/doc/ko_bcmi_report.pdf

116 IPSOS Survey for TACSO, 2016

117 IPSOS Survey for TACSO, 2016

4. Financial sources and donations for civil society

International donors made their first appearance in Kosovo in the late '90s, generally through international aid agencies and human rights organizations. Their number increased substantially after 1999 concentrating initially in emergency recovery and reconstruction. They also concentrated on establishing local NGOs through which they would implement part of their programmes. Later on, they shifted the activities to peace and reconciliation projects to be followed by specific activities on democratization, rule of law, transparency, social inclusion and sectoral development.

No exact data exist on the turnover of CSOs in Kosovo, as no public institution analyses and publishes the relevant data existing in their internal systems. The last available data from the civil society studies show that the majority of CSOs in Kosovo have low annual turnovers, with only a portion of the sector having larger amounts of funds exceeding hundreds of thousands of euros annually. According to the KCSF Civil Society Index 2014, over 50% of the CSOs have an annual turnover under 50.000 Euros, of which over half have a turnover under 10.000 Euros a year, which actually are mainly funded by local governments (municipalities). Over 40% of CSOs belong to the category with a turnover between 50.000 and 500.000 Euros a year, which leaves around 7% in the bulk of large NGOs with an annual budget between 500.000 and 1 million Euros.¹¹⁸

Donors

Kosovo lacks a comprehensive database of all donors present in Kosovo through projects or funding. There have been initiatives from both the donor community as well as Kosovar institutions to create such a database. The effort of the Ministry of European Integration supported by the European Union Office to Kosovo to implement the Aid Management Platform (AMP), as a tool for the government and donors to track and share information related to aid-funded activities, has produced a limited success, as no exact data on the amount provided to civil society are available.

A number of platforms, such as Local Advisory Group (LAG) or monthly meeting of EU Member States serve as forums for sharing of information on their assistance provided or planned for civil society. However, the formats of these forums do not provide any exact data on the amounts of fund disbursed or planned for the civil society.

The results of the TACS Survey conducted in spring 2016 offer some data on the sources of funding of CSOs in Kosovo, although not in terms of nominal values. Concretely, local governments, central government and foreign donors (not including EU) are the most present types of donors for CSOs. Around 40% of surveyed CSOs declared to have received funds from these sources during 2015, while 26.7% of them declared to have received EU funds. Other sources of funds are not that present, with economic activity being a source of funds for 18.2% of CSOs, followed by private companies (13.9%), citizens donations (12.3%), members fees (11.8%) and member donations (8%) and public companies (5.3%).¹¹⁹ Foreign funds commonly are larger compared to the state funds, one can assume that in nominal values still the major part of funding

118 KSCF Civil Society Index 2013

119 IPSOS Survey for TACS, 2016

for CSOs comes from foreign donors. However, with no exact data available, this remains only an assumption which needs further analysis and confirmation.

While diversification of funding sources is considered among the best ways to ensure independence of CSOs, according to the same survey, Kosovar CSOs in average have 2.3 funding sources, scoring the lowest in the region in this category.¹²⁰

External assistance to civil society in Kosovo

Many multilateral and bilateral donors, as well as foundations and other financiers, support CSO development in Kosovo. While this offers the opportunity of scaling up existing efforts, it simultaneously risks duplication of efforts in the absence of close coordination.

European Union

The European Union provides financial support to civil society organisations in Kosovo through grants distributed via the Civil Society Facility (CSF) and the European Instrument for Democracy and Human Rights (EIDHR). Moreover, technical assistance to civil society is provided by the TACSO project, through trainings, the P2P program, helpdesk services and various forms of mentoring and coaching schemes. The global objective of the CSF¹²¹ is to enable and stimulate a participatory democracy in Kosovo by creating an environment which promotes partnership and dialogue between civil society and public institutions, and by building the capacity of CSOs to be effective and accountable independent actors. In 2015, a particular focus has been put on increasing the participation of grassroots CSOs in Kosovo and on enhancing their input into decision and policy making processes. The EIDHR¹²² provides grants for CSOs working on topics related to democracy and human rights. EIDHR in Kosovo aims at strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and in consolidating political participation and representation. In addition to the ongoing grants programs, TACSO¹²³ has aimed at strengthening the overall capacity and accountability of CSOs in Kosovo and to guarantee the quality of services of CSOs and a sustainable role of CSOs in the country's democratic process.

*UNDP*¹²⁴

UNDP's support to civil society organisations in the country has been longstanding and includes topic areas such as empowerment of local communities, socioeconomic development, human rights and gender and youth employment. Currently UNDP cooperates with civil society organisations in the field of gender equality and combat of gender based violence as well as human security and economic development. Previous and current interventions include grant schemes as well as various capacity building initiatives. Much effort is put into improving the cooperation between state actors and civil society organisations around the thematic topics of interest.

¹²⁰ IPSOS Survey for TACSO, 2016

¹²¹ <http://goo.gl/JBc5cu>

¹²² <http://goo.gl/mqnOVs>

¹²³ <http://www.tacso.org/>

¹²⁴ <http://www.ks.undp.org/content/kosovo/en/home/operations/projects/overview.html>

*United States*¹²⁵

USAID promotes the capacities of civil society to take part and shape the country's socioeconomic and political development. The current support to civil society is based on work done with civil society since 2001. USAID support activities have helped changing the civil society environment by introducing advocacy as a key activity of civil society actors. Through its sustained support to civil society actors in the agricultural sector, USAID promotes job creation and increase of sales and exports. Apart from grants, the main focus of the work remains on technical support to key civil society actors in agricultural value chains. Given that 60% of the Kosovar population remains farm based, USAID has singled out the agricultural sector as a crucial sector to focus its efforts on.

*Switzerland*¹²⁶

The Swiss Development Cooperation (SDC) in Kosovo supports civil society development in numerous of its ongoing projects, either as primary or as a secondary objective. SDC currently finances the Democratic Society Promotion (DSP) project. The project aims at supporting projects, initiatives or activities arising from civil society with a potential to contribute to significant changes in society at national, regional and local level. DSP represents a source of funding for civic initiatives that advance democracy and social inclusion in Kosovo, through promotion of civic participation, ethnic cohesion, gender equality and diaspora participation. Grants of different sizes and durations are used as main form of support to such initiatives. Support to civil society is also the second component of the ongoing Support to Anti-corruption Efforts project in Kosovo (SAEK). SAEK helps strengthening the monitoring and oversight capacity of CSOs to guarantee that state institutions perform in an efficient, transparent, accountable and gender sensitive manner. SDC also finances civil society organisations working with business and in the area of economic development, particularly through its SME support program and its various youth employment promotion initiatives.

*Sweden*¹²⁷

As part of its project portfolio in democracy support, the Swedish International Development Cooperation Agency (Sida) promotes the participation of civil society in the development of society, for example by supporting the development of free and independent media. Among civil society actors, Sida has been particularly working with those that represent the interests of minority groups and has for example supported initiatives aimed at distributing public information in different native languages, to stimulate social inclusion and opportunities to participate in public life. As part of its economic development portfolio, Sida has planned to engage with civil society actors via the promotion of small and medium sized enterprises.

*Norway*¹²⁸

The Norwegian Agency for Development Cooperation (NORAD), through the Norwegian Embassy, provides small grants in support of cost-efficient and practical initiatives which produce tangible and sustainable effects for individuals, local communities or wider society. Next to private and public actors, civil society constitutes one of the beneficiary categories. The thematic fields covered are (1) rule of law, human rights and good governance (2) enterprise development (3) education, youth and gender (4) minorities, reconciliation and dialogue. CSOs can apply with their

¹²⁵ <https://www.usaid.gov/kosovo/economic-growth>

¹²⁶ <http://goo.gl/1cJrJ0>

¹²⁷ <http://www.sida.se/English/where-we-work/Europe/Kosovo/Our-work-in-Kosovo/>

¹²⁸ <http://goo.gl/IHHgt6>

respective projects and receive finance for innovative and promising project ideas. Until 2014 NORAD financed the Norwegian Fund for Civil Society Development (NFCSD), which in Kosovo amounted to NOK 10 million and between 2012 and 2014 supported 26 projects carried out by local non-government organizations in the country.

Finland¹²⁹

The Finish Development Cooperation Agency (FINIDA), through the Fund for Local Cooperation (FLC), provides small grants to CSOs in the areas of (1) Human Development (2) Income generation (3) Decentralisation. The fund is managed by the Embassy of Finland in Pristina and amounts to 300,000€ yearly. The support provided through the FLC is strictly limited to project, not core support. FINIDA also provides support to Finnish NGOs and their local partners working in Kosovo, like the Finnish Association of the Deaf, Kynnsry (NGO working for rights of people with disabilities), Finn Church Aid and Fida International.

Danish Development Cooperation Agency¹³⁰

The Danish Development Cooperation Agency (DANIDA) provides support to civil society actors in the fields of agricultural and rural development, as well as education. Apart from grant schemes for farmers' organisations, SMEs and other civil society actors, DANIDA more specifically provides support to organisations working with female entrepreneurs. DANIDA also provides support to the International Business College Mitrovica, a not-for-profit foundation, providing skills development and bridging the gaps between ethnic groups in Mitrovica.

Kosovo Foundation for Open Society¹³¹

The Kosovo Foundation for Open Society (KFOS) is a non-governmental organization and part of an international network of philanthropic foundations financed by George Soros. The Foundation works with the government and the civil society to strengthen capacities and to improve the implementation of existing policies and developing new strategic directions. The aim is to achieve these objectives through developing and implementing projects, and through supporting Kosovar organizations that seek financial and operational assistance. The Foundation, since 1999, has a number of programs in the field of EU integration, civil society and protection for the minorities.

Balkan Trust for Democracy¹³²

The Balkan Trust for Democracy (BTD) was launched in 2003 as a 10-year, \$30-million grantmaking initiative that supports democracy, civil society, the rule of law and Euroatlantic integration in Southeastern Europe. This award-winning public-private partnership created with the U.S. Agency for International Development (USAID), and the Charles Stewart Mott Foundation, became a true transatlantic initiative with European governments and private foundations joining in the effort. After its initial ten years BTD continues its activities until 2020 in partnership with the Mott Foundation and the support of the Norwegian Ministry of Foreign Affairs.

¹²⁹ <http://www.finlandkosovo.org/Public/default.aspx?contentid=188832>

¹³⁰ <http://goo.gl/i9A2Ui>

¹³¹ <http://kfos.org/>

¹³² <http://www.gmfus.org/gmf-pillar/civil-society>



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Kosovo Office



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Conclusion

The available data suggest that the foreign donors, followed by state institutions provide the majority of funding for civil society in Kosovo. However, due to lack of exact data on the amounts of funds, it is impossible to generate any final assessment in this area. Some coordination platforms of donors tend to share information among them for their support to civil society, there is no comprehensive and updated database for their support to the sector.

Recommendations

Legislation:

The basic legislation for the establishment and operation of CSOs is in place, although a number of gaps have already been identified and addressed in the recent Concept Document on Freedom of Association in NGOs. This process can serve as a good ground for further improvement of the basic legislation, which would serve to the development of the sector in a longer run. Regardless of this, the restrictive provisions of the secondary legislation should be removed immediately.

In parallel to advancing the legal framework, more focus should be put in an increased implementation from both sides. The NGO Department, by the Ministry of Public Administration should increase its capacities to properly understand and interpret the basic legal provisions, while NGOs should be more proactive in implementing the principles of good governance embedded in the legislation.

Other related laws and normative acts should follow the same trend of advancement, in particular tax and fiscal legislation and financial reporting. They need to be harmonized with the NGO Law and address the specificities of the sector, both through amendments of the primary legislation and design of specific implementation mechanisms. The concept and concrete benefits from the Public Benefit Status should be part of these discussions.

Cooperation Mechanisms:

The ongoing Government Strategy for Cooperation with Civil Society 2013-2017 serves as a good framework to advance the cooperation between sectors. However, more dynamic implementation is necessary in the remaining period for this strategy to be considered a success story. This can be done only by an increased commitment in terms of human and financial resources by the government, accompanied by increased pressure and contribution from civil society.

The recently adopted Regulation on Minimum Standards for Public Consultation Process should be implemented, monitored and reported on. Capacities of civil servants and civil society should be strengthened immediately, so to use the momentum of adoption of this positive regulation.

The Ministry of Finance and other responsible institutions should draft and adopt the specific regulatory framework on public funding for CSOs, based on the recently agreed model on public funding. The general requirements set by this regulatory framework to be applied from all line ministries should cover the entire cycle of public funding, from budgetary planning to reporting and evaluation.

Investing in more capacities at both sides on volunteering, respectively service provision by CSOs is an imperative to unlock these strategic measures and start producing concrete results in these areas.

The Assembly, in particular its political level, should commit more time and energy in designing concrete mechanisms of cooperation with civil society, based on the Declaration for Partnership between the Assembly and the civil society.

The principles of cooperation and dialogue established at central level should be considered by the local level, with necessary adaptations. Positive examples of sectoral cooperation should be multiplied, both to other sectors or municipalities. Larger CSOs and donor organizations should support local and grass-root CSOs in increasing their capacities to become partners and watchdogs of local governments.

Institutional Bodies:

The Office for Good Governance in the Office of Prime Minister (OGG OPM) should increase its human and financial capacities for proper implementation of its mandate, in particular as a Secretariat to the Council for implementation of the Strategy. Dedicated staff with coordinating and analytical skills shall be added to the existing structure.

After removing its liaison role, the NGO Department (NGOD) should focus its work in simplifying the registration procedure for all interested. Any capacity building effort should be concentrated in this direction.

The Senior Officer for Donor Coordination and relations with civil society in the Assembly of Kosovo should be more proactive in engaging with civil society, in particular in the light of potential advancement of cooperation mechanisms deriving from the Declaration for Partnership between the Assembly and civil society.

Local governments should appoint specific officers mandated to facilitate the initial contacts of the municipalities with civil society, while the basic skills for cooperation with civil society should become a horizontal requirement for all civil servants at local level.

Civil Society capacities:

These can be grouped in four categories: internal governance; profiling (expertise) and networking; constituency building and visibility; financial sources and donations.

Internal governance

All CSOs should embark the general principles of good governance, proportionate to their size and type of activity. These documents papers which are mainly of a formal nature should be simplified, but strictly implemented. In order to avoid external pressure for internal governance, civil society should explore for internal mechanisms, such as a self-regulatory mechanisms, to advance the level of internal governance. In order to create a better understanding and ownership of these principles, any such process should be inclusive.

Profiling and Networking

All actors should invest more to promote the need for profiling of CSOs, as a way to increase their sustainability and impact. In parallel to increasing the capacities of CSOs in specific areas of their interest, mutual assistance and networking should be promoted as a tool for profiling and building of expertise.

Constituency building and visibility – Despite the relatively positive perception from the public towards civil society, this sector should do more in making visible its work and results. There is a need for more strategic relations with media, as one of the most effective multipliers of their messages. Increased outreach can result in more interest from the citizens to engage with civil society, thus more constituencies for those CSOs built around membership bases.



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Civil Society Organisations
Kosovo Office



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Financial sources and donations – CSOs in Kosovo should aim for more diversification of funds, as a way to reduce the dependency on a single donor or source of funds. Recognizing the difficulties in raising domestic funds, CSOs should start as soon as possible their joint efforts in creating better conditions for both private donations and economic activities, as a long-term aim to ensure the financial viability of the sector.

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