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Kosovar Civil Society Foundation

Monitoring Matrix on Enabling Environment for Civil Society Development

KOSOVO COUNTRY REPORT 2015

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Lead partner:

Balkan Civil Society Development Network (BCSDN)

Metropolit Teodosij Gologanov 39/II-2, 1000-Skopje, Macedonia

Tel.: +389 (0)2 614 42 11

www.balkancsd.net

Implementing partner in Kosovo:

Kosovar Civil Society Foundation (KCSF)

Fazli Greiçevci 55, 10000, Prishtinë, Kosovë

Tel.: +381 (0)38 248 636; 248 643

www.kcsfoundation.org

The report was drafted from Kosovar Civil Society Foundation and the core team composed of:

Taulant Hoxha - author

Kaltrina Hoxha – lead researcher

Dren Puka – researcher

Erëblina Elezaj - researcher

Mirjeta Ademi – research intern

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@KCSF, 2016

BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK

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 2015

B | T | D The Balkan Trust for Democracy
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Executive Summary

1. Civil Society and Civil Society Development in Kosovo

The beginning of 2015 was marked with the initiation of work of the new government, which was established after almost a year of political deadlock during 2014. The new government and unlocking of the Assembly resulted in an intensive policy and legislative agenda during the first months of the year. Nevertheless, as of August 2015, new political crisis arose and the work of the Assembly of Kosovo suffered the most. After a period of total lockdown, it was only by the end of the year that the Assembly continued with its work, however without the presence of the entire opposition spectrum and with serious deficiencies in its proceedings. Despite a number of developments in the area of civil society development, 2015 was marked by other political agendas and priorities, both from political scene and other parts of society.

The **basic legal framework** for establishment, registration and operation of NGOs has remained unchanged, while its implementation still is partial. Secondary legislation on registration and operation of NGOs adopted during 2014, which contains restrictive provisions for NGOs, remained in force and a new group of CSOs were suspended during 2015. CSOs continue to freely **seek and secure funds** from various domestic and foreign sources. The limitations from the Law on prevention of money laundering and financing of terrorism remain in force, although with very limited applicability in practice. 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. Kosovar CSOs have a partial **financial viability**, with high dependence on international funds. **Tax incentives** for private donors were raised from 5% to 10%, representing a significant improvement in terms of legal framework. However, still no data exist to demonstrate any positive effect in practice. A policy on **public funds for CSOs** was completed during 2015, marking the first time that this area is formally addressed by the state. Until the policy is translated into specific regulations, 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. The Government Strategy for cooperation with civil society** had its first activities completed during 2015, while less than half of the Annual Action Plan was implemented. A new **Regulation on Minimum Standards on public consultation process** was drafted and is expected to be adopted during 2016, while 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. A restrictive provision for CSOs was removed from the Public Procurement Law, resulting with no hidden barriers in contracting **services provided by CSOs**. However, 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.

The key challenges with regards to areas of the Matrix on the future of CSDev are: address the identified challenges in legal framework on freedom of association and its implementation through the already initiated policy-document on the Law on Freedom of Association in NGOs, and expected amendment of this law; remove the restrictive provisions from the anti-terrorism law, through the ongoing amendment process of this law; increase the capacities of the institutions in charge of implementing the basic legislation on CSO operation, including the tax authorities; operationalizing the already agreed model on public funding for CSOs and ensuring its proper implementation throughout state institutions; increasing

the ownership and contribution from both civil servants and civil society in implementation of the Government Strategy for cooperation with civil society 2013-2017; implementing the Regulation on Minimum Standards on public consultation process, with specific focus on increasing the capacities of civil servants and regular monitoring of its implementation; recognizing civil society as capable service-providers and designing the necessary mechanisms that would mobilize the potential of the sector in providing social and other public services.

2. Key Findings

With civil society development becoming part of the agenda of policy-making only during the last few years, 2015 was the first year when some drafted or adopted documents specifically aim an enabling environment for the development of the sector. This is the case in a number of areas, such as civil society involvement in policy-making, public funds or public procurement. Nevertheless, cases of direct interference in the work of CSOs and fragmented nature of the positive examples demonstrate that the progress is still not systemic and attitude of the state institutions towards civil society remains problematic.

	Top 6 findings from the report.	Reference to the Monitoring Matrix		Reference to the EU CS Guidelines
1	Although isolated, cases of direct interference in internal matters of CSOs have continued both from the side of the government (through suspending of a group of NGOs) as well as third parties (through suspending of bank accounts of another group of NGOs).	**Area**	**1**	**Area No.**
		Sub-Area	**1.1**	**Result No.**
2	While the tax exemption on private donors was raised from 5% to 10%, civil society was not properly involved in amending of the tax and fiscal laws and many provisions related to CSOs taxation remain ambiguous and not harmonized.	**Area**	**2**	**Area No.**
		Sub-Area	**2.1**	**Result No.**
3	A model on public funding for CSOs has been selected and its operationalization is planned for 2016. However, with regulations deriving from this model expected to be drafted during 2016, state support to CSOs still remains not regulated.	**Area**	**2**	**Area No.**
		Sub-Area	**2.2**	**Result No.**
4	Only a minor part of the activities planned in the Government Strategy for cooperation with civil society were implemented. Still, the committed budget is not allocated from the government while the active participation and contribution from many line ministries is lagging behind.	**Area**	**3**	**Area No.**
		Sub-Area	**3.1**	**Result No.**
5	The Regulation on Minimum Standards for Public Consultations has been drafted jointly with civil society and is expected to be adopted by the Government in early 2016. Nevertheless, the involvement of CSOs in decision-making is still not standardized and the limited implementation of current legal requirements does not allow for civil society input in a timely manner in many policy and legislative initiatives	**Area**	**3**	**Area No.**
		Sub-Area	**3.2**	**Result No.**
6	The amended Public Procurement Law has removed the hidden barriers for CSOs to engage in state contracts, although social services remain the only field where some specificities of the sector are taken into account.	**Area**	**3**	**Area No.**
		Sub-Area	**3.3**	**Result No.**

3. Key Policy Recommendations

With a number of documents already adopted or in the process of adoption, 2016 is expected to have an increased focus on ensuring the necessary capacities for their implementation and regular monitoring whether the set requirements are fulfilled. This requires not only an increased commitment from the government in terms of human and financial resources, but also active civil society to pressure for proper implementation.

No	Top 6 recommendations for reform	Reference to the Monitoring Matrix		Reference to the EU CS Guidelines
1	The ongoing amendment of the Law on Prevention of Money Laundering and Financing of Terrorism should result in removing all restrictive provisions for NGOs, and any future measure should be based only on a proper risk-assessment of the sector.	**Area**	**1**	**Area No.**
		Sub-Area	**1.1**	**Result No.**
2	The drafting of the Concept Document on Freedom of Association of NGOs and subsequently the potential amendment of the Law on Freedom of Association in NGOs should take into account recommendations by civil society, which are based on international standards and best practices from the region and EU.	**Area**	**1**	**Area No.**
		Sub-Area	**1.1**	**Result No.**
3	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**	**Area No.**
		Sub-Area	**1.1**	**Result No.**
4	The Government, in close consultation with civil society, should immediately proceed with drafting the necessary legal framework to operationalize the model of public funding. Regardless of the above, all information on public funds disbursed to CSOs should be made transparent immediately.	**Area**	**2**	**Area No.**
		Sub-Area	**2.2**	**Result No.**
5	Line ministries should dedicate more time and competence for the implementation of specific activities within the Government Strategy for cooperation with civil society, while the Government should allocate the committed funding for its implementation.	**Area**	**3**	**Area No.**
		Sub-Area	**3.1**	**Result No.**
6	The Regulation on Minimum Standards for public consultation at government level should be adopted without further delay and its implementation should be initiated immediately after, including regular monitoring and reporting of its implementation	**Area**	**3**	**Area No.**
		Sub-Area	**3.2**	**Result No.**

4. About the project and the 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 EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. 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 8 countries in the Western Balkans and Turkey[1]. 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.

[1] Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey

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 by 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 lie in implementation, the indicators are defined to monitor the situation on level of legal framework and practical application.

Introduction

1. 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. Although increasing in numbers recently, only a few examples of non-registered initiatives may be found, and most of them arise on an ad-hoc basis and do not continue being active after the concrete issue/problem is resolved. 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 society[3].

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 2015, with the main data collected during the last part of 2015 and first months of 2016.

2. 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 Balkan Trust for Democracy (BTD). This Monitoring Report is the third of this kind to be published on a yearly basis for at least the 48-month duration of the project. 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 8 countries in the Western Balkans and Turkey[4]. 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 is available 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

[2] CIVICUS Civil Society Index for Kosovo 2011, KCSF 2011

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

[4] Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

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 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. All principles, standards and indicators are 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).

3. 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 2015 survey show that education, civic participation and gender equality have been among the areas where CSOs are most active. In addition, economic development, human rights, youth, minority rights and culture are common areas of activity of CSOs in Kosovo. [5]

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

[5] Organizational Survey with CSOs in Kosovo, conducted in December 2015

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.

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 is still not accompanied by proper implementation instruments and mechanisms. There are still areas, such as state support to civil society, where the policy and regulatory framework is at the very early 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. 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 two 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 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 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 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.[6] Almost entire population of Kosovo was active during the full decade of social solidarity and volunteering. 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.[7] 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

[6] UNDP, Human Development Report 2008, Civil Society & Development, p.12, http://hdr.undp.org/sites/default/files/nhdr_2008_kosovo_en.pdf

[7] 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

instituted and are going towards the right direction, while the satisfaction with the work of the Government (17.3%) and the Courts (13.9%) and Prosecutors Office (12.8%) has reached the lowest levels ever, with similar trends also at the level of the Parliament (19.9%) and the President (30.4%).[8]

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.[9]

4. 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. This is why KCSF has decided to complement two joint initiatives: CSDev Matrix and Kosovar Civil Society Index, in order to ensure the basic data which are necessary for assessing the state of development of civil society and the environment in which it operates. Parallel undertaking of these two initiatives had its benefits and challenges. The main benefits were that a waste amount of data was collected through utilizing Kosovar Civil Society Index research tools, which otherwise would have been impossible to deploy due to limited resources available for Monitoring Matrix on enabling environment for CSDev. At the other hand, it required a very extensive coordination and planning of both initiatives, since the target groups for data collection were very similar, and an over-use of their availability might result in refusal to respond or unreliable information.

While the political crisis of 2014 and 2015 were very challenging for pushing forward the necessary reforms in CSDev, in terms of legislation analysis this was an easing element, as this meant that fewer than usual laws changed, including those relevant for CSDev. At the other hand, the work of the Parliament under extraordinary conditions during the second part of 2015 resulted in lack of transparency in their work, making it difficult to track the discussions that led to adoption of certain laws.

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 on this area.

5. Acknowledgements and thanks

[8] UNDP Public Pulse Kosovo X (November 2015), p.3-7
http://www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/public-pulse-10/
[9] Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

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.

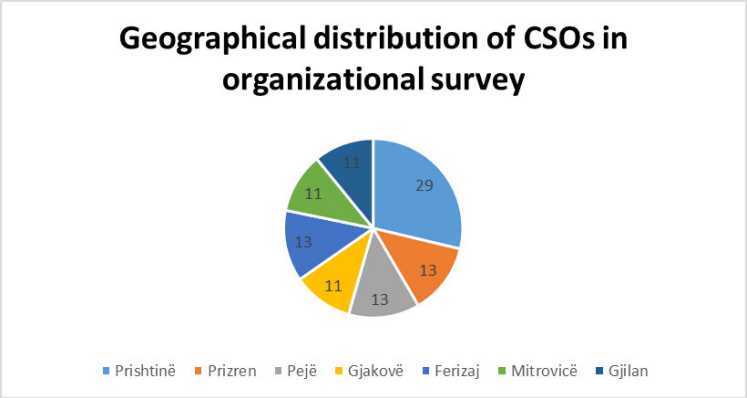
Lastly, KCSF acknowledges the support provided by BCSDN Executive Office and ECNL to the development and implementation of this monitoring exercise. Their support was very helpful to put the entire information within a clearly defined format, which is comparable regionally while providing sufficient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

Methodology

1. Overview of the methodological approach

CSDev 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. While the first the monitoring report for 2014 has covered only 13 selected standards, this annual report covers the entire list of standards and indicators. This enables a full comparison of all relevant developments with 2013, which has been the last year to monitor the entire list of standards and indicators.

KCSF continuously monitors the main developments in each of the standards as a part of its daily operation throughout the year. This enables 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 an intensive primary research which gathered data for each of the standards and indicators of the Monitoring Matrix. Data collection was carried out using two types of data gathering tools: quantitative and qualitative. Organizational survey with 101 active CSOs, through face to face interviews, was the main source of information for many issues which information from CSOs was needed. The survey was based on a standardized questionnaire utilized from all countries of the region, while in Kosovo case this was included in the larger Organizational Survey questionnaire used also for the Kosovar Civil Society Index. The quantitative methods were complemented by in-depth interviews with twenty (20) in-depth interviews with key informants from public institutions and civil society, on areas where specific information was necessary to assess certain indicators. Last, a comprehensive desk research of the relevant applicable legislation and reports of other local and international organizations and institutions served to collect and analyze the static data, mostly serving the monitoring of indicators on the part of legislation.



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. Additionally, in each of the regional sub-samples at least one CSO from smaller municipalities or rural areas was sampled to gain an insight on any differences that they face in their daily operations. The CSOs of Serb community were sampled across municipalities populated predominantly by Serbian population: North Mitrovica, Zveçan, Leposavic, Graçanica and Shtërpce. 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.

Additionally, building on KCSF's positioning in different initiatives on CSDev as well as its longstanding experience in initiating, designing and implementing numerous pieces of legislation and mechanisms for freedom of association, citizen participation and cooperation between government and civil society, in-house information and experience was used for many of the sub-areas of the Matrix.

2. Participation of the CSO community

CSO community was directly involved in data collection, both through quantitative and qualitative methodology. The Organizational Survey was conducted with 101 active CSOs and covered a wide range of topics related to the enabling environment for civil society development. Additionally, the in-depth interviews were conducted with 20 representatives of civil society organizations and public institutions. 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 number of key informants aimed to cover all those areas which more specific information was necessary to assess the particular indicators. Each of the interviewed had very specific sets of questions, depending on their specific field of expertise and experience.

3. Lessons learnt

Only few elements have been new to the process of monitoring the enabling environment for CSDev for 2015 which were not addressed in the lessons learnt from the previous rounds. The main one is with regards to the scope of the monitoring vis-à-vis the pace of developments in this area. With the list of standards and indicators being very extensive, not all of them are subject to any significant change at annual basis. Despite very intensive work in legal and practical terms of a number of areas, such as participation of CSOs in decision-making or public funding for civil society, still the situation in many standards and indicators remains largely unchanged. This results in same or similar findings from previous reports. While the monitoring of the enabling environment shall necessarily be a continuous process, it may be worth to consider whether the results of this monitoring shall be presented at annual basis, or at least in the same format and fashion. This is to be considered taking into account mainly the targeted audiences at national level, but also the valuable comparison between countries of the region.

Findings and Recommendations

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

As of 31st of December 2015, the total number of registered NGOs was 8,537. 8,023 are domestic NGOs and 514 are foreign or international NGOs. From domestic NGOs, only 303 are foundations and the rest are associations. 247 of NGOs have active Public Benefit Status, with 19 receiving this status for the first time during 2015. 109 NGOs have deregistered voluntarily. However, from the total number of registered NGOs only around 10%-15% of them are estimated to be still active. (NGO registration data provided by the NGO Registration Department, estimations on active NGOs are calculated by KCSF)

The legal framework on freedom of association has not been changed during 2015, and freedom of association continues to be a constitutional right, guaranteed in Article 44 of the Constitution of Kosovo and defined in the Law 04/L-57 on Freedom of Association of NGOs. The legal form to which this freedom is extended includes associations and foundations (as per the Law on NGOs), as well as trade unions, political parties, employers' associations, religious communities, etc. which are regulated through their respective laws. However, there are no legal provisions on the establishment of non-profit companies or endowments, although the latter is neither prohibited nor allowed explicitly. A draft Law on Social Enterprises has been initiated and some CSOs are included in the process of its drafting. Associations can be established by at least three physical or legal persons, while foundations can be established by one person or a testament. There is no requirement for initial or minimum funds for establishing a foundation. Registration of NGOs is not mandatory, and registration rules are simple and free of charge, while the response by the NGO Registration Department shall be provided within 60 days. Legislation allows for appeal process, and an administrative instruction on the appeal process exists. However, it is problematic that the same authority is mandated to establish an appeal commission. In addition, no clear rules on functioning of this commission exist. Networks are considered as associations, thus the same rules apply.

The work on a Concept-Document on revision of the Law of Freedom of Association of NGOs, initiated in 2014 from the NGO Department, started only in autumn 2015, with the aim for a comprehensive revision of the Law on Freedom of Association of NGOs. The ongoing process includes also civil society representatives, which have provided their written proposals and participated in the working group. This process is expected to be concluded in early 2016 and be followed by an amendment process of the Law on Freedom of Association of NGOs.

In practice, every individual and legal entity can establish an association, without the need to register the organization. Nevertheless, vast majority of organizations decide to register in order to gain legal personality and the accompanying formal benefits from the legal personality (such as possibility to open a bank account or receive funding from a variety of donors). More than 500 NGOs have been registered during 2015. Non-registered organizations are rare and there are no identified cases of endowments or non-profit companies. Regardless of the legal requirement for 3 members to establish an association, an additional list of at least 5 additional members required by the NGO Department increases this requirement to 8 members in practice. The most common registration period is around 30 days, although there are cases when the 60 day legal deadline is not respected, usually due to requirements for additional documents or change in statutes. An online registration platform which was designed a couple of years ago was not functional during 2015, making

it impossible for any NGO to register online. Overall, most of the problems at the registration phase are due to lack of sufficient capacities and understanding of the legal requirements by the NGO Department, which is the sole responsible authority for registration of NGOs. Networks are common and their functioning practices are same as those of NGOs.

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 NGOs, 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. By introducing the category of suspension and enabling an administrative body to suspend the operations of an NGO, this article is not in line with the primary legislation. Despite requirements from civil society to remove this article, it 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.

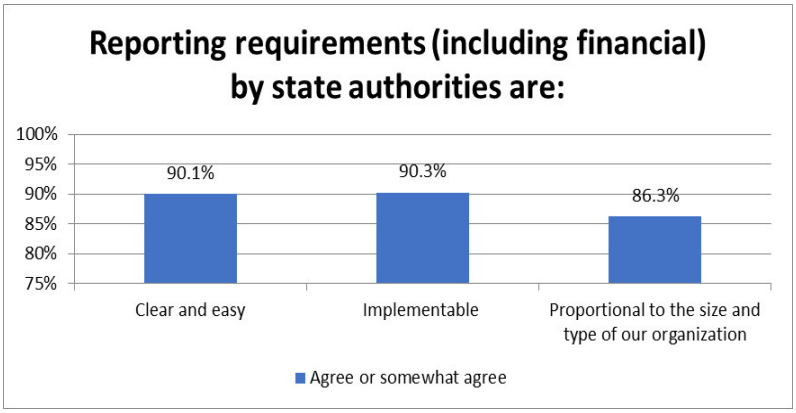
Reporting requirements are twofold: reporting to Tax Administration for their financial transactions and annual financial statements, and reporting to the NGO Registration Department for Public Benefit Organizations. Reporting requirements to Tax Administration are identical to businesses, same as the sanctions for failing to fulfil these reporting requirements, which are proportionate to the size of the CSOs/business. At the other side, reporting of PBOs (247 PBOs in 2015) is both narrative and financial, and PBOs with an income of more than 100,000 EUR should also submit an external audit report.

The restrictive provisions of the Law 03/L-196 on Preventing Money Laundering and Financing of Terrorism (and its amendment) are still applicable and this has been reported to be burdensome for NGOs. NGOs are the only sector which shall require prior authorization to receive funds above 1,000 EUR from a single sender or pay more than 5,000 EUR to a single recipient within the same day. To make or receive payments that exceed the amounts specified above, NGOs shall require the Financial Intelligence Unit of Kosovo (FIU-K) a one-time or recurring exemption from these obligations. Written request submitted by NGOs to the FIU-K should stress the required type of exemption and the reasons for this exemption, while FIU-K must respond to this request within 30 days. FIU-K answers can be: 1) granted 2) conditionally granted or 3) or denied exemption. However, the entire process of request and response is not associated with the criteria that should be considered by FIU-K when taking a decision. This creates a base for different interpretation or arbitrary decisions. These requirements are burdensome for CSOs as they create problems for receiving funds from donors or paying funds from local grant makers to their grantees. Moreover, sanctions for breaching of these limitations are problematic in three aspects: first, breaching the set limitations is considered a criminal act and is sanctioned with imprisonment, in addition to high monetary fines; second, they are not proportional to the extent of the breach, as they allow even the dissolution of NGOs; third, they give to the NGO Registration and Liaison Office the authority to dissolute the NGO, which is not in line with the provisions of the Law on Freedom of Association of NGOs. FIU-K has initiated the amendment of this law and one civil society representative has been included in the working group, although at a later stage of its work. CSOs have requested removal of NGOs from this law, as the entire provisions on NGOs are not based on any previous risk assessment for the sector.

Within the Law on Freedom of Association in NGOs, legal provisions on dissolution of NGOs are in line with the international principles and standards, while the provisions on dissolution of NGOs of the money-laundry

legislation remain not in line with the international standards and the Law on Freedom of Association in NGOs. 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.

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 the grounds of national security, no other cases of direct state interference in internal matters of CSOs are reported. In October 2015, 13 NGOs have been suspended based on Article 18 of the Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs. The period of suspension of these NGOs has not been determined, while some of the suspended NGOs are the same ones suspended also in September 2014, then for a period of one year. The suspension has been based on the request of the "competent security body"[10], with the reason of "endangering the security and working against the constitutional order of Kosovo". In addition, cases of interference from third parties have been reported during 2015 – one commercial bank suspended the bank accounts of a number of NGOs without prior notice and without any legal basis, while responsible state institutions were not able to protect these NGOs from this interference. In general, 5.1% of the surveyed CSOs have reported to have experienced state interference in their internal matters. While very rare inspections from Tax Administration have been reported during 2015, around 90% of the interviewed CSOs consider the reporting requirements as easy, implementable and proportional to the nature of the work and size of their CSOs. The implementation of the money laundering legislation is limited, with very few NGOs being aware and implementing specific obligations for NGOs. All reported cases when NGOs have terminated their work and decided to deregister have been voluntary decided by their highest governing bodies, and the Committee for the Distribution of the Remained Assets was not required to become functional.

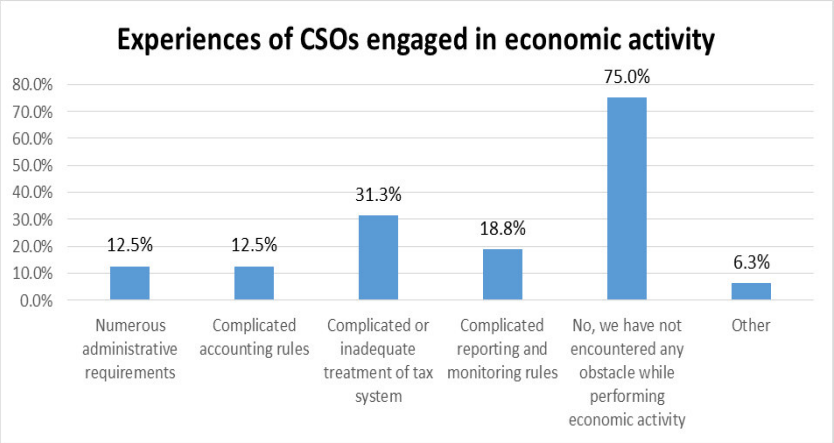


During September 2015, TEB Bank in Kosovo blocked the bank accounts of a number of Kosovar NGOs, clients of this bank. Blocking of the bank accounts was followed with a general notification letter from TEB Bank to the respective NGOs, informing them on this action and requiring submission of a number of organization's documents and information. According to this notification letter, depending on the results of the review of submitted documents, TEB Bank may decide to continue providing financial services or to definitely terminate the bank accounts. Nor TEB Bank neither the Central Bank of Kosovo, as regulatory authority of the banking sector, provided any information on the legal basis of this action. Additional analysis by civil society proved that TEB Bank acted in breach with applicable legislation in Kosovo, while Central Bank of Kosovo failed to prevent the illegal actions of this bank.

In Kosovo, CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities. Nevertheless, the requirement for prior authorization to receive funds in the Law for Preventing Money Laundering and Financing of Terrorism continues to be a burdensome procedure in seeking and securing financial resources. The Law on Freedom of Association in NGOs allowing CSOs to engage in different economic activities is unchanged. The new Law on Corporate Income Tax adopted in September 2015 has not changed the exemptions from the profit tax for

[10] No details of the security bodies are presented in the decision for suspension of NGOs.

related economic activities. However, these provisions remain ambiguous and it is not clear whether the exemptions are applicable to all CSOs or only to those with Public Benefit Status. Receiving foreign funding is allowed, with money laundry restrictions being applicable both to domestic and foreign funding. In addition, CSOs can receive funding also from individuals, corporations and other sources. CSOs continue not to be VAT exempted, while exemptions in practice are based on the source of funds or specific activities - funds coming from EU or most of the bilateral donors are exempt from VAT, regardless of economic operator which operates with these funds, same as goods and services for humanitarian purposes.



In practice, few CSOs engage in economic activities. 83.5%[11] of the surveyed CSOs declare that they do not engage in economic activities and 25% of those who engage in economic activities report to face different problems in doing so. Kosovo Tax Administration 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. As few CSOs implement the provisions of the money laundering legislation, no restrictions on receiving foreign funding have been reported and still the major part of the resources of civil society in 2015 came from International donors. In practice, individual and corporate philanthropy is not very common. 81.25%[12] of the surveyed CSOs declared that they do not receive funds from private companies or individuals. Only CSOs that conduct humanitarian activities are subject to VAT exemption, while for the funds of many donors who do not accept VAT as an eligible cost (such as the EU or many bilateral donors), CSOs are subject to VAT exemption same as all other recipients of donor funds, based on bilateral agreements between donor states and Kosovo government. However, the exemption procedure is not unified for all donors. While for the EU funds it is envisaged a reimbursement procedure, for many other bilateral donors funds it is required a prior authorization by the donor and Kosovo Tax Administration. In practice, this creates difficulties for CSOs in many cases. Only 9%[13] of the surveyed CSOs declare to have benefited from any tax exemption, with VAT exemption being the main one among those.

To conclude, no significant changes have taken place during 2015, with the exception of the initiation of the Concept Document for freedom of association of NGOs, which will precede the amendment of the Law on Freedom of Association of NGOs. Notwithstanding that most of the basic legislation for the establishment and operation of CSOs continues to be in compliance with international standards, its proper implementation is hampered by limited capacities of public institutions and lack of harmonization with other laws/mechanisms relevant for the operation of CSOs. Nevertheless, although isolated, cases of state and third parties interference in internal matters of CSOs have also been present during 2015.

[11] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[12] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[13] Organizational Survey with CSOs in Kosovo, conducted in December 2015

The main recommendations for Sub-area 1.1 are:

- **The drafting of the Concept Document on Freedom of Association and subsequently the potential amendment of the Law on Freedom of Association in NGOs should take into account recommendations of civil society, which are based on international standards and best practices from the region and EU**
- **Regardless of the above mentioned review, Article 18 of the Regulation on Registration of NGOs, which allows suspension of NGOs by the NGO Department, should be removed immediately**
- **The deadline for responding to a request for registration of an NGO should be reduced from 60 to at least 30 days**
- **The legal framework should provide explicit obligation for the state to protect civil society from third parties interference in internal matters of the CSOs, while the responsible state authorities should prevent such cases in practice (such as the Central Bank of Kosovo and commercial banks)**
- **The capacities of the NGO Department to properly interpret and implement the Law on Freedom of Associations in NGOs should be increased**
- **In parallel to the above, there should be clear legal provisions to limit the discretion of the NGO Department to require additional information or documents during the registration procedure for NGOs, such as the list of additional 5 members for associations**
- **The Law on Prevention of Money Laundering and Financing of Terrorism should be amended to remove all restrictive provisions for CSOs, and any future measure should be based only on a proper risk-assessment of the sector**
- **The legal framework for financial reporting of CSOs should introduce implementation of mechanisms which take into account the specific nature of CSOs**
- **The capacities of Kosovo Tax Administration should be increased to properly understand and address the specific nature of the work of CSOs**
- **The VAT exemption procedure should be unified for all exempted donors, aiming to ease the undertaking of such procedures from CSOs**
- **A specific policy process should be initiated to explore the best alternatives of introducing the legal basis for the establishment and operation of endowments and non-profit companies, as well as the treatment of passive investments of CSO**

"The EU Guidelines for support to civil society in enlargement countries 2014-2020"[14] is a document setting the strategic framework for EU support to the civil society sector in enlargement countries and focuses on conducive environment and CSO capacities. The conducive environment part is primarily based on this Monitoring Matrix, with country reports serving in assessment of specific indicators of the EU Guidelines. In each of the assessed sub-areas, a general assessment for respective indicators of the EU Guidelines is provided, based on the monitoring of the respective sub-areas of the Monitoring Matrix.

[14] http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

EU Guidelines indicators	Monitoring Matrix assessment
1.1.a. Quality assessment of existing legislation and policy framework **1.1.b. Progress with the adoption and implementation of relevant legislation**	**The existing legislation and policy framework for the exercise of right of association** is generally in place, while an amendment process is planned for 2016. Freedom of association is a constitutional right, as well as regulated through primary legislation. The maximum legal deadline for registration of NGOs is 60 days, and registration procedure is free. Its implementation is generally satisfactory, with the exception of registration requirements for NGOs, which sometimes are exceeded from the registration authority. Restrictive provisions for NGOs remain part of the Law on Prevention of Money Laundering and Financing of Terrorism, while this law is also under an amendment process. Although isolated, cases of direct interference into the work of CSOs have been reported during 2015, through the suspension of 13 NGOs by the registration authority and through the suspension of NGOs' bank accounts by a commercial bank.
1.3.a. Quality of the enabling environment for grass-roots organisations and/or civic initiatives	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.
2.1.a. CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO) **2.1.b. Quality assessment of financial rules (with**	**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 CSOs. Almost half of the CSOs assess the reporting requirements to be

the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change).	clear and easy, around 2/3 of them consider them implementable and half of them consider them to be proportional to the size and type of their organization. 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 to deal with CSO specificities still remain limited. No progress on the legal framework and implementation capacities has been noted during 2015. 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

The legal framework on the right to assemble in Kosovo has not been subject to any change during 2015. Representatives of Kosovar CSOs, individually or through their organization, enjoy 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, the organizers can appeal to 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.

Only 22%[15] of interviewed CSOs declare to have been involved in organizing peaceful protests during 2015 and only one of them reports to have faced restrictions in doing so. In addition, 46.5%[16] have participated in assemblies (not necessarily organized by them), with 15% of them reporting some kinds of restrictions during those rallies. Only one interviewed CSO reports to have participated in a counter-assembly, with police protecting the counter groups. Still, it remains a perception of many civil society activists that civil servants are however indirectly restricted to join protests organized by CSOs, in particular those for political issues. The gatherings of CSOs, in particular peaceful protests, are usually organized in public squares or in front of

[15] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[16] Organizational Survey with CSOs in Kosovo, conducted in December 2015

particular institutions which are target of the protest, and media has full access to those assemblies. In protests organized by CSOs during 2015, there are only few cases where intervention by police was reported. Among them are the protests of students against the Prishtina University Rector and the protest of the Association of War Veterans in the southern town of Kaçanik. On the other hand, beyond assemblies organized civic activists and CSOs, most of assemblies organized by political parties during 2015 were accompanied by violence, both from the police forces and the protesters, with journalists also being among those attacked.

During 2015, the legal framework on freedom of expression in Kosovo did not change. CSO representatives, individually or through their organizations enjoy freedom of expression for various issues of their interest. Based on Article 40 of the Constitution, the freedom of expression is guaranteed to all, and can be restricted only if necessary to prevent violence or racial, ethnic or religious hate. Libel is a misdemeanour rather than part of the penal code.

CSO representatives, including those from human rights and watchdog organizations, in general enjoy the right to freedom of expression. Although very limited, during 2015 there were 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. During 2015, a number of individual whistle-blowers have been penalized with termination of employment contracts from their employers or sanctions by the court: the public broadcaster and EULEX Mission respectively have fired their employees who have publicized corruption allegations, while the court fined 5,000 EUR an ex-employee of a commercial bank for publishing financial data that shed light on a corruption affair. Beyond CSOs, there are reports of threats to journalists that reported on corruption or other unlawful affairs, while the victims in many cases were not satisfied with the reaction of judiciary or police. Experts of this field assess that while the primary legislation is 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. During 2015, Kosovo has fallen 7 places in the ranking of “Reporters Without Borders” (87 out of 180 countries), while Freedom House considers the media environment in Kosovo as “partly free”. There are no reported cases of any criminal or other formal sanctions for critical speech for any CSO representative or journalist.

CSOs have free access to information and are free to receive and impart information through different media. Possibility to communicate and access information, including via the internet and ICT, is legally guaranteed. A new law on monitoring of electronic communication was adopted during 2015 and unjustified monitoring of communication channels is prohibited, except for monitoring based on a court decision, after demonstrating that all other investigative means have been exhausted. The new Law has set a number of control mechanisms to ensure that any monitoring of electronic communication was legal, such as the courts, parliamentary committees, general inspector of the Intelligence Agency, the Ombudsperson, as well as a Commissioner (judge) who has guaranteed access to all relevant information. Civil society representatives were part of the drafting process of this law.

In practice, during 2015 there were very few cases of CSOs reporting illegal monitoring of communication by state authorities. The latest data on internet usage for 2015 show that internet penetration rate in Kosovo is 84.4%[17]. Most CSOs use social media to promote their work, while civil society activists are free to receive and

[17] Internet World Stats- Usage and Population Statistics: http://www.internetworldstats.com/stats4.htm

impart information through social media. In general, there are no reported cases where any restriction is imposed to CSOs to receive or impart information through ICT channels.

To conclude, the new law on monitoring of electronic communication is in line with the international standards and no significant changes have been noted during 2015 in practice. Freedom of assembly and expression are guaranteed by law and in general CSOs exercise these rights freely, although in few cases, reports of CSO representatives being pressured or threatened for their critical speech against state authorities, are present.

The main recommendations for Sub-area 1.2 are:

- **The right of assembly for non-citizens of Kosovo should be regulated, explicitly guaranteeing them their right of assembly**
- **The state should build functional mechanisms to protect whistle-blowers from being sanctioned from their employees or other parties**
- **The judicial system and police should react more effectively in preventing or addressing threats to CSO representatives and journalists**

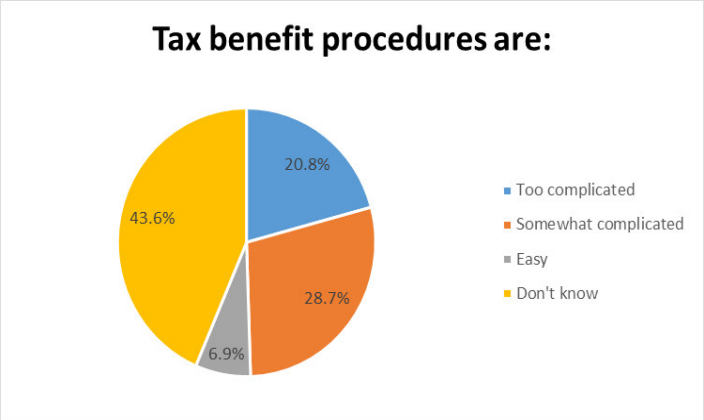
EU Guidelines indicators	Monitoring Matrix assessment
1.1.a. Quality assessment of existing legislation and policy framework **1.1.b. Progress with the adoption and implementation of relevant legislation**	**The existing legislation and policy framework for the exercise of right of peaceful assembly** 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 few CSOs declare to have organized peaceful protests during 2015. In protests organized by CSOs during 2015, there were only few cases where intervention by the police was reported - although in other rallies organized by political parties police intervention was common. The legal framework on the right of assembly has not been subject to change in 2015. 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 misdemeanour rather than part of the penal code. Although very limited, during 2015 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. During 2015, a number of individual whistle-blowers have been penalized either from the state or their employers for publishing information on different allegations. 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

Although a new Law on Corporate Income Tax has been adopted during 2015, few changes have been introduced with regards to CSOs. Despite requests from civil society, this sector was included only in the very last days of the drafting process, thus not being able to influence the already completed draft. The legal framework provides tax benefits for a number of income sources of CSOs. Grants, donations and subventions are now explicitly exempted from taxes, although no taxation of such income has been ever reported, due to implicit provisions and positive interpretation of the law by the tax authorities. With regards to CSOs 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 CSO shall be directly linked to its mission and the income should be reasonable, and all other economic activities are subject to income tax. The secondary legislation describing the procedures and details of such exemption is in the drafting process. Nevertheless, this incoherence causes difficulties in its interpretation and implementation. Similar to the previous one, the new law does not include any 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.



Same as in previous years, 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 only 9%[18] of interviewed CSOs declare to have been exempted from any tax in general. Nevertheless, CSOs are quite unaware of the tax legislation - almost half of interviewed CSOs consider tax benefit procedures as complicated or somehow complicated, with the other half not knowing these procedures and only 6.9%[19] considering them as easy. 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.

The new Law on Corporate Income Tax and the Law on Personal Income Tax have increased tax deductions for corporate or individual donations from 5% to 10% of their taxable income, if those donations are for humanitarian, health, educational, religious, scientific, cultural, environment protection or sports purposes.

[18] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[19] Organizational Survey with CSOs in Kosovo, conducted in December 2015

The eligible recipients of donations include NGOs and any other non-commercial organization that directly perform activities in the above mentioned areas. This tax benefit is provided only for a selected number of publicly beneficial activities, which is far less than the list of public benefit activities in the basic NGO Law. As a result, the Public Benefit Status does not have any role in receiving such benefits, making the fiscal legislation incoherent with the public benefit status of the basic NGO Law. A draft-law on Sponsorship and Philanthropy in the area of culture, youth and sports has been finally adopted by the Government and is expected to be adopted by the Parliament. If adopted, the donations and sponsorship in these three areas will receive an additional 10% of tax exemption. Corporate Social Responsibility is not a wide-spread concept among private companies in Kosovo and as a concept is not promoted by the state.

In spring 2015, the Council for implementation of the Strategy for Cooperation with Civil Society decided that a policy document on donations and philanthropy should be initiated and cover all areas, beyond culture, youth and sports. The Office of Prime Minister mandated the Ministry of Finance to initiate the Concept Document on this issue, while the Ministry responded by requesting that this document should be initiated by the Office of Prime Minister. The issue of the responsible institution for this document continued and no formal step has been made until the end of 2015.

The procedure for tax exemptions for donors is in place, while the Tax Administration aims to further clarify this procedure through secondary legislation. In practice, 15.6%[20] of the interviewed CSOs declare that they have received donations from domestic private donors, while only 1% of them reports 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 the main reason for doing so. When asked about the main challenges for the philanthropic giving, more than one third of the interviewed CSOs considered that undeveloped culture for donations is the main challenge in this area, followed by lack of strategies and public policies for philanthropy and tax incentives for donors. CSR is still not a common concept among Kosovar businesses, although recently initiated CSR network has 27 member companies and is promoting the concept, with few businesses undertaking some CSR activities.

To conclude, despite increasing the tax deductions for corporate and individual donations from 5% to 10% of their taxable income, the tax benefits do not present a motivation for private donations to CSOs. The new Law on Corporate Income Tax and the Law on Personal Income Tax still are far from all-encompassing to all public benefit fields. The Public Benefit Status exists, but does not produce any effects in practice. Its basic elements exist in the Law on Freedom of Association in NGOs, but there are still no implementation mechanisms and harmonization with tax and other laws, resulting in very limited benefits for holders of the public benefit status. Last, the level of information and awareness of CSOs on tax legislation remains low.

The main recommendations for Sub-area 2.1 are:

- **The tax laws, should be clarified and fully harmonized**
- **The system for tax deductions for individual and corporate donations should be harmonized with the Public Benefit Status chapter of the Law on Freedom of Association in NGOs**
- **The Kosovo Tax Administration should launch information and capacity building programs for CSOs on tax and fiscal legislation for CSOs**
- **In the process of introducing the legal basis for establishment and operation of endowments and non-profit companies, specific tax benefits for these types of NGOs should be included s**

[20] Organizational Survey with CSOs in Kosovo, conducted in December 2015

- **A specific policy process should be initiated on donations and philanthropy and cover the entire scope of public benefit activities, beyond culture, youth and sports**
- **CSR should be part of state policies and its promotion should be done by state authorities, in cooperation with CSOs and business community**

EU Guidelines indicators	Monitoring Matrix assessment
2.2.a. Quality and applicability/practice of the legal framework for individual and corporate giving	The new Law on Corporate Income Tax has been adopted during 2015, without any substantial involvement from civil society, introducing only few changes with regards to CSOs. The main progress has been in increasing the **tax deductions for corporate or individual donations** from 5% to 10% of their taxable income, if those donations are in certain public benefit areas. However, these areas are far less than the list of public benefit activities in the basic NGO Law. The eligible recipients of donations include NGOs and any other non-commercial organizations that directly perform activities in the above mentioned areas. The procedure for tax exemptions for donors is in place, while the Tax Administration aims to further clarify this procedure through secondary legislation. 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 2015, 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.
2.3.a. Quality of the system of tax benefits for the CSOs' operational and economic activities	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. The secondary legislation describing the procedures and details of such exemption is in the drafting process. Nevertheless, this incoherence causes difficulties in its interpretation and implementation. The new Law on Corporate Income Tax adopted in September 2015 has not changed the exemptions from the profit tax for related economic activities. However, grants, donations and subventions are now explicitly exempted from taxes, although no taxation of such income has been ever applied.

Sub-area 2.2.: State support

In the last days of 2015, as per Action Plan of the Government Strategy for Cooperation with Civil Society, the Government has agreed upon a general model on which the public funding for CSOs will be built. This model implies that the main responsibility for the distribution of public funds for CSOs 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. It is planned that during 2016 the Ministry of Finance and the Office of Prime Minister draft the necessary regulatory framework for operationalizing this model. CSOs included in the implementation bodies of the Strategy have been continuously involved in discussion and design of this model.

At present, there is no special law or national policy which regulates the state support for CSOs, similarly as there is 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 has 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 2015. 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.

> In March 2015, a number of NGOs specialized in cultural issues demanded that the Prime Minister suspend the Minister of Culture, as the latter heavily reduced the budget for several independent cultural organizations. Representatives from a number of cultural organizations protested, demanding that aside from the suspension of the Minister of Culture, a review of the decision that led to the budget cut for these organizations should be made, as well as making public the procedures resulting in the decision in question. In a joint declaration made by various independent cultural organizations, it was expressed that through this decision civil society in its entirety and the general culture interest in Kosovo have been endangered and must be protected. The response from the Government was minimal and the request was not adhered to.

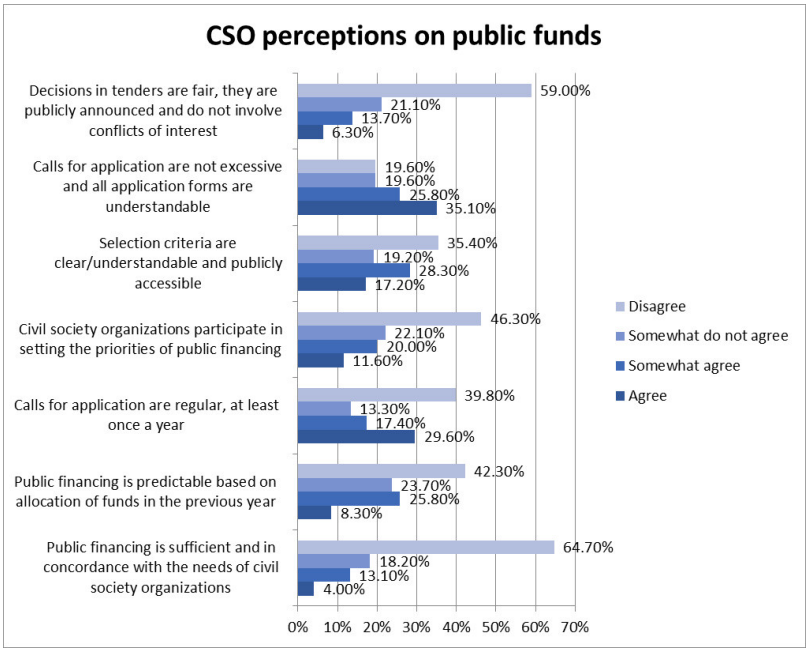
There are very few cases of public funding for institutional development of CSOs and co-financing of EU and other grants, while project support is present in many cases, mostly at local level. In practice, most of the Ministries or Municipalities fund CSO projects, while the amount of funding is mostly less than 10,000 EUR per project. There is no specific government body with a clear mandate to monitor the public funding for CSOs, while each ministry or municipality can disburse funds from their own budget. There are no data on the total amount of public funds for CSOs, although a small number of ministries occasionally publish amounts of their grants to CSOs. With no data on the amount of public funding available, it is not possible to assess whether public funding responds to the needs of the CSO sector in Kosovo. In 2015, 25%[21] of the surveyed CSOs have reported to have received public funds. Only three cases of specific planning for CSO project support at central/local level were identified in the 2015 budget. According to the 2015 budget, Rahovec Municipality budget included 30.000 EUR for NGOs in social issues and 10.000 EUR for rural development projects through co-financing with NGOs; in Istog Municipality a budget line of 15.000 EUR was dedicated to participation in capital project through NGOs, community and other donors. Despite the legal possibilities, no funds from the lottery have been collected or disbursed during 2015. 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.

> The Auditor General's Reports for 2014 show that only few Ministries announced calls for proposals for CSOs, and even in those cases, there were procedural omissions, making the process less transparent and marked by procedural irregularities. For example, the Ministry of Public Administration was not in possession of the list of those CSOs that submitted project applications for subventions, nor they notified those CSOs which did not receive grants, as corresponding rules of procedure require. The Ministry of Agriculture, Forestry and Rural Development granted funds to two CSOs even though they were not providing the services which were required in the call for proposal. Through the Minister's decision, the Ministry for European Integration had approved grants to five projects which were refused by an evaluation commission, as the purpose of the projects was not seen to correspond to the Ministry's mandate. Nevertheless, the projects were approved by the Minister despite the Commission's assessment.

No changes in 2015 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 drafted 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 CSOs specific procedures on addressing the conflict of interest are related

[21] Organizational Survey with CSOs in Kosovo, conducted in December 2015

to CSOs with public officials as Board members vis-à-vis state funding within the Law on Prevention of Conflict of Interests in Discharge of Public Functions[22].



Due to lack of specific budgetary planning and information on selection, it is very difficult to collect proper information on the amount, type of project and organizations benefiting from public funds. Information related to procedures for funding and information on funded projects is rarely publicly available. In rare cases, a few ministries have made publicly available project announcements on funded projects for CSOs, such as the Ministry of European Integration or Ministry of Labour and Social Welfare. Government bodies neither have, nor do they implement harmonized procedures. 60.9%[23] of the surveyed CSOs assess that the requirements for application are not excessive and that all application forms are understandable. Meanwhile, around 80% of the surveyed CSOs declare that decisions in tenders are not fair, are not publicly announced and that they are not free from conflict of interest.

No progress has been made during 2015 with regards to accountability, monitoring and evaluation of public funding to CSOs. There are no standard procedures in place for ensuring accountability, while monitoring and evaluation of public funds is regulated only with general provisions of the Public Procurement Law and Public Finances Management and Accountability Law, which are not related to the specific work of CSOs. The specific regulations on subventions to NGOs include some provisions on monitoring, while evaluation of the funded projects is rarely included. Furthermore, building mechanisms to ensure accountability and monitoring of public funds for CSOs were recommended by the Office of Auditor General of Kosovo for a number of

> The Auditor General's Reports for 2014 show also the lack of proper monitoring and reporting of the public funds granted to CSOs. For example, the Ministry of Public Administration did not appoint any officer for monitoring the implementation of subsidized NGO projects. Only one of the NGO grantee had submitted a project implementation report. A number of winning projects from the Ministry of Labour and Social Welfare were made only by a decision of the Minister. Those projects lacked contracts or agreements and the scope of their actions was not in line with the Ministry's mandate. In a Memorandum of Understanding between the Ministry of Agriculture, Forestry and Rural Development and the NGO grantees, it was stated that the transfer of funds occurs after the submission of narrative and financial reports. However, no detailed reports were found on the activities of the projects when NGO grantees were visited. Though it was legally binding to report, not all NGO grantees from the Ministry of European Integration submitted financial reports and reports on the implemented project activities.

[22] http://gzk.rks-gov.net/ActDetail.aspx?ActID=2768
[23] Organizational Survey with CSOs in Kosovo, conducted in December 2015

ministries. As no specific legal provisions exist, sanctions for misuse of public funds by CSOs are identical to all other legal entities, thus do not take into account the proportionality of the sanction with regards to size and type of CSOs.

In practice, there are no standardized monitoring visits for those CSOs that receive public funding and there is no particular evaluation of public funds assigned to CSOs. While the Auditor's reports for 2014 (published in 2015) identify numerous cases when public funds for CSOs were not monitored or reported, most of surveyed CSOs who received public funding in 2015 declare that they have been required to submit detailed reports of activities and expenses, while more than half of them also report monitoring visits. Lastly, being disbursed in ad-hoc and non-standardized manner, no cases of evaluation for public funds for CSOs were identified.

No change of the legal framework on non-financial support for CSOs has occurred during 2015. The Law 04/L-144 on Allocation for Use and Exchange of Immovable Property of Municipality allows municipalities to allocate immovable property to CSOs. However, the law prescribes only general criteria and there is no clearly prescribed process of such non-financial support to CSOs. As a principle, the municipal property can be allocated for use to natural or legal persons through an open public competition, following the proposal of the Mayor and decision of the Municipal Assembly, after an evaluation of the applicants by a specific Evaluation Commission. Out of 7 members of the Commission, one of them should be an expert member from civil society. While the competition procedure can be skipped in some special cases, CSOs do not fall in this category. No specific provisions exist on one-time usage of municipal or other state properties by civil society.

Non-financial support is granted to a number of CSOs, although the most common type is provision of free usage of public facilities for specific activities of CSOs. 21.9%[24] of the surveyed CSOs declare to have received non-financial support from the state, mostly through direct contacts with corresponding public institutions. Although there are no reports on unequal treatment of CSOs compared to other sectors, non-financial support is mostly granted to CSOs representing vulnerable groups and youth organizations. Among those who reported to have benefited non-financial support during 2015 are mainly students' or science-related organizations. In general, critical CSOs do not benefit from any long-term support and there are only few cases where such CSOs have benefited from any short-term or ad-hoc non-financial support, mostly using municipality premises for some of their activities. Nevertheless, research has demonstrated that most of the watch-dog or human rights CSOs do not request for such support, thus it is difficult to assess the potential reaction of state authorities in case such requests would be more frequent.

To conclude, the selection of the model for public funding to CSOs has been the main policy progress in this area, although it will become applicable only when respective normative acts are drafted and adopted by the Government. For the time being, there are no specific procedures for the distribution of public funding to CSOs. The lack of budgetary planning makes it difficult to collect proper information on the amount, type of project and organizations benefiting from public funds. Monitoring and evaluation of public funds is regulated only with general provisions in the corresponding laws which are not related to the specific work of CSOs.

The main recommendations for Sub-area 2.2 are:

- **The Government should proceed with designing the details of the model on public funding and draft the necessary regulations to operationalize this model. Aside from the development of**

[24] Organizational Survey with CSOs in Kosovo, conducted in December 2015

this comprehensive system, all information on public funds disbursed to CSOs should be made transparent immediate and continuously
• **Following the operationalization of the new public funding regulation, the Government should initiate a capacity building program for civil servants in charge of the implementation of this regulation**
• **The legal opportunity to direct funds from the Kosovo Lottery to human rights issues should be extended in its scope and implemented in practice**
• **The government should establish an institutional mechanism for co-financing of EU funds for civil society, as per the obligation set forth in the Government Strategy for cooperation with civil society**

EU Guidelines indicators	Monitoring Matrix assessment
2.4.a. Increase of public funding for CSOs **2.4.b. Quality of state funding frameworks for civil society organisations (focusing on procedural document)**	**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 programing of the tenders, clear criteria published in advance, deadlines for decision, and merit decision with arguments, no data on the amount sought and disbursed is available. Same applies to the information on the increase or decrease of public funding for civil society. Nevertheless, as per requirement of the Government Strategy for cooperation with civil society, in the last days of 2015 the Government has agreed upon a general model on which the public funding for CSOs will be built. This model 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. It is planned that during 2016 the Ministry of Finance and the Office of Prime Minister draft the necessary regulatory framework for operationalizing this model.

Sub-area 2.3.: Human resources

The process of amending on the Labour Law, which was suspended due to the political deadlock of 2014, did not resume during 2015. The current legislation does not have any specific provisions on CSOs and they face same requirements as other employers. Nevertheless, the provisions on maternity leave, which are obligatory for all employers, are problematic for CSOs[25]. Due to dominance of project funding in the civil society sector, only few CSOs have sufficient funds to cover their part of the payment during maternity leave. Another challenge identified by CSOs with regards to labour legislation is the project-based contracting for their staff,

[25] See Kosovo Country Report 2014 for details.

which does not necessarily cover all potential benefits for employees guaranteed by the Labour Law, in particular those related to the duration of employment.

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 5 respondent CSOs have declared to have benefited from state-supported employment programs during 2015. There are very few credible statistics on the number of employees in the CSO sector in Kosovo. While analysing the economic value of civil society during 2015, the main source of information was the Kosovo Pension Trust which provided some statistics on the number and categories of employees in the CSO sector. Nevertheless, as these data are based only on the Personal Income payment, few conclusions can be extracted from these statistics. Kosovo Tax Administration is in possession of additional data on CSOs' employees, but no access to these data was granted, with the explanation that CSOs are not in the list of institutions which may access this type of information. On the other hand, Kosovo Statistical Agency has very limited statistics relevant to civil society.

No changes in the legal framework on volunteering have been made during 2015, although a number of policy-related meetings have been 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. Volunteering of other categories is 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. All in all, only 7% of the surveyed CSOs perceive the policy and legal environment for volunteering as enabling.

During 2015, no volunteering programs organized by state institutions have been identified. 59.4%[26] of the surveyed CSOs declare to have engaged volunteers during 2015. However, only 37.3%[27] of them have signed written agreements/contracts with the volunteers. The registration system for youth volunteers that is envisaged by the Law on Youth Empowerment and Participation did not function during 2015, 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.

Kosovar CSOs are allowed to provide educational activities, including non-formal ones, based on their statutes and fields of activities. The National Qualifications Authority is allowed to establish systems of accreditation and recognition of non-formal education and such systems are in place in different areas. The only piece of legislation on this matter covers non-formal education for youth – a new administrative instruction was adopted in 2015 however it only contains some broad criteria on methodology of informal education, providers of informal education and types of certificates to be issued. The curriculum of formal educational

[26] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[27] Organizational Survey with CSOs in Kosovo, conducted in December 2015

system has limited civil society related topics – mostly on primary level of education through the subject of citizen education.

Kosovar CSOs provide a wide range of educational activities, mostly short-term training in their field of work. Most of the educational activities that are provided by them are not accredited – as of December 2015, only 3 CSOs have completed the accreditation process from the National Qualifications Authority. While citizen education is an obligatory subject in all primary schools in Kosovo, 38%[28] of the surveyed CSOs believe that this subject sufficiently promotes civil engagement. Some private universities provide opportunities for their students to engage with CSOs, although they do not have permanent agreements with particular CSOs on this matter, while public universities are still lagging behind.

To conclude, although CSOs are treated equally with other sectors in the labor legislation, but CSOs are not part of policies that promote employment and state does not stimulate employment or volunteering with CSOs. Volunteering remains not regulated and promoted, with exception of some general provisions on youth volunteering. Similarly, the informal education has little recognition by the state, while a new administrative instruction adopted in 2015 only contains some broad criteria on methodology of informal education for youth.

The main recommendations for Sub-area 2.3 are:

- **When designing employment policies, the state should acknowledge that civil society is one of the sectors that generates employment, thus should be included in state incentive programs for employment**
- **A wider discussion should be initiated in order to explore best alternatives of addressing specific issues of CSOs with regards to maternity leave provisions of the Labour Law**
- **A comprehensive system on volunteering should be initiated, based on the objectives of the Governmental Strategy for Cooperation with Civil Society, with the inclusion of other categories beyond youth volunteering**
- **Civil society related topics should be included in the official curriculum of educational system in cooperation with CSOs, and public and private schools and universities should create more opportunities for their students to engage with CSOs**
- **Kosovo Statistical Office, the Ministry of Labor and Tax Administration should include CSOs as a statistical category on their employment statistics according to UN/ILO instruments, as well as make these data public**

EU Guidelines indicators	Monitoring Matrix assessment
1.2.a. Number of employees in CSO (permanent and part-time) **1.2.c. Quality of legislative framework**	**The number of employees in the CSO sector** in 2014, based on the Kosovo Pension Trust, was 12.874. No details on the number of part-time and full time employees are provided. However, out of the total number, 8,743 have been employed only in the civil society sector; while for 4,583, CSOs have only been one of the sectors they worked for.

[28] Organizational Survey with CSOs in Kosovo, conducted in December 2015

1.2.b. Number of volunteers in CSOs per type of CSO / sector	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 a regional study on economic value of the sector, it is calculated that 2.58% of all employed are employed in the CSO sector. CSOs are treated equally to other sectors within the Labor Law, 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. 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

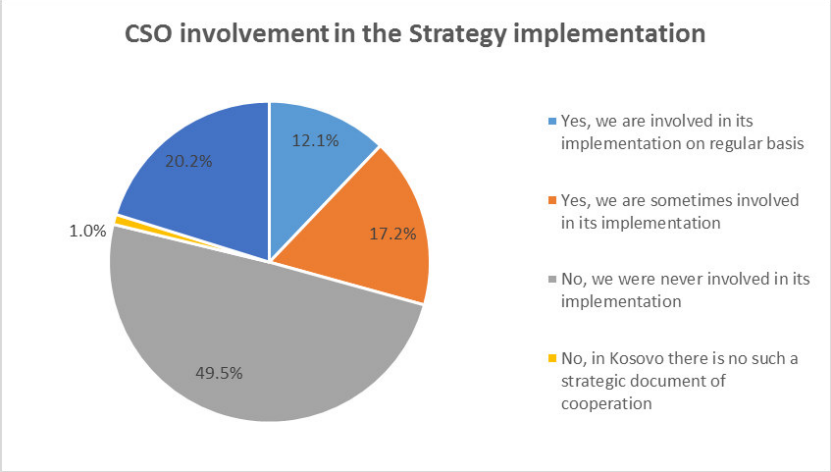
Sub-area 3.1.: Framework and practices for cooperation

The implementation of the Government Strategy for Cooperation with Civil Society 2013-2017, adopted in July 2013, has been initiated in the beginning of 2015. All the activities that have been planned to be initiated during 2013 and 2014 have been rescheduled for 2015 and onwards, through a specific Action Plan for 2015. The Action Plan for 2015 included detailed sub-activities for each of the measures and strategic objectives, and was developed jointly with civil society. Based on the Annual Report of the Office for Good Governance, the implementation rate of the Action Plan for 2015 reached 41.9%.[29] 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 implementation of the activities. Up to date, with the exception of the costs for small meetings held in government premises and covered by the budget of the Office for Good Governance, all other activities have been conducted with donor support. In general, all discussions resulting with changes in the measures of the Strategy (such as revising some measures on the public funding for civil society) have involved civil society representatives in the Council, but beyond this group, few other CSOs have been consulted.

[29] Official Annual Report by the Secretariat of the Council for implementation of Government Strategy for cooperation with civil society, January 2016

During 2015, the Declaration for Partnership between the Kosovo Assembly and civil society was complemented with an Action Plan, which however does not include specific activities, indicators or objectives. In parallel, as part of an international initiative, a Declaration for Open Assembly was adopted by the Presidency of the Assembly. The content of both declarations is similar and includes the commitment of the Assembly to increase the participation of the public in drafting and implementation of laws, advance the cooperation with civil society, advance the public funding for civil society, etc.

Most of the activities deriving from the Government Strategy for Cooperation with Civil Society have been undertaken with participation of CSOs who are members of the Council for implementation of the Strategy, as well as through CiviKos Platform. However, this represents only a limited portion of the sector – only 29.3%[30] of the surveyed CSOs declare to have been involved in the implementation of this Strategy, while the rest was not involved in its implementation or not even aware of its existence. Merely a part of the planned activities has been completed or initiated during 2015 and only the Regulation on Minimum Standards and the Model on Public Funding from CSOs have been drafted, with both of them still not being adopted, while some positive changes in the Public Procurement Law related to CSOs have derived from discussions within the Council. This demonstrates that very few concrete changes have resulted from this Strategy up to date. Among the main problems are the lack of sufficient thematic capacities on the side of the government and the lack of interest to participate and contribute to the process from many line ministries, resulting in most of the on-going activities being initiated and led by civil society representatives. Albeit not at the same level, similar problems are present also on the civil society side. The Secretariat of the Council has produced regular quarterly and semi-annual reports on the implementation of the Strategy, but the lack of timely and qualitative input from line ministries remains a concern. A comprehensive monitoring system was designed and operationalized during December 2015. Similarly to the drafting phase, most of the activities of the Strategy are based on data collected and/or published by civil society. Though formally the group on drafting the Action Plan of the Declaration for partnership between the Kosovo Assembly and civil society was comprised of MPs and civil society representatives, only one MP partly participated in one of the four meetings held during 2015. According to civil society representatives working with the Assembly, this lack of interest from MPs demonstrates insufficient political will to seriously engage with civil society.[31] Nevertheless, with the adoption of the Assembly Partnership Declaration with Civil Society in 2014, some CSOs working closely with the Assembly assess that the engagement by the Assembly has improved in terms of inclusiveness and accessibility.[32]

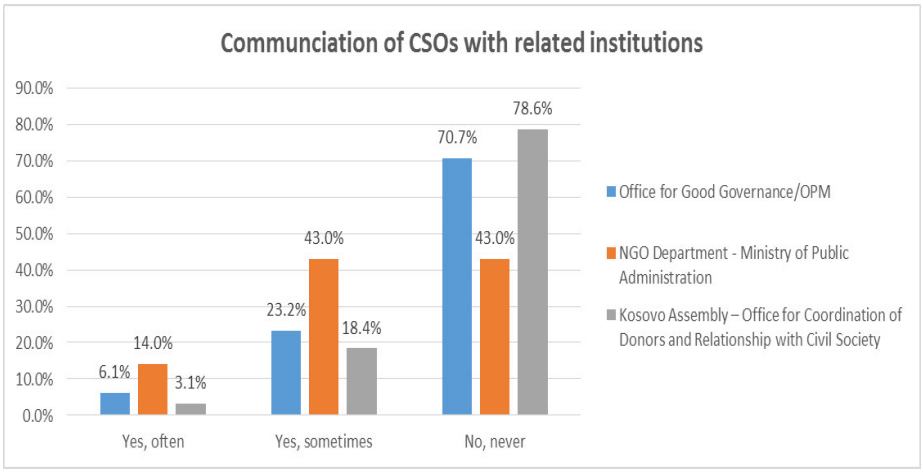


The Council for implementation of the Strategy is the joint body mandated to monitor and report on the implementation of the Strategy's activities. The Office for Good Governance within the Office of the Prime

[30] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[31] Interview with Kosovo Democratic Institute, 11th of January 2016
[32] Focus Group with CSOs on Monitoring Development Effectiveness Principles, 24th of March 2016

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 to the Working Teams of the Council. With regards to the Assembly, during 2015 no changes have been reported to its institutional setup for cooperation with civil society.

With no additional staff dedicated to 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 CSOs - Government dialogue, same as for serving as a secretariat to the Council. Furthermore, no training or other capacity building activities for the staff of the OGG on cooperating with civil society was conducted during 2015, aside a number of informative sessions held by foreign NGOs and institutions on sharing similar experiences. The Council for implementation of the Strategy has met regularly on a quarterly basis, same as the Working Teams for each of the 4 Strategic Objectives. 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 29.3%[33] of the surveyed CSOs declare to have communicated with the OGG/OPM during 2015. Even a smaller portion of CSOs (21.5%)[34] declared to have communicated with the Assembly Officer for cooperation with civil society.



To conclude, while implementation bodies have been very active throughout the year, only some of the planned activities of the Governmental Strategy for cooperation with civil society have been initiated or completed during 2015 and its Action Plan has seen a lot of delays in its implementation. Similarly, the Assembly of Kosovo did little to improve its cooperation with civil society in practice, despite adoption of some documents on this issue. The current institutional setup, lack of sufficient human resources and lack of budget allocation for a proper implementation remain serious challenges in 2015.

The main recommendations for Sub-area 3.1 are:

- **Engagement and contribution from line ministries should increase timely and qualitative implementation of specific activities within the Government Strategy for cooperation with civil society**
- **Capacities of civil servants and civil society on different thematic areas covered by the Strategy should be increased,**
- **Concrete and specific budget should be allocated to OGG/OPM and other line ministries to implement the activities of the Strategy**

[33] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[34] Organizational Survey with CSOs in Kosovo, conducted in December 2015

- **Additional competent staff with skills and knowledge on dealing with CSOs on the OGG/OPM should be hired in order for the latter to perform its mandate as a Secretariat to the Council**
- **The Assembly of Kosovo should cancel the decision to remove the position of Officer for cooperation with civil society and invest human and financial resources in cooperating with the sector, including proper involvement of the Members of the Parliament in this process**
- **Efforts should be made to extend the number of CSOs involved in the implementation of the Government Strategy for cooperation with civil society and Assembly Declaration for partnership with civil society**
- **The Kosovo Statistical Office and other public institutions should cooperate with civil society development CSOs in collecting and publishing relevant data on civil society sector**

EU Guidelines indicators	Monitoring Matrix assessment
3.1.b Quality* of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions *** in terms of:** **- CSO representation in general** **- representation of smaller/weaker CSOs** **- its visibility and availability** **- government perception of quality of structures and mechanisms** **- CSOs perception of structures and mechanisms**	**The structures and mechanisms for dialogue and cooperation between CSOs and public institutions** have seen some progress during 2015, although with a lot of delay. The implementation of the **Government Strategy for cooperation with civil society 2013-2017**, adopted in July 2013, has been initiated only in the beginning of 2015. Merely a part of the planned activities has been completed or initiated during 2015. In addition, 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. The joint bodies for the implementation of the Strategy were very active and met regularly throughout 2015, but the lack of timely and qualitative input from line ministries remains a concern. In general, around 1/3 of CSOs have declared to have been involved in the implementation or discussions on this Strategy, while many of them are small and remote CSOs. 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

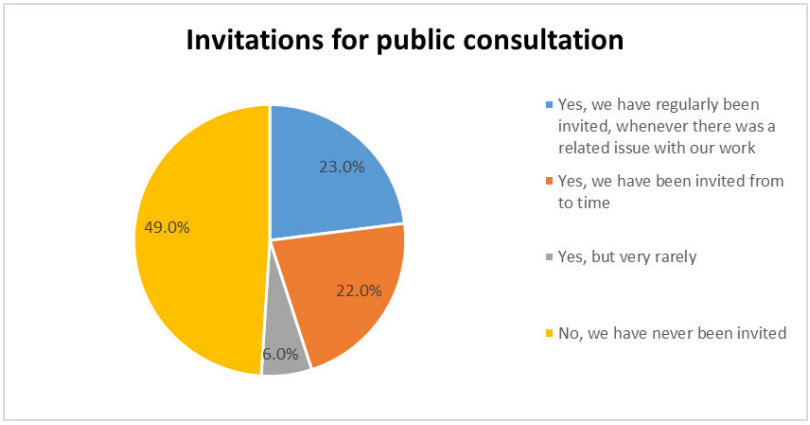
	South having a designated contact point for civil society. An Officer for cooperation with civil society and donors remains responsible for the Assembly communication with civil society. A formal group on drafting the Action Plan of the **Declaration for partnership between the Kosovo Assembly and civil society** was established and functional during 2015. However, Members of the Parliament appointed to this group did not participate in its work, demonstrating insufficient will from the political spectrum to seriously engage with civil society. 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

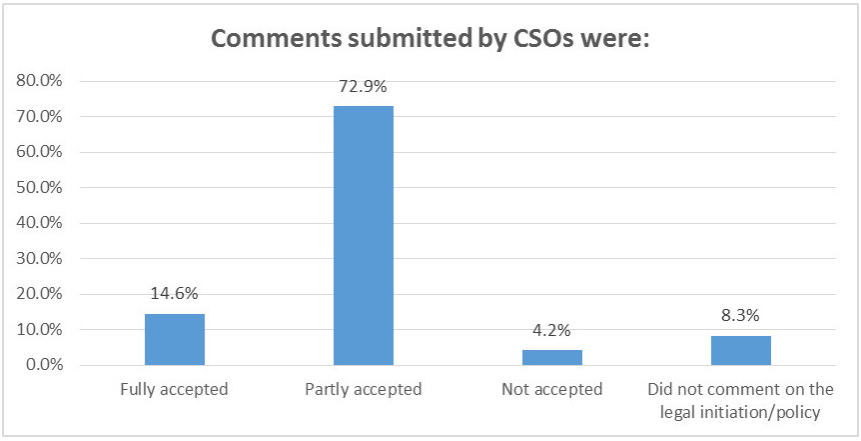
The main progress with regards to public consultations was related to drafting of the Regulation on Minimum Standards for Public Consultations process, based on a proposal by civil society.[35] In December 2015, the draft of the regulation was completed by the working group and was ready to be consulted with the general public. The set of standards presents a systematic basis for public consultations from agenda-setting to experts' involvement to general public consultations, with specific requirements for each of the steps. Furthermore, an online platform shall be 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, bi-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 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, petitions, public meetings with the Mayor, etc. An Administrative Instruction on Municipal Transparency was adopted in the last days of 2015, setting a number of obligations which would ensure publishing of municipal documents and public involvement in decision-making. Nevertheless, provisions of this regulation 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

[35] http://kcsfoundation.org/repository/docs/21_07_2015_4376832_KCSF_Incomplete_chain_english_final__2_.pdf

which decisions fall under category exist. With regards to the capacities of civil servants to involve civil society, no educational programs/trainings for civil servants on this issue have been introduced during 2015. While the OGG/OPM has already initiated a needs assessment for capacities of civil servants on cooperation with civil society (including public consultations), the Kosovar Institute for Public Administration has no modules covering this topic. Internal regulations of the Ministries or municipalities have no provisions on any specific unit/officer which should coordinate, monitor and report on CSOs involvement in their work.



Despite positive legal requirements, CSOs are not routinely invited to comment on policy/legal proposals. Only 23%[36] of the surveyed CSOs in 2015 have been regularly invited to comment on policy/legal proposals on their fields of interest, while only 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. From 80 draft-laws adopted by the Government during 2015, only 21 of them have been sent for public consultations through the CiviKos Platform.[37] The public is not consulted at an early stage of a proposal as only 8.2% [38]of CSOs consider that draft laws and policies are published on time. At the other hand, there are improved results on the level of information provided during the consultation process and the access to information in general, although the latter were many times delayed. While feedback on the results of the public consultations is rarely provided, the majority of CSOs that have participated in public consultation process (72.9%)[39] state that their comments were partly accepted. 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. Out of 38 municipalities in Kosovo, the obligation to publish the Municipal Transparency Plan is fulfilled only by the Municipality of Suhareka. At the Assembly level, only a part of the laws in procedure undergo public hearings, while other types of public consultations are not common. From 71 laws adopted or in procedure during 2015, the Assembly of Kosovo organized 34 public hearings, and not all of these involved only laws. According to CSOs working with the Assembly of Kosovo, the most positive examples of public hearings are those co-organized with CSOs or

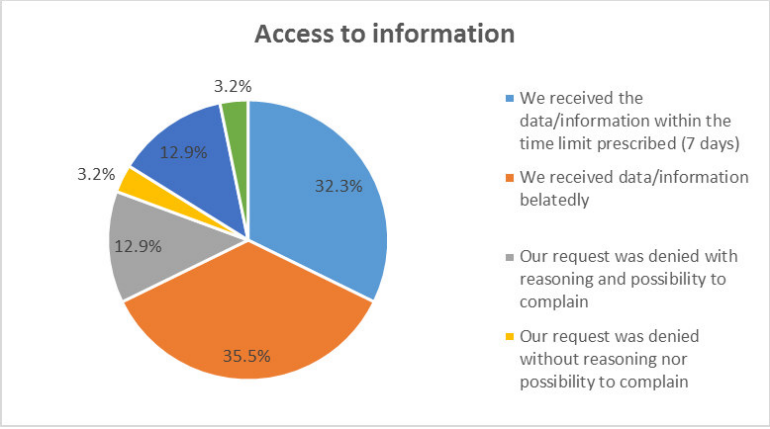


[36] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[37] Report on Public Consultation with CiviKos member organizations for 2015, http://civikos.net/repository/docs/Raport_Permbledhes-Konsultimi_publik_247855.pdf
[38] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[39] Organizational Survey with CSOs in Kosovo, conducted in December 2015

international organizations. The Assembly has a functioning database of CSOs interested in the work of this institution, which serves also as a platform of inviting CSOs 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. No trainings on public consultations have been organized during 2015. Lastly, no public institutions have specific units/officers who coordinate and monitor public consultation process.[40] In Ministries, the public consultation process is usually run by the responsible staff on respective law/policy proposal, while in municipalities there are different practices of work.

Access to public information is a constitutional right, guaranteed with the Article 41 of the Constitution. The Law 03/L-215 on Access to Public Documents obliges all public institutions to publish all adopted documents, but does not explicitly require publishing of the drafts of documents in procedure. However, an Administrative Instruction on the content of websites of public institutions, adopted in May 2015, also obliges publication of the Annual Work Plans as well as the draft normative acts for the purpose of public consultations. When it comes to requests for access to public documents, there are clear legal procedures and mechanisms for access to public information/documents, including the deadline for response by public institutions within 7 days. The Law on Access to Public Documents contains clearly prescribed monetary sanctions for civil servants and institutions breaching the legal requirements for access to public information. Although a number of initiatives for amending the legislation on access to public documents were mentioned in many conferences on this topic during 2015, none of them have been formalized up to date. Some of the issues that have been discussed for a potential amendment process relate to clear provisions on document classification, specific contents that should be made public by government institutions, as well as more adequate implementation mechanisms.[41]

All public institutions publish on their websites the applicable legislation for their field of work. Strategic and policy documents (concept-documents) are published on the website of the Office of the Prime Minister, but can rarely be found on the websites of the respective ministries. The obligation to publish all draft normative acts is not respected and only two ministries have been identified to have published such drafts on their websites during 2015. As a result, most of the draft laws and policies are not easily accessible to the public. Most of the time, these documents are accessed upon request or are distributed through CiviKos Platform. In practice, the number of official requests from civil society is not high and public institutions do not answer regularly within the deadline of 7 working days. Only 31%[42] of the surveyed CSOs have requested access to public documents during 2015. From this group of CSOs, 1/3[43] of them have received the requested information within the prescribed time limit (7 days) and 1/3 has received that information with a delay. The rest was denied, some of them without any answer at all. According to the report of the Office of Prime Minister for 2014 (published in



[40] Municipality of Mitrovica South has a "civil society officer", who however is not directly responsible on coordinating or monitoring public consultation process
[41] Focus Group with CSOs on Monitoring Development Effectiveness Principles, 24th of March 2016
[42] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[43] Organizational Survey with CSOs in Kosovo, conducted in December 2015

2015), most of the requests come from journalists, while civil society has a higher share of requests for access to public documents at local level (Municipalities – 30.8%, Presidency/Assembly/Constitutional Court – 18.18%, Government – 20.09% and Independent Agencies - 14%). According to this report, the vast majority of requests are granted. However, from those refused, most of them are done through administrative silence. With regards to sanctions in cases of violations of the law, attempts have been made to contact the Kosovo Judicial Council on the statistics of 2015, but no answer has been provided. In May 2015, the Basic Court of Prishtina issued a positive ruling on the request of an NGO against refusal of the Office of Prime Minister to grant access to information on public documents. Nevertheless, besides obliging the OPM to provide all requested information, no sanction for the offenders was ruled. There are no reports from other sources that cases of violations of the law have been sanctioned at any level of governance.

The legislation at government level allows, but does not oblige the government to invite CSO representatives on decision-making or advisory bodies created by public institutions. 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.

Few cross-sector bodies have been established during 2015 and civil society representatives participated in a number of them. A number of existing bodies, such as the National Council on European Integration, the National Council on Anti-Corruption and the Council for Implementation of the Strategy continued to include civil society representatives in their work. During 2015, only three cases of open selection processes were identified: the replacement of two civil society members in the Council for Implementation of the Strategy; the selection of the civil society member in the State Aid Council; the selection of the civil society representatives in the Joint Group of the Assembly of Kosovo on Declaration of Partnership between the Assembly of Kosovo and civil society. In each of these three cases, civil society representatives have been nominated and voted by their colleagues. Following wide civil society criticism on the selection process, the civil society representative in the Kosovo Prosecutors Council has been removed and a new selection process was initiated at the end of 2015. 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.

> Despite containing numerous measures for the entire NGO sector, the inclusion of civil society in the amendment process of the Law on the Prevention of Money Laundering and Terrorist Financing was done very late. The explicit request for CSOs inclusion was formally submitted in December 2014, during the Concept Document phase which precedes the law drafting process. The working group on the amendment of the Law was established in February 2015, without any civil society representative. While the working group proceeded with its work, in April 2015 this issue was discussed in the Council for implementation of the Strategy for cooperation with civil society. It was immediately followed with a formal request to the Secretary General in the Office of the Prime Minister, the highest civil servant in the country. Shortly thereafter, the latter decisively advised the Ministry of Finance (as a sponsor of this law) that a civil society representative shall be included in the working group. There was no response from the Ministry of Finance until the end of July 2015, when a CSO representative was invited to the working group. This happened only after a direct meeting between the respective CSO and the Minister of Finance, only few days prior to the positive decision.

To conclude, drafting of the Regulation on Minimum Standards for Public Consultations has been the main policy development during 2015, although this regulation still remains to be adopted by the Government. For the time being, involvement of CSOs in decision-making is still not a routine process, as proper implementation of the current legal requirements and clearly defined standards of consultation are still missing, as well as officers for monitoring the public consultation process in public institutions.

The main recommendations for Sub-area 3.2 are:

- **The Regulation on Minimum Standards for Public Consultations at government level should be adopted without further delay and its implementation should be initiated immediately after, including regular monitoring and reporting on its implementation**
- **The Assembly of Kosovo should devise obligatory requirements for involvement of CSOs in the work of the Parliamentary Committees, while the latter should organize public hearings for all draft-laws in the process**
- **The Ministry of Local Government Administration should ensure that legal provisions on citizen participation at local level are duly implemented by all municipalities**
- **The Government, including the Kosovo Public Administration Institute, should allocate sufficient funding for building capacities of civil servants on the public consultation process, and cooperate with civil society in designing and delivering educational programs/trainings for civil servants on this issue**
- **All central and local institutions should proactively publish the draft normative acts, while cases of refusing the access to public documents should be sanctioned as provided in the law**
- **General mechanisms for selection of civil society representatives in state bodies should be designed by the Government, and they should be adapted for specific cases by other public institutions**

EU Guidelines indicators	Monitoring Matrix assessment
3.1.a. Percentage of laws/bylaws, strategies and policy reforms effectively* consulted with CSOs * in terms of: - adequate access to information - sufficient time to comment - selection and representativeness / diversity of working groups - acknowledgement of input - degree to which input is taken into account - feedback / publication of consultation results	There are **legal requirements for consulting with CSOs at 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 slightly improved, less than 1/3 of CSOs declare to have been regularly invited to comment on policy/legal proposals in their fields of interest, while only half of those invited declare to have had sufficient time to comment on the proposals. While feedback on the results of the public consultations is rarely provided or made public, the majority 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**. Due to lack of standardized application of general legal requirements, and based on civil society proposals, a regulation setting the Minimum Standards on Public Consultations process has been drafted by the government and is expected to be adopted during 2016. **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, from 71 laws adopted or in procedure during 2015, the Assembly of Kosovo organized 34 public hearings and not all of them involved laws only.

Sub-area 3.3.: Collaboration in social provision

The main development during 2015 with regards to provision of services by CSOs has been the amendment of the Public Procurement Law. The amended Law 05/L-068 on Public Procurement has addressed the main concerns regarding hidden barriers for CSOs which were raised by CSOs during the last years. The main improvements of the new Law are the explicit recognition of CSOs as economic operators, as well as removal of the requirement for business certificates for CSOs. The rest of the legal framework remains unchanged and 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.

Not many 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 CSOs are still funded by international

donors. Only 10%[44] of the surveyed CSOs applied for and were awarded with state contracts during 2015. 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. During 2015, 13 CSOs have completed the licensing process. The licensing process and requirements are equal for all types of service providers.

There are no specific budget lines planned for funding the services provided by CSOs. The funding can be provided only based on public calls and only for those services which are not provided by the state authorities. The only law that specifically foresees funding for CSOs is the Law of Social and Family Services. However, any funding can be awarded only on annual basis, while longer term agreements are not allowed. The annual funding is present to all service providers, including CSOs. On social services, the Ministry of Labour and Social Welfare is obliged to prepare annual programs for grants and subventions. Due to the positive amendments made to the Law on Public Procurement during 2015, there are no legal barriers for CSOs that provide social services to receive public funds.

Although there are no data available from state institutions, according to CSOs, state funding for services provided by CSOs is limited and funding is not predictable or available for a longer-term period. Some CSOs which offer social services receive public funds for the services that they provide. Nevertheless, the funds are limited. From those surveyed CSOs that have declared to have obtained state contracts, most of them declare that the public funds that are offered to them are not sufficient in covering basic costs of services, while none of them had received funds for institutional costs. Many times there are delays in payments and the financing is not flexible with regards to the nature/quality of the services. Most respondents declare that funds from state contracts were delayed and some of them declare that these delays caused problems in providing their services.

The Law on Public Procurement, the Law on Public Financial Management and Accountability, the Law of Social and Family Services remain unclear with regards to a transparent selection of service providers in particular. The social services funding procedures and criteria are not regulated by law, but through secondary legislation. One administrative instruction adopted in 2015 lays out some general criteria and procedures for grants to CSOs providing social services, same as the administrative instruction on the services for repatriated persons. However, funding of social and other services is still addressed through subsidies and grants and by broad criteria, thus it is difficult to assess whether the price is not the lead criteria for the funding decisions. The legal basis provides with general provisions addressing the conflict of interest, while the general conflict of interest rules apply also for funding service provided by CSOs. The law provides the right to appeal against competition results.

Contracting of public services to CSOs is not common. The most common services contracted to CSOs are those who are not provided by state authorities, while social services comprise the majority of them. In practice, in most cases of social services provision by CSOs, the selection is based on best value for quality, technical expertise and financial assessment of applicants. However 51.5%[45] of the respondents declare that they do not believe that state contracts are given fairly or in a transparent manner. The majority of the

[44] Organizational Survey with CSOs in Kosovo, conducted in December 2015
[45] Organizational Survey with CSOs in Kosovo, conducted in December 2015

respondents (57.6%) base this opinion either on personal experience or the experiences of other CSOs. With regards to the capacities of officials organizing the procedures, CSOs consider that most of them have sufficient technical capacities to organize the procedures, but lack understanding of the concept of service provision by CSOs. This is proven also by the difficulties in properly initiating the planned activities within the Government Strategy for cooperation with civil society. The Working Group of the Strategic Objective 3 on service provision by CSOs met a number of times during 2015, but no concrete results were achieved.

With the exception of social services, other services do not have a specific legal basis for monitoring the spending of CSOs and the quality of provided services. The general legal requirements for public spending apply also to service provision by CSOs. With regards to social services, the secondary legislation adopted in 2015 includes some general provisions on monitoring of services funded by the Ministry of Labour and Social Welfare. Concretely, a Monitoring Committee is established and mandated to monitor grants and subventions to legal entities (including CSOs), while the monitoring can be conducted by central or local level authorities, depending where respective service is based. Similarly, broad reporting requirements are part of this administrative instruction, both for financial and narrative reports. A specific Administrative Instruction from 2013 on monitoring the providers of social and family services lays out competences of monitoring officers/committees, including some broad references to qualitative monitoring of services provided.

In general, the system of accountability, monitoring and evaluation of services provided by CSOs lags behind. Monitoring officers or committees conduct field visits to CSOs that provide social services. From surveyed CSOs that have obtained state contracts, all of them have been monitored, mostly on regular basis and without excessive requirements. Most of the monitoring is focused on spending verification and technical aspects of service provision, with little qualitative monitoring and assessment. There are no identified cases of regular evaluation of quality and effects/impact of services provided.

To conclude, the new Public Procurement Law removed the hidden barriers for CSOs to obtain state contracts, by explicitly recognizing CSOs as economic operators, and there are no additional requirements for CSOs when they wish to engage in state contracts. However, the contracting of public services is not common and the rest of the environment for service provision is generally not favorable for CSOs.

The main recommendations for Sub-area 3.3 are:

- **Public institutions should invest in expertise and human resources in developing a specific legal basis and implementation mechanisms for service provision by CSOs, which should be in line with the principles set in the Government Strategy for cooperation with civil society**
- **State institutions should make available sufficient funding for CSOs to cover the real value of services provided and institutional costs of the CSOs, while the legislation should be amended to allow multi-annual contracts to CSOs**
- **The state should introduce mechanisms that ensure full transparency of the decision-making process for CSO state contracts**
- **Clear criteria and system on monitoring of services provided by CSOs should be introduced beyond social services and periodic evaluation should be conducted by respective line ministries**

Used Resources and Useful Links

- Constitution of Kosovo
- 04/L-082 Penal Code of the Republic of Kosovo
- Civil Law 02/L-65 against defamation and insult
- Law 04/L-57 on Freedom of Association in NGOs
- Law 03/L-222 on Tax Administration and Procedures (including Law 04/L-102 on amending the Law 03/L-222)
- Law 03/L-196 on Prevention of Money Laundring and financing of terrorism (Including the Law 04/L-178 on amending the Law 03/L-196)
- Law 03/L-162 on Corporate Income Tax (including Law 04/L-103 on amending the Law 03/L-162)
- Law 05/L-029 on Corporate Income Tax
- Law 03/L-161 on Personal Income Tax (including Law 04/L-104 on amending the law 03/L-161)
- Law 05/L-028 on Personal Income Tax
- Law 03/L-118 on Public Gatherings
- Law 04/L-109 on Electronic Communication
- Law 03/L-212 on Labour
- Law 03/L-145 on Youth Empowerment and Participation
- Law on Budget 2015
- Law 04/L-051 on prevention of the conflict of interest in exercising the public function
- Law 04/L-042 on Public Procurement
- Law 05/L-068 on Public Procurement
- Law 03/L-226 on Allocation for use and Exchange of Immovable Property of Municipality
- Law 04/L-045 on Public-Private Partnership
- Law 03-L/040 on Local Self-government
- Law 03/L-215 on Access to Public Documents
- Law 02/L-17 for Social and Family Services
- Law 03/L-049 on Local Government Finances
- Law 03/L-178 on Classified Information and Verification of Safety
- Law 04/-L-025 for Legislative Initiatives
- Tax Administration Public Explanatory Decision 03/2013 on tax treatments of EU funded imports and supplies
- Regulation 02/2011 on fields of responsibility of the Office of Prime Minister
- Rules of Procedures of the Government 09/2011
- Rules of Procedures of the Assembly
- Administrative Instruction 10/2010 on Youth Volunteering
- Administrative Instruction 12/2010 on informal education of youth
- Regulation of MEI 01/2015 on subventions of NGO projects that promote the process of European Integration in the Republic of Kosovo
- Regulation No. 01/2014 on Distribution of Subsidies for Non-Governmental Organizations of the Ministry of Public Administration

- Regulation No. 09/2015 on Subsidies in the Field of Culture, Cultural Heritage, Youth and Sport of the Ministry of Culture, Youth and Sport
- Administrative Instruction of MALG 01/2015 for Municipal Transparency
- Administrative Instruction 2008/10 for Municipal Consultative Committees
- Administrative Instruction GRK – No: 02/2014 on registration and operation of NGOs
- Register of the Department for the Registration of NGOs
- Ombudsperson Yearly Reports
- Code of Ethics of Kosovo Press
- Kosovo Statistical Office reports for census 2012
- Government Strategy for Cooperation with Civil Society 2013-2017
- Annual Plan for 2015 of the Government Strategy for Cooperation with Civil Society 2013-2017
- Annual Report 2015 for implementation of the Government Strategy for Cooperation with Civil Society 2013-2017
- The Annual Report for the right of access to public documents for 2014, Office of Prime Minister 2015
- Freedom House "Freedom in the world" report for Kosovo
- Reporters Without Borders report 2015
- Council of Europe Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe
- European Convention of Human Rights
- UNDP Public Pulse, Volume IX, November 2015
- UNDP, Human Development Report 2008, Civil Society & Development
- KCSF-CIVICUS, Civil Society Index, Analytical Country Report for Kosovo 2011, Better Governance for a Greater Impact, A call for Citizens
- Kosovar Civil Society Index 2013, KCSF 2014

Annex 1 – List of interviewees

According to alphabetical order:

1. Albert Krasniqi, Kosovo Democratic Institute
2. Albulena Sylaj Zeqiri, Communication Office/OPM
3. Bajram Kosumi, Ministry of Public Administration
4. Dardan Kryeziu, CiviKos Platform
5. Driton Selmanaj, Kosovo Democratic Institute
6. Flutura Kusari, Independent Expert
7. Habit Hajredini, Office of Good Governance
8. Hajrulla Çeku, EC Ma Ndryshe
9. Lirije Ajeti, Ministry of Public Administration
10. Milot Hasangjekaj, Kosovo Accreditation Agency
11. Petrit Zogaj, FOL Movement
12. Sami Salihu, Tax Administration of Kosovo
13. Senton Kaçaniku, CSR Kosovo
14. Trendelina Dreshaj, Office of Good Governance
15. Veton Mujaj, Syri i Vizionit
16. Visar Rushiti, GAP Institute
17. Visar Sutaj, Kosovo Democratic Institute