

Monitoring Matrix on Enabling Environment for Civil Society Development

KOSOVO COUNTRY REPORT 2016



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A PROJECT OF THE GERMAN MARSHALL FUND



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**Balkan Civil Society Acquis
Strengthening the Advocacy and
Monitoring Potential and Capacities of CSOs**

**Monitoring Matrix on Enabling Environment for
Civil Society Development**

COUNTRY REPORT FOR Kosovo 2016



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This Monitoring Report is part of the activities of the project “Balkan Civil Society Acquis – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs”.

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Executive Summary

Civil Society and Civil Society Development in Kosovo

Despite a difficult political, economic and social situation in Kosovo, civil society has managed to become an important factor in the democratization of the country. This impact lies in two main levels: first, through pressuring for transparency and accountability of public institutions, and through contributing with expertise from specialized CSOs in different fields; and second, through raising important societal causes and through working with citizen groups from local CSOs, by engaging citizens to solve their daily problems. While the level of citizen engagement in the sector remains low, civil society remains among the most trusted sectors in Kosovo.

The **basic legal framework** for establishment, registration and operation of NGOs has remained unchanged, while a process of amendment of the basic NGO law has been initiated during 2016. Secondary legislation on registration and operation of NGOs adopted during 2014, which contains restrictive provisions for NGOs, remained in force and two groups of CSOs were suspended during 2016 by the NGO Department on grounds of operation against the constitutional order of the Republic of Kosovo. CSOs continue to freely **seek and secure funds** from various domestic and foreign sources. The major part of the limitations of the Law on prevention of money laundering and financing of terrorism has been removed. As **freedom of assembly** is guaranteed by law, CSOs continue to exercise these rights freely. However, the rate of CSOs engaged in organizing or attending assemblies continues to be low. **Tax incentives** for private donors were not changed during 2016, but no data exist to demonstrate any positive effect in practice. A model on **public funding for CSOs** has been adopted by the Government and drafting of the necessary regulation has been initiated. However, until this regulation is adopted and implemented, public funds for CSOs continue to be distributed without any clear criteria. No improvements have been noted in involving civil society in **employment policies**, and the same applies also to **volunteering**. Nevertheless, some data on employment in civil society have been made available upon request by some public institutions. With some progress on CSO participation and public funding, the **Government Strategy for cooperation with civil society** marked first concrete results. However, most of the latter was based on civil society contribution, and not the committed budget for its implementation or the needed human resources for its coordination have been allocated by the Government. A new Regulation on Minimum Standards on public consultation process has been adopted by the Government during 2016 and will enter into force as of 1st of January 2017. In the meantime, the practice of **public consultation** remains with many challenges. Participation of CSOs in cross-sector bodies remains partial, with few cases of open and transparent selection. Although the general legal framework for service provision is not restrictive, in practice **service provision from CSOs** is still limited to certain social services, and there are no proper funding, procedures and standards which would create a supportive environment for CSO involvement in service provision.

There are numerous challenges with regards to different areas of the Enabling Environment for CSDev in the future, with some of them being crucial to be addressed in the following year: completion of the process of the amendment of the NGO Law as per the recommendations from civil society and best international standards and practices (including the explicit prohibition of the possibility to suspend NGOs from an administrative body); upgrading the financial reporting

formats for CSOs, not only to address the specific needs of the sector, but also to serve as a truthful source of information on the financial state of the sector; provision of systematic data on civil society sector by relevant institutions (Statistical Agency, Tax Administration, Central Bank, Pension Trust, etc.); complete the regulatory framework on public funding for NGOs and kick-off its implementation; push for implementation of the Regulation on Minimum Standards for public consultation process and ensure that civil servants have sufficient capacities to implement the requirements.

Key Findings

Following significant engagement of civil society in different policy-making processes during the previous year, 2016 was marked by the adoption of a number of important documents for the environment in which civil society operates. This is the case in the areas of public consultation and public funding, but also in the money laundry regulation. At the other side, new policy-making processes have been initiated, with the amendment of the Law on Freedom of Association in NGOs being the most important one. This amendment process is ongoing in parallel to rounds of suspension of NGOs based on security reasons, thus direct state interference in the internal matters of NGOs.

No	Top 6 findings from the Report	Reference to the Monitoring Matrix		Reference to the EU CS Guidelines	
		Area		Objective	
1	Although isolated, cases of direct state interference in internal matters of CSOs have continued, through suspending a group of CSOs in July and November 2016.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a – 1.1.b
2	The major part of the restrictive provisions for NGOs has been removed in the new Law for preventing money laundering and fighting the financing of terrorism.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a – 1.1.b
3	A model on public funding for CSOs has been adopted by the Government in May 2016 and the process of drafting the necessary regulation has initiated.	Area	2	Objective	2
		Sub-Area	2.2	Result	2.4.a – 2.4.b
4	Some data on the employment in civil society have been made available by some public institutions, upon request.	Area	2	Objective	1
		Sub-Area	2.3	Result	1.2.a – 1.2.b
5	The Government allocated neither the committed budget for implementation nor sufficient human resources for coordination of the Government Strategy for cooperation with civil society 2013-2017.	Area	3	Objective	3
		Sub-Area	3.1	Result	3.1.b
6	The Regulation on Minimum Standards for Public Consultation process has been adopted by the Government in April 2016 and enters into force as of 1 st of January 2017.	Area	3	Objective	3
		Sub-Area	3.2	Result	3.1.a

Key Policy Recommendations

While a number of the areas need improvement in the legislation and mechanisms, the rest require proper implementation of the already adopted regulations. The significant improvements in the regulatory framework in the public consultation and public funding areas can be sustainable only if sufficient capacities and resources are ensured from the side of the government. On the other side, the issues with state interference in the internal matters of the NGOs do not provide the most promising ground for more complex reforms with regards to an enabling environment for CSDev. The continuous efforts in drafting supportive legislation and ensuring proper implementation in practice remains a huge challenge for both sectors, in particular, due to the limited number of institutions/CSOs dealing with the respective area.

No	Top 6 recommendations for Reform	Reference to the Monitoring Matrix		Reference to the EU CS Guidelines	
		Area		Objective	
1	The amended Law on Freedom of Association in NGOs should clearly prohibit the suspension of NGOs by an administrative body, thus prevent the ongoing state interference in the internal matters of the NGOs. Regardless of the above, Article 18 of the Regulation on Registration of NGOs, which allows the suspension of NGOs by the NGO Department, should be removed immediately.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a – 1.1.b
2	The financial and tax reporting formats and procedures for NGOs should be revised in order to address the specific needs of the sector, as well as serve as a truthful source of information on the financial state of the sector.	Area	1	Objective	2
		Sub-Area	1.1	Result	2.1.a
3	The already initiated Regulation on Public Funding for NGOs shall be completed and adopted, in order to regulate the entire cycle of public funding for NGOs. Regardless of the above, all information on public funds disbursed to CSOs should be made transparent immediately.	Area	2	Objective	2
		Sub-Area	2.2	Result	2.4.a – 2.4.b
4	Public institutions shall initiate a systematic collection, processing and publishing of specific and relevant data for civil society sector.	Area	2	Objective	1
		Sub-Area	2.3	Result	1.2.a – 1.2.b
5	The Government shall immediately allocate sufficient human and financial resources for implementation of the remaining activities of the Government Strategy for cooperation with civil society 2013-2017, as well as ensure sufficient participation and engagement of civil servants in the implementation of respective activities.	Area	3	Objective	1
		Sub-Area	3.1	Result	3.1.b
6	In parallel to ensuring proper implementation of the Regulation on Minimum Standards for public consultation process, the Government should institutionalize the continuous capacity building program for civil servants on this area.	Area	3	Objective	3
		Sub-Area	3.2	Result	3.1.b

About the Project and the Monitoring Matrix

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the European Union (EU) and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind and is published on a yearly basis since 2013. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey¹. A Regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided into sub-areas: (1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs’ Financial Viability and Sustainability; (3) Government – CSO Relationship. The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators are defined to monitor the situation on the level of legal framework and its practical application.

¹ Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

Introduction

About the Monitoring Report

Through a participatory process involving distinguished personalities of civil society, public institutions, academia, private sector and media, in 2010 KCSF defined the civil society sector in Kosovo as “*the space of society, outside of the family, the state, and the market, which is created by individual and collective actions, not for profit organizations and institutions, which do not run for office, but advance common interests*”². Utilized for all of KCSF studies on civil society ever since, this definition is used also for defining the scope of this monitoring report since its inception in 2013.

In concrete terms, civil society in Kosovo is comprised mainly of registered non-governmental organizations (NGOs), while others forms of civil society are not common. In numbers, despite around 9,000 registered NGOs and few other unregistered initiatives, the number of active CSOs in Kosovo is estimated to be around 1,500. Less than 1,000 CSOs had any financial activity or employees during 2015. The majority of the sector is comprised of small CSOs, in terms of both funding and staff. CSOs based in Prishtina and other regional centres in Kosovo dominate the sector. The trend of registration of new NGOs has been stable for the past six years, with around 500 new NGOs registered every year.³ In addition, even though formally within the scope of civil society definition, trade unions in Kosovo are rarely seen as such, and cooperation between different trade unions and the other parts of civil society is limited, with trade unions rarely being part of civil society initiatives and forums. Religious communities, in general, are not considered part of Kosovar civil society. Media remains both in and outside the sector – most of them are registered as private business, but their role in specific issues of democracy may be considered as part of civil society⁴.

This report has addressed issues of civil society in the scope defined above, with the main basis being the registered NGOs in Kosovo. Nevertheless, particular initiatives or issues which are not directly within civil society have been taken into account, in cases when those initiatives or issues have largely influenced civil society development in Kosovo. This report covers the developments during 2016, with the main data collected during the last part of 2016.

The Monitoring Matrix on Enabling Environment for Civil Society Development

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis - Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the

The overall objective of the project is to strengthen the foundations for monitoring and advocacy on issues related to enabling environment and sustainability of civil society at regional and country level and to strengthen structures for CSO integration and participation in EU policy and accession process on European and country level.

² CIVICUS Civil Society Index for Kosovo 2011, KCSF 2011

³ Kosovar Civil Society Index 2016, KCSF 2016

⁴ Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind and published on yearly basis since 2013. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey⁵. A Regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. It underscores the fact that enabling environment is a complex concept, which includes various areas and depends on several factors and phases of development of the society and the civil society sector.

This Matrix does not aim to embrace all enabling environment issues, rather it highlights those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

The Matrix is organized around three areas, each divided by sub-areas:

1. Basic Legal Guarantees of Freedoms;
2. Framework for CSOs' Financial Viability and Sustainability;
3. Government – CSO Relationship.

The areas are defined by key principles which are further elaborated by specific standards. In order to enable local CSOs, donors or other interested parties to review and monitor the legal environment and practices of its application, the standards are further explained through indicators. The full Matrix is available at www.monitoringmatrix.net.

The development of the Monitoring Matrix on enabling environment for CSDev was part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and with expert and strategic support by ECNL. The 11-member expert team spanned a variety of non-profit and CSO specific knowledge and experience, both legal and practical, and included experts from 10 Balkan countries. The work on the Matrix included working meetings and on-line work by experts, which was then scrutinized via stakeholder focus group and public consultations. The work on the development of the Matrix was supported by USAID, Pact. Inc, and ICNL within the Legal Enabling Environment Program (LEEP)/Legal Innovation Grant and Balkan Trust for Democracy (BTD).

In addition to in-depth and qualitative monitoring, the 2015 introduced the 5-grade scale “traffic light” codes ranging from (1)-fully disabling environment to (5)-fully enabling environment code and (0)-No data available/Missing. The system was created in order to address the need for ‘compressed’ and effective visual communication of findings and systematic presentation of changes in the enabling environment for CSDev on the level of standards across countries and years. This system does not replace, but complements the qualitative assessment, as the narrative country reports are the basis on which the categorization is conducted. Furthermore, the introduction of the categorization system enables standardization of quality of the Country and Regional Reports and contributes to the more effective evaluation of indicators with the Monitoring Matrix Tool-kit. While quantitative elements are used in order to make aggregations of scores

⁵ Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

technically possible, the visual representation of all is provided only with descriptive category labels. Table 1 presents the categories with the descriptive category labels and scores assigned for each, both for legislation and practice.

Category/code	Legislation	Practice	Score
Fully disabling environment	<i>Legislation is fully restrictive and against MM standards⁶. It is restrictive to the operation of CSOs and their representatives and seriously obstructs or hampers their work.</i>	<i>In practice, MM standards are severely restricted or violated and the operation of CSOs and the work of their representatives are hampered. Malpractices and restrictions are common, threats to CSOs/their representatives exist and are heavily affecting their work.</i>	1
Disabling environment	<i>Legislation is restrictive and not in line with MM standards. It is hampering, making difficult the operation of CSOs and the work of their representatives, but still allow some space for operation of CSOs and work of their representatives.</i>	<i>In practice, MM standards are not met/not satisfied. CSOs are hampered; face substantial challenges and obstacles in their operation, but despite serious difficulties CSOs and their representatives can still operate.</i>	2
Partially enabling environment	<i>Legislation partially meets/satisfies MM standards, and there are still some minor legal restrictions or issues which are not regulated.</i>	<i>In practice, MM standards are partially met / satisfied. Severe violations are not common but minor restrictions and difficulties in the work of CSO/representatives are reported.</i>	3
Enabling environment	<i>Legislation is in line with MM standards.</i>	<i>In practice, MM standards are respected/satisfied. No or very few cases of smaller breaches, restrictions or hampering of the operation of CSOs/their representatives have been reported.</i>	4
Fully enabling environment	<i>Legislation is fully in line with MM standards. There can even be cases of legislation surpassing standards and principles enshrined in the MM.</i>	<i>In practice, MM standards are fully respected/satisfied, and implementation of the legislation is a routine process from all parties involved. There are cases of best practices which surpass the standards and principles enshrined in MM standards.</i>	5

Civil Society and Civil Society Development (CSDev) in Kosovo

Kosovo's CSOs cover a wide range of fields of their activity. Although there are no official data on the number of CSOs engaged in specific fields of activity, KCSF studies show that a number of fields are continuously attracting more CSOs and some other fields are experiencing decreases in the numbers of CSOs involved. Previously, the most present fields of work were women, minority and youth issue. Following Kosovo's independence in 2008, CSOs working on democratization issues, such as rule of law in general and those seen as playing a 'watchdog' role in particular, are increasing their presence. The data from the survey show that culture, gender equality and women empowerment, democratization, youth, assistance to people with special needs, transparency and accountability, and human rights have been among the areas where CSOs are most active.⁷

⁶ Monitoring Matrix standards are developed with consideration of internationally guaranteed freedoms and rights as enshrined in international law and best regulatory practices at the regional level.

⁷ Organizational Survey for the year 2016

It has been a couple of years now that the attitude of state officials towards CSO development and civil dialogue has shifted from a large indifference and ad-hoc and non-transparent cooperation towards a gradually increasing interest and need to structure the cooperation with the entire sector. The major development influencing this shift were the discussions on and adoption of the first Government Strategy for cooperation with civil society 2013-2017, which was followed by a number of other strategic documents, such as Assembly Declaration for partnership with civil society of 2014. All of these documents have been drafted as a result of an increased engagement and contribution from civil society. This domestic pressure was complemented by the continuous emphasis of the European Union and other international organizations on the need for a developed civil sector, thus resulting in increased interest of state authorities to formally address the mechanisms and instruments of cooperation between sectors. Nevertheless, the adoption of strategic documents was not necessarily accompanied with sufficient engagement in implementation of the commitments. Despite a number of positive developments since, yet many challenges remain, in particular with regards to the lack of human and financial capacities dedicated by the state to the development of civil society, as well as insufficient political will for undertaking more substantial reforms in this area. This is confirmed also by the latest Report for Kosovo published by the European Commission in November 2016.⁸

As a result, most of the standards for an enabling environment for civil society development are not met yet. For a number of areas, such as freedom of association, the existing legislation is generally positive, with some isolated but serious restrictive provisions. In other areas, such as involvement of civil society in decision-making, the positive legislative framework has been advanced with more specific implementation instruments, but its implementation is to kick-off as of 2017. There are still areas, such as state support to civil society, where the policy and regulatory framework is still at the stages of its development.

The factors that impede CSO development come from both sides. First and foremost, Kosovar citizens remain largely apathetic towards public life in general, including low levels of their engagement in civil society. Only 2.9% of citizens are members of a CSO and only 3.8% of them have done any voluntary work for the sector.⁹ With a few well-established CSOs being those that create a domestic demand for enabling environment, the pressure to public institutions for increased engagement and results in an enabling environment for civil society remains low. While the CSO efforts are supported by the European Union, as the main external actor pushing state institutions to work on enabling environment for civil society, other sectors, such as private sector, remain aside. The low understanding of the concept of civil society and its potential for building a democratic and functioning state remains a very impeding factor, although the number of civil servants exposed to discussions on civil society development is increasing slightly. Other systemic problems of the Kosovar society and state, such as deficiencies in rule of law and high levels of corruption, are additional burdens to be overcome. Last but not least, it has been around three years that Kosovo is passing through repeated political crisis which undermine the normal functioning of state institutions. In this dynamic and unstable political environment, civil society development is not the main issue in the agenda of decision-makers.

While the lack of political willingness is the main reason behind many difficulties in advancing the environment of operation of CSOs, some of the factors are also as a result of the historical development of civil society and state institutions in Kosovo. The history of civil society in Kosovo

⁸ EC Report for Kosovo 2016, pg.9-11

⁹ Kosovar Civil Society Index 2016, KCSF 2016

is part of a broader story of Eastern Europe during the fall of communism, but also shaped by the unique circumstances of Kosovo and the violent break-up of Yugoslavia. When Kosovo's autonomous status was revoked in 1989, civil society became part of the resistance, cooperating closely with the parallel government set up in defiance of Belgrade and offering alternative health, welfare, and literacy services. The success of the Movement for the Reconciliation of Bloods Feuds is just one example of the popularity and strength of civil society during this era.¹⁰ Almost entire population of Kosovo was active during the full decade of social solidarity and volunteering. Civil society faced a radical change after the NATO intervention in 1999, with the United Nations Mission in Kosovo focused on peace building and reconstruction and a flood of foreign donors urging CSOs to play a major role but also sometimes, subtly or unsubtly, defining the parameters of that role. For most of the period of international governance and dual administration of UNMIK and local institutions during 2000's, civil society was mostly focused on emergency actions and reconstruction, as well as interethnic reconciliation, having little engagement with public institutions. With local institutions taking over the responsibilities and in particular after Kosovo's independence, new public administration and lack of experience in cooperating with civil society continue to pose additional difficulties in developing new legislation and mechanisms, and in particular in the implementation phase.¹¹

The high political motive of that time no longer exists following the liberation and independence, and the resources and energy of that time are long spent.¹² During 2015 the satisfaction of citizens with the direction of the country decreased further, reaching the lowest levels for a long time. Only 15.4 % of Kosovo citizens appear to believe that democratic processes in Kosovo are instituted and are going towards the right direction. The satisfaction with the work of the Central institutions (17.8%) the Courts (18.4%), Prosecutor's Office (16.9%), Speaker of the Parliament (24.3%) and the President (45.7%) remains low.¹³

Specific Features and Challenges in applying the Matrix in Kosovo

Any analysis of civil society based on empirical data is a challenging undertaking in Kosovo, due to the huge gaps in data available from the Statistical Agency or other institutions which are competent for specific areas of the sector. This has also been the case in assessing the state of affairs with regards to the specific indicators of this report, since its inception. Nevertheless, as a result of the need to collect information for its regular studies, but also by being one of the indicators of the Enabling Environment set out in the Matrix, KCSF pressure for specific data for civil society has achieved some success. In the first part of 2016, KCSF has been granted with some employment and financial data of the sector by both Tax Administration of Kosovo and Kosovo

¹⁰ UNDP, Human Development Report 2008, Civil Society & Development, p.12, [http:// The factors that impede CSO development.undp.org/sites/default/files/nhdr_2008_kosovo_en.pdf](http://development.undp.org/sites/default/files/nhdr_2008_kosovo_en.pdf)

¹¹ Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

¹² KCSF-CIVICUS, Civil Society Index, Analytical Country Report for Kosovo 2011, Better Governance for a Greater Impact, A call for Citizens, p.23, <https://civicus.org/downloads/CSI/Kosovo.pdf>

¹³ Public Pulse Report. United Nations Development Programme. XI ed. Pristina, Kosovo: UNDP, 2016, p.4 http://www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/public-pulse-11/

Pension Savings Fund. Although not comprehensive and detailed, these data still provide some important information on the structure and economic value of the sector.

On the other hand, KCSF positioning as a leading organization in CSDev in Kosovo resulted in direct participation and contribution of KCSF in most of the CSDev related developments. As a result, a significant amount of information is collected during the daily work of KCSF, directly from its staff.

Last but not least, despite engaging other CSOs in conducting specific research on particular standards of this Matrix, there were few added value elements provided to the report. This is largely due to the fact that CSDev is still a new topic also for the majority of CSOs, and few of them have sufficient capacities and expertise to produce reliable data and analysis in this area.

Acknowledgements

In collecting and analysing the data for this report, KCSF was based on a team work, which included the major part of its staff and was built on the results of a number of its other projects and initiatives. Without the generous support of all colleagues of KCSF, it would have been impossible for the core team responsible for this report to complete this assignment. This is why the contribution of every member of KCSF team is highly acknowledged.

In addition, KCSF would like to express its gratitude to all those CSOs and representatives of public institutions, as well as from other sectors who have provided their opinions and thoughts through participating in surveys and responding to interviews. The information collected from the relevant actors to civil society work in Kosovo was crucial to cover the entire scope of this matrix.

Lastly, KCSF acknowledges the support provided by BCSDN Executive Office to the development and implementation of this monitoring exercise. Their support was very helpful to put the entire information within a clearly defined format, which is comparable regionally while providing sufficient space for country specific information.

Methodology

Overview of the Methodological Approach

CSDDev Matrix has been developed based on the regional expertise and experience, and aims to address both common issues relevant for the entire Western Balkans and Turkey, as well as specific issues at each of the countries covered. As the developments in some of the standards covered in this Matrix are not that extensive so to produce change at annual basis, it has been decided that the monitoring of all standards shall be conducted only once in two years. With the full monitoring exercise being completed for 2015, the monitoring for 2016 has covered only 12 core standards which are deemed to be the most important ones, namely:

- Standard 1.1.2: CSOs operate freely without unwarranted state interference in their internal governance and activities;
- Standard 1.1.3: CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities;
- Standard 1.2.1: CSO representatives, individually or through their organizations, enjoy freedom of peaceful assembly;
- Standard 2.1.1: Tax benefits are available on various income sources of CSOs;
- Standard 2.2.1: Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants;
- Standard 2.2.2: Public funding is distributed in a prescribed and transparent manner;
- Standard 2.3.1: CSOs are treated in an equal manner to other employers;
- Standard 2.3.2: There are enabling volunteering policies and laws;
- Standard 3.1.2: The state recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector;
- Standard 3.2.1: There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner;
- Standard 3.2.3: CSO representatives are equal partners in cross-sector bodies and are selected through clearly defined criteria and processes; and
- Standard 3.3.1: CSOs are engaged in different services and compete for state contracts on an equal basis to other providers.

KCSF continuously monitors the main developments in each of the standards as a part of its daily operation throughout the year. Moreover, being the lead organization in the area of CSDDev in Kosovo, KCSF directly participates in most of the initiatives to advance the legislation and practice of enabling environment for civil society. This has been the case also during 2016. This has enabled the research team to focus the primary research only on those issues which needed further information and analyses. During the second part of the year, KCSF initiated the primary research which gathered data for each of the core standards and indicators of the Monitoring Matrix covered in the 2016 report. Data collection was carried out using both quantitative and qualitative tools. Initially, a comprehensive desk research was focused on the identification and assessment of all policies and legislation adopted during 2016. The desk research also reviewed reports from other organizations relevant to the covered standards. An organizational survey with 101 active CSOs was carried out late 2016 – beginning 2017, using a comprehensive online survey tool as well as face to face interviews with those who faced difficulties in responding online. It was based on a standardized questionnaire utilized from all countries in the region, with necessary adaptations to the Kosovo context. The Organizational Survey sample was built on the list of registered NGOs. In order to collect comprehensive and representative information on the

sector, in terms of size, activity area, years in the sector and geographical distribution, stratified random sampling methodology was used. The survey sample was selected following two steps: 1) Set targets for the strata/target categories: 10 large and well-established CSOs, 5 international CSOs, 5 CSOs from Serb community and 5 CSOs of other ethnic communities (non-Albanian and non-Serb). In order to ensure geographical representation of the organizations, the population was also divided across regions as follows: minimum 15 CSOs in Prishtina and minimum 10 CSOs in other main regions of Kosovo. 2) Random selection of CSOs across each of the strata/categories, based on the list of registered NGOs. Since the existence of a CSO in the list of registered NGOs does not necessarily mean that the CSO is active, a lot of the sampled CSOs selected in the first round did not respond. As a result, the same sampling methodology was repeated multiple times, until the final number of surveyed CSOs was completed. This was done by assigning random numbers to each of the CSOs in each of the strata and interviewing, ranking them, and selecting the next in line.

The survey was complemented by around fifteen interviews, with respondents both from public institutions and civil society, in areas where specific information was missing or needed validation. The selection of the interviewees was based on the method of “key informants”, which were selected based on their involvement different fields covered by specific sub-areas of this Matrix, assuming they possess information and data that can be explored by the interviewers. The interviews aimed to cover all those areas which more specific information was necessary to assess the particular indicators. Each of the interviewees had very specific sets of questions, depending on their specific field of expertise and experience. Interviews were conducted in written or through direct meetings, depending on the preference of the respondents.

Participation of the CSO Community

CSO community was directly involved in data collection, both through quantitative and qualitative methodology. The specific survey for this report was conducted with 101 active CSOs and covered a wide range of topics related to the enabling environment for civil society development. Additionally, interviews were conducted with 15 respondents, among them also representatives of civil society organizations.

Lessons-learnt

Being the fourth round of annual monitoring, there are very few lessons learnt from this process. The main one being present for a number of years now, including 2016, is the need for continuous data collection and monitoring rather than one-shot research of the developments of the particular year. This has proven important due to the need for timely reaction to specific developments which require immediate identification of problems and follow-up advocacy. With Monitoring Matrix reports published at annual basis, the timely advocacy resulting from continuous monitoring has been crucial to addressing numerous issues relevant to the enabling environment for civil society development.

Findings and Recommendations

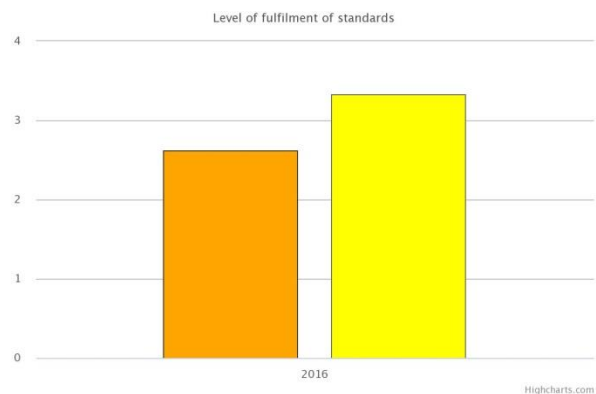
Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of Association

Standard 2: State Interference

Legislation

The legal framework prohibits public authorities to interfere in the work and activities of NGOs, except the Article 18 of the Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs. Concretely, Article 18 allows the NGO Department 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. Civil society has argued that this article is not in line with the primary legislation and international standards. Nevertheless, it still remains in force and allows for unwarranted state interference in the internal governance and activities of CSOs. There are no specific legal provisions obliging the state to provide protection from interference by third parties. The recently initiated process of amendment of the Law on Freedom of Association in NGOs is addressing both of these issues, although no formal decision has been made yet.



Reporting requirements are twofold: reporting to Tax Administration for their financial transactions and annual financial statements, and reporting to the NGO Registration Department for Public Benefit Organizations. Reporting requirements to Tax Administration are identical to businesses, same as the sanctions for failing to fulfill these reporting requirements, which are proportionate to the size of the CSOs/business. On the other side, reporting of PBOs (241 PBOs in 2016) is both narrative and financial, and PBOs with an income of more than 100,000 EUR should also submit an external audit report.

The new Law 05/L-096 for preventing money laundering and fighting the financing of terrorism is approved on 16th of May, 2016. The majority of the restrictive provisions of the Law are removed and this has been a result of intensive civil society engagement in working groups and other ways of advocating for removing the provisions that were burdensome for NGOs. Yet, a few remaining provisions on NGOs are not in line with the international standards, including restrictions to receive donations in cash and obligations to fund training on anti-money laundry and conduct regular due diligence. Being standard measures for banks and well-established entities, these obligations can hardly be implemented by the majority of the registered NGOs, which are small and grass-root organizations.

Within the Law on Freedom of Association in NGOs, legal provisions on the dissolution of NGOs are in line with the international principles and standards. Nevertheless, the initial draft of the amended NGO Law proposed by the government includes restrictive provisions on the dissolution of NGOs, in particular by introducing provisions that lead to NGO termination following failure to report on Public Benefit Status and tax obligations. CSO representatives are part of the working group and have requested removal of these provisions from the draft. Despite the existence of an

administrative instruction on the establishment of the Committee for Distribution of remained Assets of the terminated NGO, the specific procedures and criteria on decisions from this Committee are not in place.

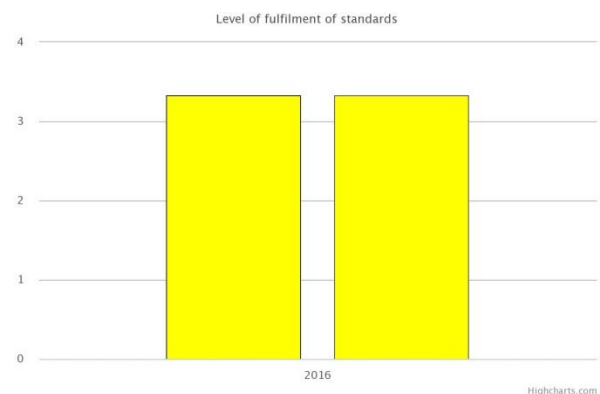
Practice

In general, CSOs in Kosovo continue to operate freely without unwarranted state interference in their internal governance and activities. With exception of suspension of a number of NGOs on grounds of national security, no other cases of direct state interference in internal matters of CSOs are reported. During 2016, two rounds of suspensions of NGOs have occurred (July and November 2016), resulting in suspension of 21 NGOs. Many of these NGOs have been suspended for the third year in a row, with one-year suspension decisions since 2014. The suspension has been based on the request of the “competent security body”, with the reason of “endangering the security and working against the constitutional order of Kosovo, based on Article 18 of the Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs. Beyond the above, no further justification was provided in the published list of suspended organizations. Very rare inspections from Tax Administration have been reported during 2016, while there are no official information on the level of implementation of the new provisions for NGOs from the money-laundry law. The vast majority of CSO respondents (96.04%) confirmed that they experienced no state or other parties’ interference in the internal matters of their organizations, with those reporting such interference mentioning mainly refusal of public institutions to cooperate with them or pressure from state officials towards their staff. All reported cases of termination of CSOs have been voluntary and the Committee for the distribution of the remaining assets was not required to become functional.

Standard 3: Securing Financial Resources

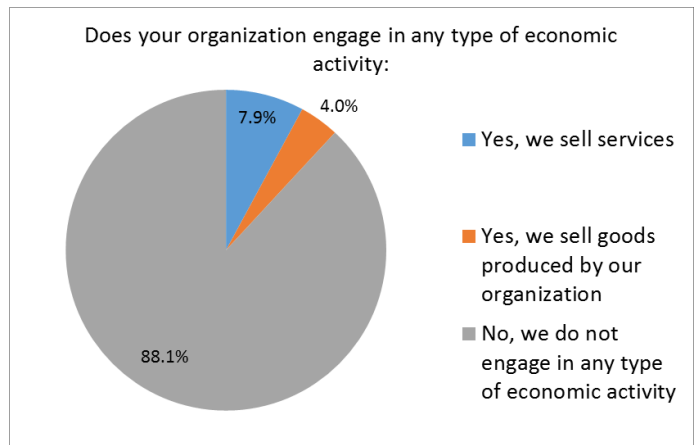
Legislation

In Kosovo, CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities. Changes in the Law for preventing money laundering and fighting the financing of terrorism has been positive toward the work of CSO’s, with exception of cash donations. Concretely, based on the new money-laundry law limit the receipt of cash from one donor to 500 EUR within a day and 1,000 EUR within a year. Although most of the CSOs complete their financial activities through bank transactions, still this provision is restrictive for crowdfunding from NGOs, including from foreign sources. The provisions for NGOs in the Law on Corporate Income Tax remain ambiguous and it is not clear whether the exemptions on the standard corporate tax are applicable to all NGOs or only to those with Public Benefit Status. Receiving foreign funding is allowed. In addition, CSOs can receive funding also from individuals, corporations and other sources. A formal Public Explanatory Decision, issued by the KTA in August 2016, specifies VAT exemptions to all imports and purchases of NGOs paid by government’s donations of those countries that have bilateral agreements with Kosovo, as well as all donations supporting programs and projects of humanitarian, reconstruction and European Integration nature, including EU funds.



Practice

In practice, few CSOs engage in economic activities. 88.12% of the surveyed CSOs declare that they do not engage in economic activities and one third of those who engage in economic activities report to face different problems in doing so. TAK did little to improve its capacities in dealing with the specific nature of the work of CSOs, and CSOs continue to be treated identically as businesses in most of the cases. No restrictions on receiving foreign funding have been reported and still the major part of the resources of civil society in 2016 came from international donors. In practice individual and corporate philanthropy are not very common. 89.11% of the surveyed CSOs declared that they do not receive funds from private companies or individuals. The VAT exemption is applied based on the source of funding rather than the status of the NGO. The recently adopted Explanatory Decision aims, among others, to unify the procedure of VAT exemption. However, its proper implementation in practice remains to be assessed, with initial problems reported due to lack of proper understanding of the procedure by both CSOs and businesses.



Monitoring Matrix Findings 1.1

The legal framework does not recognize the category of grass-roots. However, exercising the freedom of association without the need to register an organization is a constitutional right, stipulated also by the primary and secondary legislation. Thus, everyone can establish an organization, including grass-roots, without the need to register. While there are no reports of any restriction in operation of non-registered organizations, the majority of donors, both domestic (including state institutions) and international, do not provide funding for non-registered organizations.

The financial rules and reporting requirements for CSOs are identical to businesses, which in general follow the principle of proportionality, but are considered as complicated by some CSOs. However, many CSOs are unaware of the tax legislation for CSOs. While there are many cases of positive support to CSOs, the capacities of the Tax Administration of Kosovo to deal with CSO specificities still remain limited. No progress on the legal framework and implementation capacities has been noted during 2016, with exception of an Explanatory Decision from the Tax Administration specifying the treatment of donations with regards to tax exemptions. Most of the provisions of the tax reporting rules are not scaled according to the turnover or size of the CSO, and only one format of reporting is applicable. The only scaling is foreseen in the Law 04/L-057 on Freedom of Association in NGOs, where only Public Benefit Organizations with an annual turnover of more than 100,000 EUR shall audit their annual financial statements.

Sub-area 1.2.: Related-freedoms

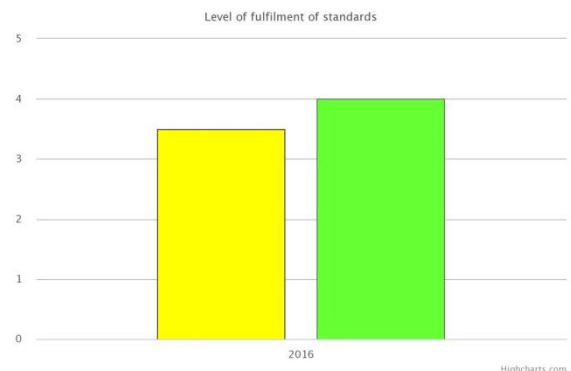
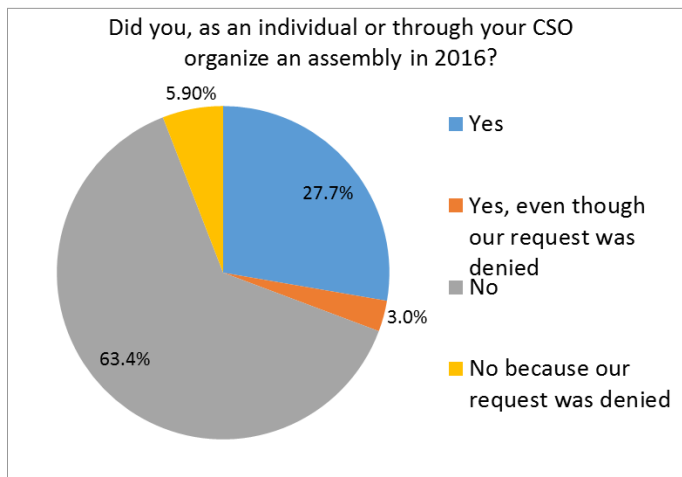
Standard 1. Freedom of Peaceful Assembly

Legislation

The legal framework on the right to assemble in Kosovo has not been subject to any change during 2016. Representatives of Kosovar CSOs, individually or through their organization, enjoy the freedom of peaceful assembly. It is a constitutional right, as per Article 43 of the Constitution, while the Law 03/L-118 on Public Gatherings guarantees all Kosovar citizens the right to organize and participate in public gatherings. The provisions of this law refer only to the citizens of Kosovo, leaving unclear whether non-citizens are guaranteed with this right. The legal framework 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), the public gathering can take place without any restriction. For any restrictions following the notification for public gatherings is noted, the organizers can appeal to the court through a fast-track procedure. Counter-assemblies are not explicitly restricted. However, one of the grounds for refusal of the permission to public gatherings is if another public gathering has already been authorized at a same or nearby location. This implies that counter-assemblies are not allowed.

Practice

30.69% of interviewed CSOs declare to have been involved in organizing peaceful protests during 2016, with 12.91% of them reporting some types of restrictions, such as limitations that were arbitrary and/or not clearly explained or prevention from organizing public gatherings. In addition,



50.5% have participated in assemblies (not necessarily organized by them), with only few of them reporting some kinds of restrictions during those rallies, mainly in rallies organized by political parties or with political motives. Only one of the surveyed CSOs reported having participated in a counter assembly. The gatherings of CSOs, in particular peaceful protests, are usually organized in public squares or in front of particular institutions which are target of the protest and media has full access to those assemblies. Although there are no exact comparative figures, 2016 has been characterized by an

increasing number of assemblies organized by civic initiatives. Among others, a group of independent citizens under the name #Protestoj (I protest) staged a series of protests against corruption after leaked wiretap scandal, while a number of other protests were organized in Prishtina and other cities following the suspicious death of a young political activist in Prizren Detention Center in early November 2016. In protests organized by CSOs during 2016, there are only few cases where intervention by police was reported, such as the protest of student organizations in the Prishtina University Campus, which turned violent. On the other hand, beyond assemblies organized by CSOs, some political assemblies during 2016 were accompanied by violence, both from the police forces and the protesters, with journalists also being among those

attacked. There were no reports on restriction to media access to the assemblies organized by civil society during the reporting period.

Monitoring Matrix Findings 1.2

There were no changes on the freedom of assembly during 2016. The existing legislation and policy framework for the exercise of right of peaceful assembly is in place. Peaceful assembly is a constitutional right, as well as regulated through primary legislation. Prior notification and authorization for public gatherings is required and the appeal procedure in case of refusal of permission shall be done through a fast-track procedure. CSOs exercise this right freely, although not many CSOs declare to have organized peaceful protests during 2016. In protests organized by CSOs during 2016, there were only few cases where intervention by the police was reported - with the latter being more frequent in rallies organized by political parties. The legal framework on the right of assembly has not been subject of change in 2016.

CSO representatives, individually or through their organizations enjoy freedom of expression for various issues of their interest. Based on Article 40 of the Constitution, freedom of expression is guaranteed to all, and can be restricted only if necessary to prevent violence or racial, ethnic or religious hate. No particular primary legislation applies specifically to the freedom of speech. However, a number of laws contain provisions related to the freedom of speech, such as Civil Law Against Defamation, Law on Informants, Law on Access to Public Documents, Law on Protection of Journalistic Sources, Law on Protection of Personal Data, etc. Libel is a misdemeanor rather than part of the penal code. Although very limited, during 2016 there were some reports of cases when CSO representatives have been pressured or threatened for their critical speech against state authorities or having opposing opinions on different issues, while the public broadcaster and its General Director were attacked. While the legal framework is generally in place, there is a lack of functional mechanisms and capacities in the police and judiciary to protect those who face restrictions on their freedom of expression.

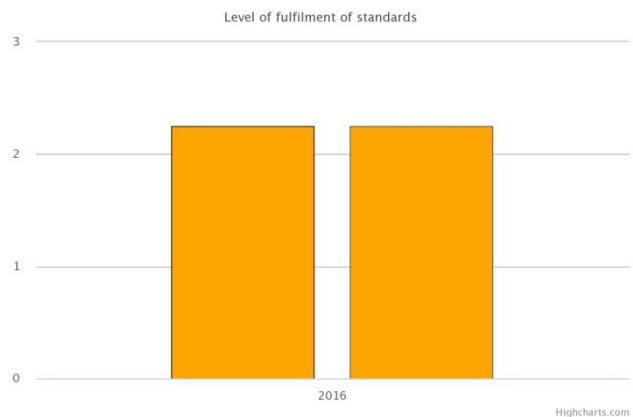
Area 2: Framework for CSO Financial Viability and Sustainability

Sub-area 2.1.: Tax/fiscal Treatment for CSOs and their Donors

Standard 1: Tax Benefits

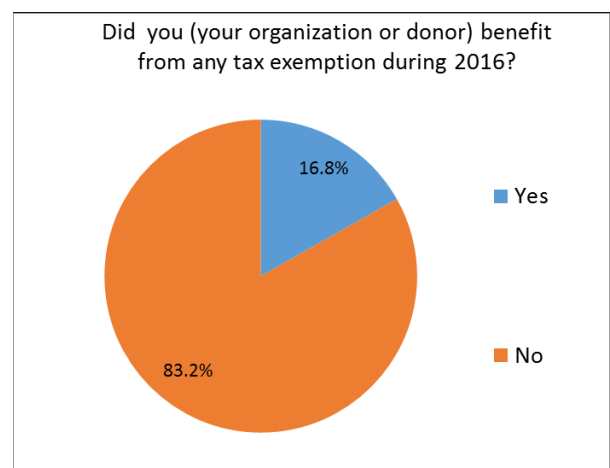
Legislation

The legal framework provides tax benefits for a number of income sources of CSOs. Grants, donations and subventions are exempted from taxes, with the Explanatory Decision published by the KTA providing more explicit explanations on the above. With regards to the economic activity, there are ambiguities in the legal framework, in particular on the economic activities of CSOs which do not have the public benefit status. According to the Kosovo Tax Administration, the economic/commercial activities of PBOs are exempt from the corporate income tax if the income destination is solely for the public benefit purpose and up to a “reasonable level” of income. While the article of the tax exemption mentions only the PBOs, another article on commercial activities talks about all registered CSOs whose “commercial or other activity shall be exclusively related to its public purpose up to a reasonable level of income”. This implies that the economic activity of any registered CSOs shall be directly linked to its mission and the income should be reasonable, and all other economic activities are subject to income tax. Nevertheless, this incoherence causes difficulties in its interpretation and implementation. There are no provisions on any tax benefits on passive investments of CSOs, same as there are no provisions on establishment and operation of endowments, nor related to any tax benefit for the latter.



Practice

Same as previously, no CSO has reported any direct or indirect tax on grants and donations. No exact data on the number of CSOs that benefited from tax exemptions on their economic activities exist, although 16.8% of interviewed CSOs declare that they or their donors have been exempted from some of the taxes. However, a detailed analysis of the reported tax exemptions shows that only a small portion of them have been excepted due to their NGO status, with VAT exemption (based on the status of the donor rather than the NOG) being the most frequent type of reported exemption. Less than half of the surveyed CSOs (41.17%) find the tax benefit procedures as very complicated or somehow complicated. Nevertheless, CSOs are quite unaware of the tax legislation – previous studies indicate that almost half of the CSOs do not know these procedures. As no practices of endowments established or operating in Kosovo could have been found, no tax benefits for endowments have been reported. The same is true also for the passive investments.



Monitoring Matrix Findings 2.1

There are no changes in legislation in regard to the Law on Corporate Income Tax and Law on Personal Income Tax. Grants, donations and subventions are exempted from taxes. An Explanatory Decision issued by the Tax Administration of Kosovo in August 2016 clarifies the above exemption, as well as introduces a unique procedure for VAT exemptions for expenses funded by foreign donors. There are no official data on the number of registered individual and corporate taxpayers who donated to CSOs. At the other hand, only a small portion of CSOs declare to have received donations from domestic private donors during 2016, with even less reporting that their donor received any tax benefit. This implies that even in those limited cases when private corporations or individuals decide to donate to CSOs, tax incentives are not a reason for doing so.

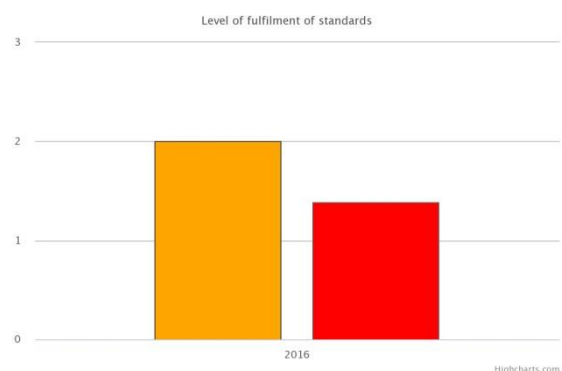
In general, very few CSOs are engaged in economic activities. There are ambiguities in the legal framework on tax benefits for the economic activities of CSOs, in particular those which do not have the public benefit status. The main interpretation is that the economic/commercial activities of Public Benefit Organizations are exempt from the corporate income tax if the income destination is solely for the public benefit purpose and up to a “reasonable level” of income. While the article regarding tax exemptions mentions only PBOs, another article on commercial activities refers to all registered CSOs whose “commercial or other activity shall be exclusively related to its public purpose up to a reasonable level of income”. This implies that the economic activity of any registered CSO shall be directly linked to its mission and the income should be reasonable, and all other economic activities are subject to income tax. Nevertheless, this incoherence causes difficulties in its interpretation and implementation.

Sub-area 2.2.: State Support

Standard 1. Public Funding Availability

Legislation

Following the proposal from the Council for implementation of the Government Strategy for cooperation with civil society 2013-2017, the Government has adopted the model on public funding for CSOs, in May 2016. This model implies that the main responsibility for the distribution of public funds for NGOs falls on the respective line ministries and municipalities, in accordance with the relevant strategic documents and their priorities. The decentralized distribution will be done in accordance with unified principles and procedures and a central unit will monitor whether these principles and procedures are being adhered to. As of September 2016, a working group is established and working to draft the Regulation on public funding for NGOs. CSOs included in the implementation bodies of the Strategy have been continuously involved in discussion and design of the model, as well as the regulation.



In the meantime, there is no special law or national policy which regulates the state support for CSOs, similarly as there are no national or local level mechanisms for distribution of public funds to CSOs. The existing funds to CSOs are disbursed from specific institutions at central and local level, without any cooperation or coherence and without being planned within the state budget. No national policy or mechanism exists on public funding for institutional development of CSOs and co-financing of EU and other grants. Given that the standard budgetary cycle covers only 1 year, it is difficult to fund any program or institutional development grant within such a short period of time, while no cases of longer period funding have been found. Although the Government Strategy for cooperation with civil society requires setting up a co-financing scheme for EU funds for civil society, no initiative on this has been made during 2016. The Law 04/L- 080 on games of chance provides with the possibility to direct a certain amount of funds from the Kosovo Lottery for different social categories, human rights issues, culture and sports. The details of such a transfer shall be determined by an administrative instruction, but such an instruction is still not drafted. There are no specific procedures or requirements for any CSO participation in the public funding cycle.

Practice

There are very few cases of public funding for institutional development of CSOs and co-financing of EU and other grants, while project support is present in many cases, both at local and central level. With a first ever report on public funding for NGOs published from the Government, some

Despite being a very positive step towards the transparency of public funding for NGOs, the Government report on public funding for NGOs has serious deficiencies and does not provide an accurate state of situation in this area. This is mainly due to the lack of proper system of maintaining data. An in-depth analysis of this report conducted by KCSF reveals significantly different data, in particular with regards to the total amounts. When the sports federations and clubs have been removed from the published list, the amount of funding for NGOs is decreased by around 7 million EUR for two years. After further decreasing slightly less than 1 million EUR disbursed to public institutions listed as NGOs in the report, and those assessed to be payment of services or other donor funds channeled through public institutions (around 9 million EUR for two years), the final amount that might have been granted to NGOs for two years is slightly more than 10 million EUR. Furthermore, after correcting the names of the NGOs listed in the report and removing NGOs counted multiple times, the number of beneficiary NGOs does not exceed 1,800 for two years. Last but not least important, the KCSF in-depth analysis of the report reveals that around 90% of the payments to NGOs are below 10,000 EUR, with only 4.4% of them exceeding the amount of 25,000 EUR.

information on public funding has been revealed. First and foremost, the report confirmed the concern raised by civil society that data on public funding for NGOs are not maintained properly within the state administration. This resulted in very limited information available for the report, as well as many cases of inadequate categorization within the report. I.e. cases of public institutions included as NGO beneficiaries, double counting of NGOs due to the technical mistakes in their naming, lack of differentiation between payment of services and

grants to NGOs, lack of any information on the nature of the supported projects/programs, etc. According to the government report, the overall amount of funds transferred from the state budget to NGOs during 2016 was 13,883,316.78 EUR, with very similar amount reported also for 2015. While municipalities have had a higher portion for both years, the central level has seen a slight increase during 2016, with the opposite being true for local level. The number of NGO beneficiaries for 2016 is reported to be 1,659, while the Ministry of Culture, Youth and Sports was the institutions with most funds disbursed to NGOs.

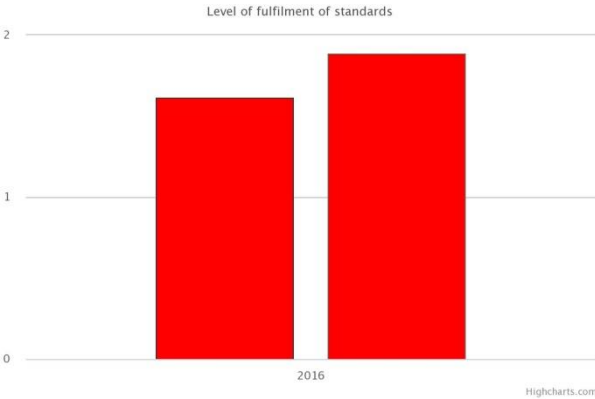
From the survey data, 52.48% of the surveyed CSOs have reported to have applied for public funds during 2016, with slightly more than half of them receiving such funds (34.65% of all surveyed CSOs). Only two cases of specific planning for CSO project support at central/local level were identified in the 2016 budget. According to the 2016 budget, Rahovec municipality budget

included 10.000 EUR for NGOs in social issues; in Istog municipality a budget line of 15.000 EUR was dedicated to participation in capital project through NGO's, community and other donors. Six other municipalities have specific budget lines dedicated to gender issues, support to youth or cultural services. Despite the legal possibilities, no funds from the lottery have been collected or disbursed during 2016. As participatory budgeting is not common in Kosovo, CSOs are not part of any of the phases of the public funding cycle even for public funds for civil society.

Standard 2. Public Funding Distribution

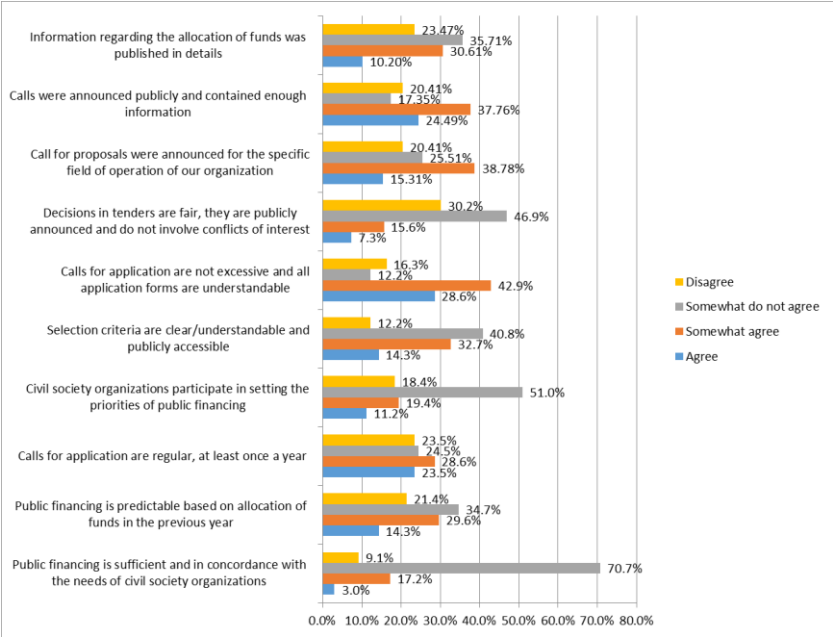
Legislation

While the Regulation on public funding for NGOs is in the drafting process, no changes in 2016 were made on the procedures for the distribution of public funds. There are no specific procedures for the distribution of public funding to CSOs, including lack of standard selection criteria which would ensure that public funding is distributed in a prescribed manner. A number of ministries have specific secondary legislation on “distribution of subsidies for NGOs”, but the legal basis of these regulations remains unclear. In addition, these regulations do not cover the entire cycle of public funding and address same issues in different manner and levels of detail, depending on the particular ministry. The only CSO specific procedures on addressing the conflict of interest are related to CSOs with public officials as Board members vis-à-vis state funding within the Law on prevention of conflict of interest in discharge of public functions.



Practice

Due to lack of specific budgetary planning and information on selection, it is very difficult to collect proper information on the type of projects and organizations benefiting from public funds. Information relating to the procedures for funding and information on funded projects is very rarely publicly available, with the Ministry of Culture, Ministry of European Integration and Ministry of Labor and Social Welfare being among the few institutions publishing some data. Government bodies neither have, nor do they implement harmonized procedures. Around 71% of the surveyed CSOs agree or partially agree that the requirements for application are not excessive and that all application forms are understandable. Meanwhile, only a portion of



the surveyed CSOs consider that decisions in tenders are fair, are publicly announced and that they are free from conflict of interest.

Monitoring Matrix Findings 2.2

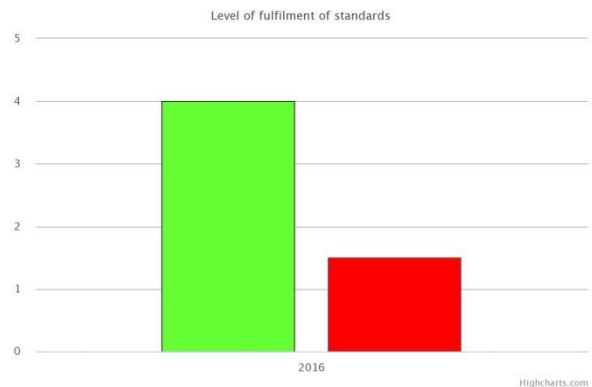
Following the adoption of a general model on public funding for NGOs, the Government has initiated drafting of a specific regulation on this issue. The model and the draft-regulation implies that a set of unified principles and procedures on public funding to CSOs will be set and monitored by a central authority, and will be implemented by every line ministry according to its specificities. In the meantime, no state funding framework for CSOs exists in Kosovo, although state institutions regularly provide funds to CSOs. Due to the inexistence of inclusion of beneficiaries in programming of the tenders, clear criteria published in advance, deadlines for decision, and merit decision with arguments, no proper data on public funding for NGOs is available. A first ever government report on public funding for the period 2015-2016 has revealed some data on the amounts of funds disbursed to the sector, although the report is not fully reliable due to lack of proper maintenance of data from public institutions.

Sub-area 2.3.: Human Resources

Standard 1. Employment in CSOs

Legislation

The current labor legislation does not have any specific provisions on CSOs, as they have same requirements with other employers. Nevertheless, the provisions of the maternity leave, pension contributions and public health insurance which are obligatory for all employers, are problematic to CSOs. Due to dominance of project funding in the civil society sector, only few CSOs have sufficient funds to cover their part of the payment of these obligations. Another challenge identified by CSOs with regards to labor legislation are the project-based contracts for their staff, which do not necessarily cover all potential benefits for employees guaranteed by the Labor Law, in particular those related to the duration of employment.



Practice

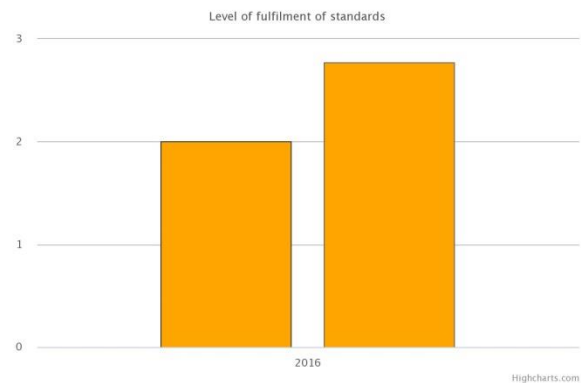
CSOs are not treated in state incentive programs for employment, and in general, civil society sector is not treated as one of the sectors that contribute to employment. While there are certain employment generation programs through public and private sector, CSOs are not part of any support or incentive. Only two from the surveyed CSOs have declared to have benefited from state supported employment programs during 2016. There are very few credible statistics on the number of employees in the NGO sector in Kosovo. According to the data from the Kosovo Pension Savings Trust (KPST), with around 312,672 total active contributors during 2016, NGOs participate with 11,997 active contributors, respectively 3.83% of the total number of active pension contributors in Kosovo. However, only 3,486 active contributors have been paying

pension contributions for the entire twelve months of 2016. With the overall gender distribution of pension contributors significantly in favor of men (68.2% to 31.8%), NGOs are almost balanced, with 53.1% in favor of men. On the other hand, Kosovo Statistical Agency has very limited statistics relevant to civil society.

Standard 2. Volunteering in CSOs

Legislation

No changes on the legal framework for volunteering have been made during 2016, despite some meetings held in the framework of the Objective 4 of the Government Strategy for cooperation with civil society. These meetings did not lead to any concrete results in legislation or specific programs on volunteering. The only law that contains any provisions on volunteering remains the Law 03/L-145 on Youth Empowerment and Participation, which aims to stimulate volunteering for youth. Other categories of volunteering are not addressed by any law or regulation. Registration of young volunteers is obligatory, same as the obligations for contractual relationship and protection for organized volunteering for youth. However, administrative procedures for host organizations of young volunteers are complicated and burdensome for CSOs. All in all, less than one third of the surveyed CSOs perceive the policy and legal environment for volunteering as enabling.



Practice

During 2016, no volunteering programs organized by state institutions have been identified. 79.2% of the surveyed CSOs declare to have engaged volunteers during 2016, with half of them declaring to have 10 or more volunteers. However, few of them sign written agreements/contracts with the volunteers. The registration system for youth volunteers who is envisaged by the Law on Youth Empowerment and Participation did not function during 2016, with the exception of few municipalities which have reported to have functional registration system of youth volunteers. In general, volunteering takes place in many forms and a variety of CSOs, mostly without any formal procedure. The last data available on volunteering are those for 2015, which indicate that only 3.8% of Kosovar citizens volunteered for civil society during that year.¹⁴

Monitoring Matrix Findings 2.3

The number of pension contributors from the CSO sector in 2016, based on the Kosovo Pension Savings Trust, was 11,977, with 3,486 of them working for the sector for the entire twelve months of 2015. These statistics are provided based on request, while it still cannot be considered as fully accurate, as there are no details of whether the employees are full-time, part-time or single-day workers of a CSO. According to Kosovo Pension Savings Trust data, the NGO sector had 3.83% of the total number of active pension contributors in Kosovo during 2016. CSOs are treated equally to other sectors within the Labor Law, despite difficulties to implement a number of provisions (i.e. on the maternity leave

¹⁴ Kosovar Civil Society Index 2016, KCSF 2016

payment), while the civil society sector is not part of policies and programs that promote employment.

The number of volunteers in CSOs is not available, same as the number of voluntary hours implemented in CSOs. As a result, it is impossible to have accurate assessment whether volunteering is increasing or decreasing. The last data available on volunteering are those for 2015, which indicate that only 3.8% of Kosovar citizens volunteered for civil society during that year. Apart from a number of provisions on youth volunteering, no legal framework exists to regulate and promote volunteering in civil society. Same, there is no legal provision that enables tax-free reimbursement of travel expenses and per diems to volunteers. As a result, in most of the cases volunteering takes place in an informal manner.

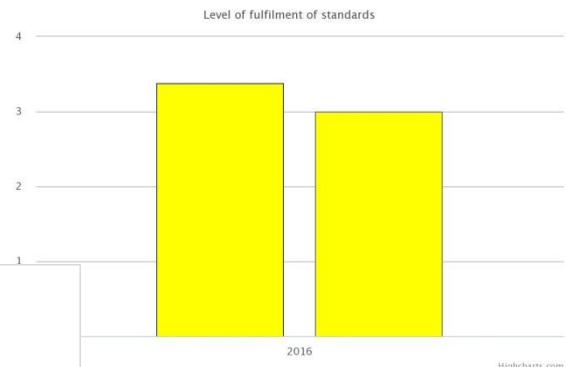
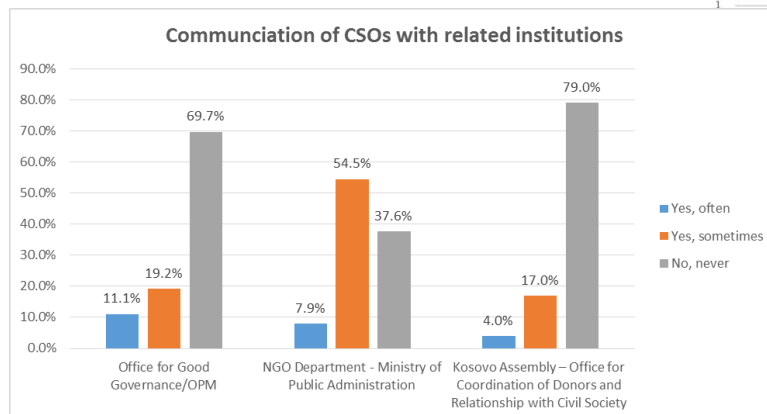
Area 3: Government-CSO Relationship

Sub-area 3.1.: Framework and Practices for Cooperation

Standard 2. Institutions and Mechanisms for Development of and Cooperation with Civil Society

Legislation

The Council for implementation of the Strategy, as the joint body mandated to monitor and report on the implementation of the Strategy's activities, continued its operation during 2016. The Office for Good Governance within Office of Prime Minister



(OGG/OPM) continues to be the focal unit of government cooperation with civil society and serves as the Secretariat of the Council. The Rules of Procedures of the Council ensure that all initiatives coming from CSOs are taken into consideration, and the same applies for the Working Teams of the Council. With regards

to the Assembly, during 2016 no changes have been reported to its institutional setup for cooperation with civil society.

Practice

With only few staff working, among other duties, on the coordination and implementation of the Strategy and no budget allocated for its implementation, OGG/OPM remains with insufficient human and financial resources to facilitate the CSO-government dialogue, same as for serving as a secretariat to the Council. An EU funded Technical Assistance project dedicated to the

implementation of the Strategy for cooperation with civil society kicked-off in spring 2016 and has provided the major part of the expertise and funding on behalf of the Government for the activities conducted during 2016. The Council for implementation of the Strategy has met three times, while the Working Teams for each of the 4 Strategic Objectives more frequently. While the CSOs members in the Council are regularly involved in the work of the Council and the Working Teams, the same cannot be said for a major part of civil society sector – only 30.29% of the surveyed CSOs declare to have communicated with the OGG/OPM during 2016. Even a smaller portion of CSOs (21%) declared to have communicated with the Assembly Officer for cooperation with civil society.

Monitoring Matrix Findings 3.1

The structures and mechanisms for dialogue and cooperation between CSOs and public institutions have continued their operation during 2016, with some progress in the areas of public consultations and public funding for NGOs. These were the two Strategic Objectives of the Government Strategy for cooperation with civil society 2013-2017 that have seen a solid level of implementation, with the other two lagging behind. On the other hand, despite the commitment for budget allocation for the implementation of the Strategy when this document was adopted, no financial means were allocated to any of the government units responsible for the implementation of the activities and the majority of activities were conducted with donor support. With the major part of expertise coming either from civil society or from the EU funded TA project in support to this Strategy, the lack of timely and qualitative input from line ministries remains a concern. In terms of institutions, the Office for Good Governance of the Office of Prime Minister remains the responsible body of the Government for cooperation with civil society. No ministries or other central institutions, except Kosovo Prosecutorial Council, have designated contact points for civil society. Same applies to the local level, with only the Municipality of Mitrovica South having a designated contact point for civil society.

An Officer for cooperation with civil society and donors remains responsible for the Assembly communication with civil society. During 2016, this office has organized few activities in support of the involvement of civil society in the work of the Assembly. The Declaration for partnership between the Kosovo Assembly and civil society, adopted in 2014, has not produced any visible results so far.

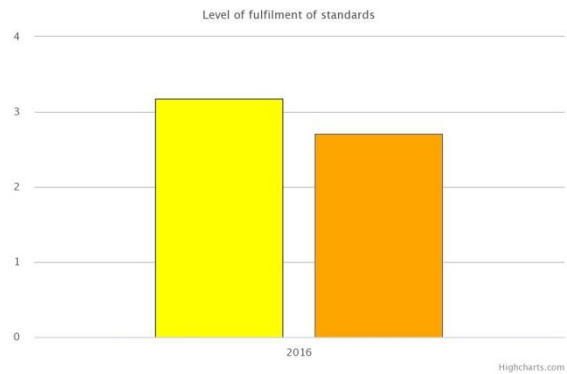
In general, the outreach of responsible institutions for cooperation with civil society both at government and Assembly level is limited and a significant part of CSOs do not have any communication or cooperation with these institutions.

Sub-area 3.2.: Involvement in Policy – and Decision – Making Process

Standard 1. Standards for CSO Involvement

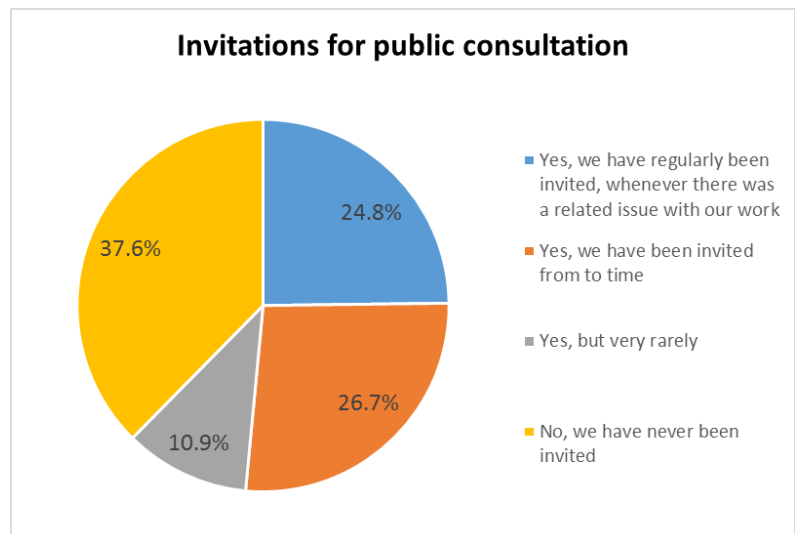
Legislation

The main progress with regards to public consultations was the approval of the Regulation on Minimum Standards for public consultation, in April 2016, based on a proposal by civil society. The set of standards presents a systematic basis for public consultation from agenda-setting to experts' involvement to general public consultations, with specific requirements for each of the steps. Furthermore, an online platform has been designed to serve as an entry point for all interested parties to get involved in the consultation process. While the monitoring of implementation of these standards shall be based on the existing system of monitoring the policy and law cycle, annual reports are required both from line ministries and Office of the Prime Minister on the details of the public consultation process. This regulation is based on the existing general requirements set by the Rules of Procedure of the Government, which requires public consultations for all draft policies/laws, with adequate and timely information to be provided by the proposing authority, as well as feedback on the consultation results. The Regulation enters into force as of 1st of January 2017. The Rules of Procedure of the Assembly have not been changed and they provide with non-obligatory possibilities to invite CSOs and organize public hearings. The Law on Local Self-government provides with different instruments of citizen participation at local level, including public consultations, sectorial consultative committees, petition, public meetings with the Mayor, etc. Secondary legislation sets a number of obligations which would ensure publishing of municipal documents and public involvement in decision-making. Nevertheless, these provisions are very vague and leave a lot of space for different interpretation. To illustrate, it is required that "the decisions of the Mayor that affect the interest of the citizens should be published in the website of the Municipality", but no criteria or guide on determining which decisions fall under category exist. With regards to the capacities of civil servants to involve civil society, a training module on Minimum Standards on public consultation process has been designed and delivered during 2016. While the training sessions were organized by the EU funded TA project in support of the Strategy, the Kosovar Institute for Public Administration has not included modules covering this topic in its formal curriculum, despite being obliged to do so by the Strategy for cooperation with civil society 2013-2017. Last, as per requirements of the Regulation on Minimum Standards for public consultation process, ministries are required to appoint Coordinators on public consultation process, who will be in charge to provide advice to other civil servants and prepare annual reports on this process.



Practice

Despite positive legal requirements, CSOs are not routinely invited to comment on policy/legal proposals. Only 24.75% of the surveyed CSOs in 2016 have been regularly invited to comment on policy/legal proposals on their fields of interest, while slightly more than half of them declare to have had sufficient time to comment on the proposals. Mainly the invitations are done through dissemination of draft-proposals through the CiviKos Platform, occasionally by publishing the drafts on Ministries websites and rarely by other channels. The public is not consulted at an early stage of a proposal and this is confirmed by the survey results, where less than one third of the surveyed CSOs consider that draft laws and policies have been consulted from the initial stage. From 53 draft-laws adopted by the Government during 2016, only 27 of them have been disseminated for public consultation through CiviKos Platform. Even worse is the proportion of adopted and consulted documents when it comes to Concept Documents (26/7), Strategic Documents (8/2) and Administrative Instructions (61/23).¹⁵ While feedback on the results of the public consultations is rarely provided, more than half of those CSOs that have participated in public consultation process assess that their comments were fully accepted (9.52%) or partly accepted (47.62%). At local level, majority of municipalities do not regularly include civil society in their work, while a large number of legal instruments for participation are not functional. At the Assembly level, only a part of the laws in procedure undergo public hearings, while other types of public consultations are not common. According to CSOs working with the Assembly of Kosovo, the most positive examples of public hearings are those co-organized with CSOs or international organizations. The Assembly has a functioning database of NGOs interested in the work of this institution, which serves also as a platform of inviting NGOs on Committee meetings and public hearings. However, it is a very common practice that invitations are automatically sent only in the evening prior to the meeting. During 2016, the Office for Good Governance, through the EU funded TA project in support of the Strategy, has trained around 100 civil servants in two round of trainings on Minimum Standards for public consultations process. The Coordinators for Public Consultation process appointed by some ministries have completed one training session on Minimum Standards for public consultation process.

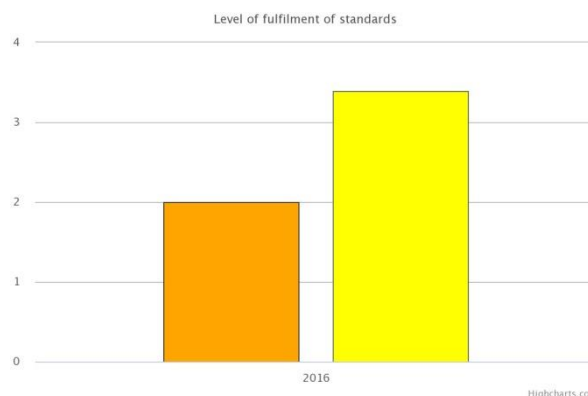


¹⁵ Monitoring report on public consultation with member organizations of CiviKos Platform for 2016, CiviKos Platform, 2017

Standard 3. CSOs' Representation in Cross-Sector Bodies

Legislation

No changes have been made to the legislation on participation of civil society in decision-making or advisory bodies created by public institutions. The legislation at government level allows, but does not oblige the government to invite CSO representatives in these bodies. As an exception, sectorial consultative committees on municipal level should be established and comprised from citizens and civil society, but there are only few municipalities that have fulfilled this obligation. A number of independent or advisory bodies have specific rules of procedure which envisage participation of civil society representatives, including selection procedures. Besides these particular cases, there are no guidelines or standard selection mechanisms which would ensure appropriate representation from civil society.



Practice

A number of existing bodies, such as the National Council on European Integration, the National Council on Anti-Corruption or Council for implementation of the Strategy continued to include civil society representatives in their work. Nevertheless, there were issues in representation of civil society in the case of the first, where the new President invited only some of the CSO members of the National Council on European Integration, without any justification. This caused even those invited to boycott the meeting. During 2016, a few cases of open selection processes have taken place, mainly facilitated by the CiviKos Platform. With around half of the surveyed CSOs having participated in some type of cross-sector bodies, only 11.88% declare to have been selected through an open and transparent procedure. In general, CSO representatives in these bodies are free to present and defend their positions, without being sanctioned. Similarly, most of the CSOs participating in decision-making and advisory bodies use alternative ways of advocacy, which are not necessarily in line with the position of the respective body. Both of the above are now explicitly included in the Regulation for Minimum Standards for public consultation process.

Monitoring Matrix Findings 3.2

There are legal requirements for consulting with CSOs at the government level. Nevertheless, legal opportunities are not utilized properly, mostly due to the weak implementation from the side of public authorities. While access to information has been improved during the last two years, less than 1/3 of CSOs declare to have been regularly invited to comment on policy/legal proposals in their fields of interest during 2016. While feedback on the results of the public consultations is rarely provided or made public, almost half of those CSOs that have participated in the public consultation process assess that their comments were partly accepted. There are no standard selection mechanisms, and only few bodies have selected CSO representatives through an open, transparent and democratic process. As there is no systematic monitoring and reporting on this area, no exact data is available on the percentage of laws/bylaws, strategies and policy reforms which are effectively consulted with CSOs. The main achievement during 2016 has been the Regulation on Minimum Standards on Public Consultations process, adopted by the Government in April 2016 and entering into force on 1st of January 2017.

At the local level, the majority of municipalities do not regularly include civil society in their work, while a large number of legal instruments for participation are not functional.

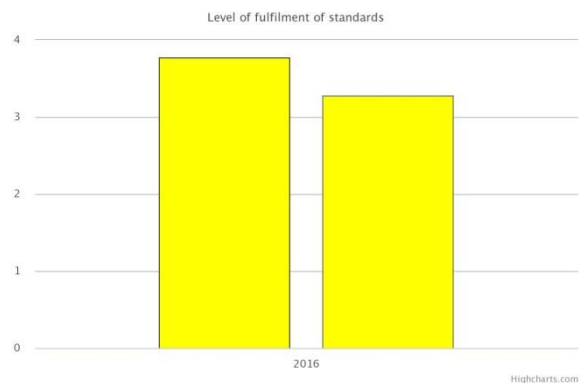
At the Assembly level, the legal provisions on consultation with CSOs are non-binding. Only a part of the laws in procedure undergo public hearings, while other types of public consultations are not common. According to CSOs monitoring the work of the Assembly, the most positive examples of public hearings are those co-organized with CSOs or international organizations.

Sub-area 3.3.: Collaboration in Service Provision

Standard 1. CSO Engagement in Service Provision and Competition for State Contracts

Legislation

There were no changes in the legal framework for service provision by CSOs during 2016. The existing legislation allows CSOs to provide services in various areas. The legal requirements are equal for all kind of legal entities, including CSOs and there are no additional requirements for CSOs when they wish to engage in state contracts. More specific provisions exist in social services, which is regulated by Law 02/L-17 for Social and Family Services (and its amendments), which formally recognizes the possibility and allows for different social services to be provided by CSOs. In general, this law takes into account the specific nature of the work of CSOs. Moreover, CSOs are eligible to apply for licensing on specific social services, based on defined standards. The licenses are a prerequisite to apply for providing respective services, and this applies to other service providers as well, except state service providers.



Practice

In Kosovo, few CSOs are engaged in different services which are paid by state funds and most of those engaged are in the field of social services. The majority of services provided by civil society are still funded by international donors. Only 7.9% of the surveyed CSOs applied for state contracts during 2016, with less than half of them being awarded. Few CSOs are included in different phases of developing services, and their full inclusion in the entire cycle from planning to evaluation is still lagging behind. In the field of social and family services, only CSOs that have completed the licensing process for respective services are eligible to obtain state contracts for such services. The licensing process and requirements are equal for all types of service providers.

Annex 1 – Used Resources

1. The Constitution of Kosovo
2. Law 04/L-57 on Freedom of Association in NGOs
3. Law 03/L-222 on Tax Administration and Procedures (including Law 04/L-102 on amending the Law 03/L-222)
4. Law 05/L-096 for Preventing Money Laundering and Fighting the Financing of Terrorism
5. Law 03/L-196 on Prevention of Money Laundering and financing of terrorism (Including the Law 04/L-178 on amending the Law 03/L-196)
6. Law 03/L-162 on Corporate Income Tax (including Law 04/L-103 on amending the Law 03/L-162)
7. Law 05/L-029 on Corporate Income Tax
8. Law 03/L-161 on Personal Income Tax (including Law 04/L-104 on amending the law 03/L-161)
9. Law 05/L-028 on Personal Income Tax
10. Law 03/L-118 on Public Gatherings
11. Law 03/L-212 on Labour
12. Law 03/L-145 on Youth Empowerment and Participation
13. Law on Budget 2016
14. Law 04/L-051 on Prevention of the Conflict of Interest in Exercising the Public Function
15. Law 03-L/040 on Local Self-government
16. Law 03/L-215 on Access to Public Documents
17. Law 02/L-17 for Social and Family Services
18. Tax Administration Public Explanatory Decision 06/2016 on tax treatments of donations
19. Regulation 05/2016 on Minimum Standards for public consultation process
20. Administrative Instruction GRK – No: 02/2014 on registration and operation of NGOs
21. Declaration for Partnership between the Kosovo Republic Assembly and Civil Society
22. Government Strategy for Cooperation with Civil Society 2013-2017
23. Government Model on Public Funding
24. Government Report on Public Funding for the Period 2015-2016
25. Annual Plan for 2016 of the Governmental Strategy for Cooperation with Civil Society 2013-2017
26. EC Report for Kosovo 2016
27. Kosovo Pension Savings Trust (data upon request)
28. UNDP Public Pulse, Volume XI, May 2016
29. UNDP, Human Development Report 2008, Civil Society & Development

30. Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo
Country Report 2013, 2014, 2015
31. Kosovar Civil Society Index 2016, KCSF 2016

Annex 2 – List of Interviewees

1. Adile Shaqiri – Ministry of Labour and Social Welfare
2. Afrim Maliqi – Handikos
3. Agron Gashi – Legal Office, the Office of the Prime Minister
4. Arben Krasniqi – Government Coordination Secretariat
5. Ares Shporta – Lumbardhi Foundation
6. Dardan Kryeziu – CiviKos Platform
7. Flutura Blakçori – Financial Intelligence Unit
8. Mehmet Musaj – Kosova Rehabilitation Centre for Torture Victims
9. Muharrem Shahini – Ministry of Finance
10. Naime Sherifi – Centre for Protection of Women and Children -
11. Sami Salihu – Tax Administration of Kosovo
12. Trëndelinë Dreshaj – Office of Good Governance, the Office of the Prime Minister
13. Veton Muja – Syri i Vizionit
14. Xhevat Bajrami – Ministry of Culture, Youth, and Sport