



Republika e Kosovës

Republika Kosova-Republic of Kosovo

Zyra e Kryeministrit-Ured Premijera-Office of the Prime Minister

Zyra për Qeverisje të Mirë / Kancelarija za Dobro

Upravljanje / Office on Good Governance

REGULATION

(GRK) NO. 05/2016

MINIMUM STANDARDS

FOR PUBLIC CONSULTATION PROCESS²

²Regulation (GRK) No.05/2016 on minimum standards for public consultation process, was approved on 86 meeting of the Government of Kosovo, with the decision No.06/86, data 29.04.2016.



Government of the Republic of Kosovo,

Pursuant to Article 93 (4) of the Constitution of the Republic of Kosovo, in accordance with Article 4, paragraph 3 and Article 22 of Law no. 04 / L-025 on legislative initiatives (Official Gazette no. 23, 26.10.2011) and in accordance with Article 19 (6.2) of the Rules of Procedure of the Government no. 09/2011 (Official Gazette no. 15, 12.09.2011) and based on Article 10 of Regulation 03/2013 on Government Legal Service,

Approves:

**REGULATION (GRK) NO.05/2016 ON MINIMUM
STANDARDS FOR PUBLIC CONSULTATION PROCESS**

CHAPTER I - GENERAL PROVISIONS

Article 1 Purpose

1. This Regulation aims to promote and ensure a public consultation process between public authorities, interested parties and the public, for an inclusive participation process of policy making and decision making of public interest and increasing transparency and accountability of public bodies against interested parties and the public.

2. This Regulation shall define minimum standards, principles and procedures of the public consultation process between public authorities, interested parties and the public in the process of drafting the policy and legislation.

Article 2 Scope

1. The provisions of this Regulation apply to all public bodies to plan and implement effective form of public consultation process in drafting of legislation and policies.

2. Minimum standards established by the regulations apply to all documents, the process of drafting which requires public consultation.

Article 3 Definitions

1. Terms used in this Regulation shall have the following meanings:

1.1. The public consultation process – shall mean the participation of interested parties and the public in the decision making process of public bodies, upon the announcement made by the responsible public body;

1.2. Public Organ – Is a body of central authority of government, which is responsible for drafting legislation and policies including natural or legal person, who has been given such a right;

1.3. Minimal Standards - are the minimum procedural rules which aims the development of public consultations efficient in the process of drafting

policies and legislation between public authorities, interested parties and the public, without the fulfillment of which the process of drafting policies and legislation is considered incomplete, unless otherwise provided by the legislation in force;

1.4. Public – shall mean individuals, organizations and other civil society, and various interest groups;

1.5. Interested party - is considered any person, public body, organization of civil society, interest groups, and other entities that are affected by or are interested directly or indirectly in the policy and legislation;

1.6. Decision-making process - includes planning, drafting and adoption of policies and legislation by public bodies;

1.7. Public meeting - is any public body meeting with the public and interested parties to discuss the plans, policies and proposed legislation, as well as collecting relevant recommendations and addressing them;

1.8. Transparency - it is an open activity of a public body, which provides the public and interested parties the opportunity to participate in decision making process;

1.9. The proposed body - means the Public body, which is responsible for policy and legislation;

1.10. The official responsible – means the person, assigned by the proposing body for drafting the policy or the approximate of relevant legislation;

1.11. Project proposal shall mean all documents, as defined in Article 5 of this Regulation, subject to public consultation process in accordance with this regulation, before the final version.

Article 4

General provisions

1. Public bodies shall hold public consultations with interested parties and the public in a transparent manner, by:

1.1. ensuring equal opportunities for non-discriminatory participation of

interested parties and the public in the process of public consultation;

1.2. informing the public and interested parties, in the official languages of the Republic of Kosovo, regarding the initiative for policy and legislation;

1.3. providing all necessary information in a comprehensible form in order the public and interested parties to understand the content and the expected impact of the draft proposal.

2. Public bodies shall publish draft proposal on the official website and use other forms of information by interested parties and the public.

3. Public bodies shall enable the public and interested parties to comment in the earliest stages of the decision making process.

4. Public organs shall take all necessary actions to ensure the active partnership between the parties during the public consultation process.

Article 5

Documents for public consultation according to the minimum standards

1. The draft annual plans of public bodies are subject to the public consultation process in accordance with this Regulation.

2. Other documents which are subject to a public consultation process based on this Regulation are:

1.1. Draft Annual Plan of the Strategic Documents;

1.2. Draft Legislative Program of the Government;

1.3. Draft Plan of the secondary legislations;

1.4. Draft list of concept documents;

1.5. Draft Concept Documents;

1.6. Draft Normative Acts;

1.7. Draft Strategies and

1.8. All other documents, which must be accompanied by Explanatory Memorandum or to which public consultation is required.

CHAPTER II - PUBLIC CONSULTATION PROCESS

Article 6

The official responsible for public consultation

The official responsible appointed by the public body for drafting the policy or relevant legislation in the same time is responsible for the development of the public consultation process.

Article 7

Public consultation forms and techniques

1. Public consultation forms and techniques include, but are not limited to:
 - 1.1. Consultations in writing and electronically;
 - 1.2. Publication on the website;
 - 1.3. Public meetings;
 - 1.4. Conferences;
 - 1.5. Meetings with groups of interests;
 - 1.6. Workshops;
 - 1.7. Interviews / tet-a-tet meetings;
 - 1.8. Opinion surveys
 - 1.9. Discussion voting;
 - 1.10. Panels with citizens;
 - 1.11. Stands on the street.

Article 8

Public meetings

1. The proposal body whenever organizing public meetings, shall give the public and interested parties enough time to prepare for the public meeting. In any case, they informed not less than 7 (seven) calendar days before holding the meeting.

2. In the invitation for public meeting, the proposing body should include at least:

- 2.1. Draft proposal which shall be discussed, if such one exists;
- 2.2. Information on the draft proposal that enables invitees to understand the issues which will be discussed;
- 2.3. The place and time of the public meeting;
- 2.4. Information on the contact person for the public meeting;

3. Representatives of the proposing body / public authority leading the meeting and take notes for the meeting.
4. No later than 7 (seven) calendar days after the meeting, proposing body shall prepare a summary of the meeting, which reflect the discussions and the main conclusions from the public meeting and summary is distributed to all participants by e-mail.

Article 9

Consultations in writing

1. The proposing body whenever organizes consultations in writing, shall enable the public and interested parties enough time to submit their comments to the proposing body, and
 - 1.1. No less than 15 (fifteen) working days from the notification date for the opening of consultations in writing;
 - 1.2. The Acts particularly complex ones or important, the deadline of submission of comments may be extended up to 60 calendar days.
2. In consultation with the written invitation, the proposing body should include at least:
 - 2.1. Draft proposal for which comments are required;
 - 2.2. Document for consultation;
 - 2.3. The exact address where comments should be sent;
 - 2.4. Timeline for submission of the documents;
 - 2.5. Information on the contact person for the public consultation process.
3. The consultation document should include at least a brief description of the contents of the document, a brief description of the problem which treats the document, the purpose of the consultation process, and a list of main issues that are part of the document, according to Annex 1(one) of this Regulation.

Article 10

Phases of the public consultation process

1. The public consultation process regarding the development of policy and legislation shall be developed in three phases:
 - 1.1. Planning consultation;
 - 1.2. Conducting consultations;
 - 1.3. The collection of comments and their addressing.

Article 11

Planning of the public consultation process

1. Official responsible during the planning of public consultation process should take at least, but not limited, to the following actions;

- 1.1. Defining the time frame of the public consultation process;
- 1.2. Identification of interested parties and the public about the public consultation process;
- 1.3. Identification of resources / tools, forms and necessary methods of public consultation process;
- 1.4. Determination of manner of collecting the relevant responses / recommendations and their addressing.

Article 12

Identification form of interested parties

1. The process of notification and public consultation is carried out in a way that supports and encourages through information technology and communication (ICT), selecting appropriate ways of developing this process.

2. Office on Good Governance creates and maintains an online platform, which is used by all public bodies to identify stakeholders for the development of the public consultation.

3. Office of Administration in the Office of the Prime Minister supports the Office on Good Governance for creating and maintaining online platform for public consultation.

4. Online platforms enable the public and interested parties to express their interest to participate in the public consultation process on an annual basis, and when appropriate plans are supplemented or amended.

5. The public and interested parties express their interest by identifying each governmental unit, ie each project proposal for which they have an interest to get involved in the public consultation process.

6. The online platform can include appropriate platforms that enable com-

munication of the public and stakeholders with the proposing body.

7. In this platform are published annual reports on the implementation of public consultation as well as reports on beneficiary projects , the beneficiary CSOs and the results of projects, from all ministries and agencies.

8. The criteria for the use of online Platform by public and stakeholders may include only basic information about the user profile. Information provided by users can not be used to exclude from the public consultation process any member of the public or stakeholders.

9. No criteria which could prevent or exclude any member of the public or stakeholders from the use of online platform can be applied.

10. Using the online Platform by the proposing body does not exclude other additional forms of identification of stakeholders, whether such forms are estimated necessary.

11. Responsible officials, assist the Office on Good Governance in the development of the publication of the public consultation proces.

Article 13

Public consultation development

1. To enable participation of the public and intersted parties in the decision making process, the official responsible shall take the following steps:

- 1.1. Conducting of public meetings and preparing reports from the meetings;
- 1.2. Preparation of the document for public consultation on the relevant draft proposal;
- 1.3. Conducting consultation in writing on the respective draft proposal;
- 1.4. Collecting feedback data;

2. During the preparation of draft work plan for the next year, the public body enables the public and intersted parties to be involved in the work plan for the following year, undertaking at least, but not limited to the following actions:

- 2.1. Conducting a public meeting with the parties who have expressed their interest for inclusion where will be discussions on proposals that are planned in the work plan, including at least discussing the annual policy

programs, strategies and legislation for the following year.

2.2. Publication of the final annual work plan, as well as any changes of this plan.

3. During the drafting phase of the draft proposal, the proposing body enable the public and interested parties to be involved in drafting of the relevant draft proposal, undertaking at least, but not limited to the following actions:

3.1. Before starting the drafting of the draft proposal, during conducting of a public meeting with the parties that have expressed their interest for involvement in the drafting of the relevant draft proposal. At the meeting they discussed the main issues that are planned to be included in project proposal, together with the reasons therefor, by asking the participants to provide with their initial opinions on the proposals of the proposing body;

3.2. Upon completion of the initial draft proposal and after prior consultation with other bodies of state administration, to organize a wide consultation in writing to seek comments on the content of the draft proposal.

Article 14

An extension and repetition of public consultation

1. The public body may extend the timeline for submitting comments during the consultation in writing or can reiterate public consultation in such cases when:

1.1. proposing body estimates that the nature of the material requires a longer time to consult;

1.2. proposing body has not received or is not satisfied with the quality of comments obtained;

1.3. comments and recommendations raises significant new issues that were not part of the initial consultation.

Article 15

Collecting feedback and their addressing

1. Comments received during the public consultation process shall be collected by the responsible official in a structured and transparent manner.

2. The review of comments is made by the proposing body of the draft regulation. Proposing body decides to accept or reject the recommendations made by interested parties.

3. The official responsible inter alia has the following responsibilities:

3.1. after receiving comments from interested parties, the initial review will be made.

3.2. coordinates the process of discussion of comments received within the proposing body, including the working group when one such exists, and update project proposal, based on the decision of the relevant proposing body together with the comments received.

3.3. Shall publish on the web page project proposal and the updated final report of the public consultation.

4. The final report of the public consultation should include data from the consultation process relying on the comments received and their addressing. The report shall be prepared in the form as specified by the Rules of Procedure of the Government.

Article 16

Exemption for public notification and consultation

1. When a situation, which due to the exceptional circumstances imposes the adoption of necessary acts, the relevant draft proposal subject to approval according to a procedure, without consulting the interested parties. This provision applies only in cases of:

1.1. the need of emergency and with the aim of provisional measures, in terms of Article 33 of Regulation No.09 / 2011 on the Rules of Procedure of the Government;

1.2. other exceptional situations defined by law.

2. Reasons for the implementation of the accelerated procedure should be communicated to the public, through the notification provided for in this Regulation.

Article 17

Definitions

1. The provisions of this Regulation shall not apply during the process of decision making related to:
 - 1.1. Non-public documents according to the relevant law for the classification of information and security clearances;
 - 1.2. international relations and bilateral and multilateral agreements;
 - 1.3. Parliamentary proceedings in the Assembly;
 - 1.4. procedures for the approval of decrees of the President of the Republic;
 - 1.5. individual administrative acts, unless particular law provides otherwise.

Article 18

The use of ICT during public consultation

The process of notification and public consultation shall be carried out in a way that supports and encourages through information technology and communication (ICT), selecting appropriate ways of developing this process.

Article 19

Monitoring of the public consultation process

1. Legal departments of the proposing body shall ensure that draft normative acts be submitted for approval to the Minister / Government meeting, by meeting minimal standards for the consultation process with the public and interested parties.
2. Departments for European integration policies ensure that the project concept documents and draft strategic documents be submitted for the approval of the Minister / Government meeting, by meeting minimal standards for the consultation process with the public and interested parties.
3. Respective Offices of the Office of Prime Minister, based on their scope, ensure that project proposals submitted for approval at the Government meeting, by meeting minimal standards for the consultation process with the public and interested parties.
4. Departments and / or the respective Offices if estimate that minimum standards for public consultation are not met in accordance with this Regu-

lation, they have the responsibility to return the draft proposal of the proposing body for review and implementation of these standards.

5. If the public and interested parties estimates that the public body has violated the right to a public consultation in accordance with this Regulation, may file the request in writing to the body responsible on monitoring the public consultation process, to undertake appropriate actions in conformity with this Regulation.

Article 20

Coordination of the public consultation process

1. General Secretaries and equivalent positions of other public bodies, within thirty (30) days after the entry into force of this Regulation within the legal departments or departments for European integration and coordination of policies among civil servants, appoint relevant officials for coordinating the process of consultation with the public, who have the responsibility of creating an effective system of reporting on the implementation of minimum standards for public consultation as well as the continued support of officials responsible for designing policy and legislation.

2. The duties and responsibilities of relevant officials for public consultation are as follows:

2.1. Collection of public consultation reports prepared by responsible officials for the relevant period as defined in this Regulation.

2.2. Preparation of annual unified report on the implementation of minimum standards for public consultation at the level of the public body concerned, which must be submitted to the Office for Good Governance.

2.3. Providing advice needed for officials responsible for the effective implementation of minimum standards for public consultation.

2.4. They serve as contact points for the Office of Good Governance for the implementation of this Regulation.

2.5. Participation in regular coordination meetings for the public consultation process organized by the Office for Good Governance and other public bodies.

- 2.6. Reporting on the progress achieved regarding the implementation of this Regulation by the relevant public body.
- 2.7. Participation in advanced training programs for the public consultation process.
- 2.8. Provide regular and standardized update of online platform for consultation with the public and relevant websites for public consultation with the public by the relevant public body.
- 2.9. Relevant departments of information technology within the relevant public body provide all the support required to the relevant officials for public consultation on the implementation of tasks and responsibilities defined in this Regulation.

Article 21 Reporting

1. Office on Good Governance of the Office of the Prime Minister, in cooperation with officials for public consultation, prepares annual reports regarding public consultation process, according to this Regulation.
2. Information on the public consultation process are collected from all public bodies.
3. Mid-term and annual reports contain, but not limited to the following information:
 - 3.1. Number of project proposals initiated by public authorities during the reporting period and their types;
 - 3.2. Number of project proposals for which the public consultation process developed under this Regulation and their types;
 - 3.3. Number of project proposals for which there is a process of public consultation, reasons and their types;
 - 3.4. Number of members of the public and interested parties who participated in public meetings;
 - 3.5. Number of members of the public and interested parties that have submitted comments in writing, the number of written comments submit-

ted and the number of written comments which public bodies have fully accepted, partly accepted and rejected.

4. All the information referred to in paragraph 3 of this Article shall be submitted separately for each public body.

5. Each public body shall prepare mid-terms and annual reports on public consultation within its scope, according to the information defined in paragraph 3 of this Article.

6. Reports prepared according to this Article shall be published in the official languages of the Republic of Kosovo, no later than 31 March of the current year for the previous year.

CHAPTER III - TRANSITIONAL AND FINAL PROVISIONS

Article 22 Transitional and Final Provisions

1. In public meetings, regardless of the list of invitees from the public and interested parties, public meeting should be open to all other interested parties. Prior confirmation is provided only for logistical reasons. However, the availability of physical space can not be a reason to exclude from the consultation process any interested party.
2. Representatives of the public and interested parties in public meetings and working groups should enable an equal access to all the information, materials and data that are available to everyone else involved in drafting of the relevant draft proposal.
3. Representatives of the public and interested parties during the work should be free to inform the parties who represent about the work of the working group and their contribution to this group.
4. Representatives of the public and interested parties are allowed freely to present and defend their positions, as well as to present all other comments and suggestions raised by the public and other interested parties.
5. Participation in the work group should not prevent members of the public and interested parties to use alternative ways of advocating or promoting different views which are not in compliance with the views of the working group.

Article 23 Implementation

1. Minimum standards for public consultation set out in this Regulation shall apply to all documents, whose drafting process requires public consultation from date: 1 January 2017 with the exception of Article 12 that enters into force on 1 October 2016.
2. No later than six (6) months after the entry into force of this Regulation, the Legal Office in cooperation with the Office on Good Governance prepares the necessary practical guidance and promotes and provides training of responsible officials concerning the use of minimum standards for public

consultations in cooperation with the Kosovo Institute for Public Administration, line ministries and various donors.

3. Central public bodies are obliged to prepare during 2016 at least one pilot project for a policy or certain normative act in which would apply the minimum standards for public consultation set out in this Regulation.

Article 24

Interpretation of the provisions of Regulation

In case of ambiguity, competent to interpret the provisions of this Regulation is Legal Office - OPM.

Article 25

Entry into Force

This Regulation shall enter into force 7 (seven) days after the signature of the Prime Minister of the Republic of Kosovo.

Isa Mustafa
Prime Minister of the Republic of Kosovo



Republika e Kosovës

Republika Kosova - Republic of Kosovo

Qeveria - Vlada – Government

Ministria e _____
Ministarstvo _____ / Ministry of _____
Departamenti _____
Departman _____ / Department for _____

Consultation document on _____
Name of policy / normative draft act

Brief summary of ... (Name of policy / normative draft act)

Within no more than one page, try to explain briefly:

- *The main problems which addresses policy / normative draft act of its intended scope,*
- *Laws or government documents authorizing the preparation of the policy / normative draft act,*
- *The main objectives aimed to achieve with the policy / normative draft act.*

The purpose of the consultation

Within no more than one page, try to explain briefly:

- *The role of the general public on the issue which addresses policy / normative draft act , including the impact of the policy / normative draft act to the general public,*
- *The role of civil society in the issue which addresses the policy / normative draft act , including the impact of the policy / normative draft act of the groups represented by civil society organizations,*
- *The importance of the contribution of the public and civil society organizations in the drafting of this policy / normative draft act*
- *Explanation of which decisions are taken and which are open for consultation and discussion,*
- *The process of drafting and decision-making for policy / normative draft act, which will follow the consultation process, including how to use contributions collected during the consultation*

Where and how to send your written contributions

The deadline for submitting written contribution into the process of consultation for *(name of the policy / normative draft act)* is to **DD / MM / YYYY, at ___: ___.**

All the contributions must be submitted in written according to the format below to: *(name of body / person responsible for the preparation of policy / normative draft act)* or in electronic form in the e-mail address _____ with the title “Contribution to the consultation process for *(name of the policy / normative draft act)* “.

What should contain the comments

Name of person / organization that provides comments:

The main areas of the organization:

Information of contact person / organization (address, email, phone):

Comments:

Date of submitting of comments:

