



Civil Rights Program Kosovo

Policy document:

Assessing the opportunities for Civil Society Organizations to
obtain state contracts in Kosovo

November, 2015

Disclaimer: Views in this publication do not necessarily represent the official views of the donors or partners. It provides information collected from the research and available sources for this purpose.



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Table of Contents

Introduction.....	4
Methodology.....	5
Legal framework in Kosovo enabling contracting of services for the Natural Persons, CSOs and Enterprises.....	6
Licensing of the Natural Persons, NGOs and enterprises in the field of social and family services	8
Subsidies and Grants for the Natural Persons and NGOs offering social and family services.....	10
The process for obtaining subsidies and grants from the Ministry of Labour and Social Welfare.....	11
Subsidizing of Projects that Promote Reintegration of Repatriated Persons in the Republic of Kosovo under the legal framework of the Ministry of Internal Affairs	12
Positive example of contracted CSOs in Kosovo to offer services to the repatriated persons.....	15
Potential areas of improvement.....	15
Conclusions.....	17

Introduction

This research paper intends to assess and shed light on the opportunities for Civil Society Organizations to obtain state contracts in the Republic of Kosovo. The Kosovar Civil Society Foundation (KCSF)¹ supported the idea of the Civil Rights Programme Kosovo (CRPK)² for research in this area.

The idea for this research generates from the Monitoring Matrix on Enabling Environment for Civil Society Development.³ The Balkan Civil Society Development Network⁴ (BCSDN) together with its partners has developed this Matrix.

The Matrix, in its Sub-area 3.3: Collaboration in service provision, it stipulates the standard and the indicators regarding the creation of the environment supportive for Civil Society Organizations (CSOs)⁵ involvement in the service provision. Based on the Matrixes' Sub-area 3.3⁶, the assessment primarily seeks to explore the possibilities available for the CSOs to engage in activities and work supported by the Government funds. It will do so with the view of shedding light on current practices under the existing legal framework in the Republic of Kosovo.

The Civil Society Organizations (CSOs) in Kosovo operate under a legal framework that enables them to independently carry out their mandates. The organization of the NGOs in Kosovo since 1999, created a climate for an organized approach to issues of interest for the citizens of Kosovo to organize in influencing changes in the society. However, the functioning of the CSOs in Kosovo is considered as lacking the enthusiasm to pursue a process that may bring slowly changes, which have an impact in changing the behavior of the society and in improving the situation in Kosovo. This research intends to provide some aspects of contractual arrangements between the Government and CSO, characteristic to the Republic of Kosovo.

For the purposes of this document, the CRPK undertook desk research and conducted interviews to assess whether the law allowing government to contract out or outsource certain services to CSOs is in place and is implemented properly. The CRPK gathered information on this matter and prepared. Based on the research findings the CRPK will provide its assessment and will present aspects whether the legal framework in Kosovo allows a multi-year funding to promote effectiveness of the CSOs in delivering the service and achieving

¹ KCSF is a Kosovo based NGO focused on strengthening of civil initiatives by providing support through information, services and trainings to NGOs and other relevant civic institutions in all sectors of Kosovar Civil Society, <http://www.kcsfoundation.org/?page=1.1>.

² CRPK is a Kosovo based NGO specialized in legal aid and counseling services as well as long time experienced in the area of protection and promotion of human rights Kosovo-wide, <http://www.crpkosovo.org/en/Home>.

³ Monitoring Matrix on Enabling Environment for Civil Society Development (Monitoring Matrix), available at: <http://www.balkancsd.net/index.php/bcsdn-news/1409-balkan-civic-practices-9-monitoring-matrix-for-enabling-environment-for-civil-society-development-the-tool-kit>.

⁴ Balkan Civil Society Development Network . available at: <http://www.balkancsd.net/>.

⁵ In this paper CSOs and NGOs means: non profit organizations under the legal framework of Kosovo.

⁶ Monitoring Matrix, p.50.

results. This will serve as a first and key research policy document in Kosovo in the future, as no such assessments have been produced in detail to date. It will integrate aspects that so far have not been enough researched particularly related to legal aspects which is a very poor area covered by the current research.

CSOs in Kosovo are involved in many areas of interest that aim to improve the general situation in terms of the advancement of the role of the civil society within a state. To this end, the engagement of the CSOs in offering services to the society, which are not covered by the institutions of the state, should be seen as an opportunity for benefiting the civil society of Kosovo as a whole.

This policy document (research paper) presents the assessment of the legal infrastructure in Kosovo regulating this matter. It will introduce the new approach that some segments of the Government, due to lack of legal framework at the central level, have found as *modus operandi* to circumvent the complications that may be problematic if not regulated by the legal framework in Kosovo.

At the end, this paper presents conclusions for the Government and the CSOs from the lens of a neutral position, aiming to instigate dialogue to establish a solid legal basis for moving forward in the area of cooperation between the state and the CSOs in the years to come.

The policy document seeks to add value to the findings of the 2014 Matrix and thus uses an innovative approach to tackling the matter of how can CSOs benefit from the state contracts in Kosovo.

Methodology

The aim of this policy document (research paper) is to assess the opportunities for Civil Society Organizations (CSOs) to obtain state contracts in Kosovo. It is prepared based on the desk research and interviews with the selected representatives of the CSOs involved in offering services falling under the scope of social services, which so far were not covered by the Government institutions funds but which mainly depended on donor contributions in the Republic of Kosovo.

The legal framework in Kosovo regulates how the CSOs are organized and how they should function. The laws, primarily based on international standards, provide a sound legal basis for the functioning of the CSOs within Kosovo. However, to date the question how the CSOs can benefit from the state contracts remains less explored in Kosovo and leaves room for further research at this point, as this area requires further regulation, as well as enacting the necessary legal and policy framework and mechanisms to tackle this matter at the state level. In particular, any undertakings in the field of provision of services under the state contracts needs to be fully compliant with the legal framework in place and it needs to take into account if the actions deriving from the contracts between the State institutions and the CSOs are fully compliant with the legal and policy framework as well as with the human rights and

rule of law standards and democratic principles on one hand and congruent with the human rights and business standards on the other.

In Kosovo, there is legal framework on licensing the natural persons, NGOs and enterprises in the area of offering services falling under the category of the social services in the areas that are not covered by the state.

CRPK upon the research in this area drafted this policy document (research paper) aiming to shed light on how the implementation of legal framework for CSOs to obtain state contracts is functioning in practice and to try to identify if there are any legal barriers to such a process. It raises a question if the institutions understand the needs of the CSOs and their problems in this field of social and family services? What criteria and system of selection for CSOs to obtain state contracts is used? Is the government recognizing the CSOs as credible service providers and are there legal barriers in place? Each of these questions are intertwined in the present policy paper and injected in the specific analysis of the legal and policy framework.

Legal framework in Kosovo enabling contracting of services for the Natural Persons, CSOs and Enterprises

The idea for this research paper steamed and developed from the Monitoring Matrix on Enabling Environment for Civil Society Development to develop a policy document with an effort to identify the issues under the current state of affairs and existent potential opportunities of the CSOs to benefit from the state contracts.

The CRPK monitored if standard procedures and criteria for CSO selection, monitoring and evaluation are applied when it has to do with the obtaining of the state contracts. The CRPK gathered information through a desk research, direct interviews with relevant stakeholders, legal review of current framework whether the legislation does add additional burdensome requirements on CSOs with the view to assess if the general requirements are in line with specific nature of work of CSOs licensed to provide services, or legally eligible to obtain state contracts (programme of reintegration of repatriated persons) and whether the specific nature of work of CSOs is reflected and covered by the legislation.

This research aims to instigate a public debate and awareness needed to identify, improve and overcome potential legal barriers that might exist at this time for the CSOs, and to promote opportunities for the CSOs to obtain state contracts and undertake steps toward the implementation of projects covering for services that are not offered by the state institutions. On the other hand the state can utilize funds and enable the CSOs to give their expertise in the areas that are not possible to cover by the state institutions and thus serving the public interest of the Kosovo's society.

While the legal framework provides the opportunities for CSOs to obtain state contracts, for the purpose of this paper two examples will be taken into consideration. These two areas are : purchase of services from the CSOs by the Ministry of Internal Affairs in Kosovo in the field

of reintegration of repatriated persons, and the Ministry of Labour and Social Welfare opportunities in terms of grants for the licensed individuals and CSOs offering services in the area of social services.

For the purposed of this research paper the following legal instruments⁷ were consulted: Law No. 04/L-081 on Amending and Supplementing the Law No. 02/L-17 on Social and Family Services⁸, Regulation (MLSW) No. 02/2015, on the Criteria and Procedures of Financial Support for Subsidies and Grants⁹, Administrative Instruction No. 04/2012 for Licensing of Providers of Social and Family Services¹⁰, Administrative Instruction (MLSW) No. 14/2013 on Monitoring and Inspection of Legal Entities/Organizations providing Social and Family Services¹¹, and the Regulation (MIA) No. 04/2015 on Subsidizing of Projects that promotes reintegration of repatriated persons in the Republic of Kosovo¹².

In 2014 the MLSW adopted an Administrative Instruction No. 02/2014 on Offering and providing of Financial Support to the Domestic NGOs during the year 2014¹³ which grants specific amount of financial means to NGOs in the area of providing services falling under the scope of the work of the MLSW such as specific social and family services. Based on the AI the amount of financial resources allocated to such NGOs range from 380 EUR the lowest amount to 2000 EUR which is the highest amount. This leaves room for a question such as does this amount enables NGOs to offer adequate services in their field of work. Since this practice is not repeated in the year 2015 it explains that the changes in the legal framework and the advancement of the legal and policy framework for the CSOs to benefit from the state contracts may create a better environment for the CSOs to benefit from the contracts in the specific areas of interest for the Ministry of Labour and Social Welfare and the Ministry of Internal Affairs.

The Law No. 04/L-081 on Amending and Supplementing the Law No. 02/L-17 on Social and Family Services under the Article 8 “Role of the non-Government Sector” states in paragraph 1 that “*Legal entities, not in the Government Sector, including enterprises, voluntary*

⁷ Note: This research paper is not an exhaustive research of the entire legal framework and policies under this topic. It primarily sought to clarify the process of the licensing of the natural persons, NGOs and enterprises for offering social and family services and to highlight how the current contracting of CSOs is functioning in practice from the perspective of the legal and policy framework in the field of reintegration of repatriated persons under the programme for reintegration of repatriated person in Kosovo.

⁸ Law No. 04/L-081 on Amending and Supplementing the Law No. 02/L-17 on Social and Family Services, available at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2808>.

⁹ Regulation (MLSW) No. 02/2015, on the Criteria and Procedures of Financial Support for Subsidies and Grants, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2447>.

¹⁰ Administrative Instruction No. 04/2012 for Licensing of Providers of Social and Family Services, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=8140>.

¹¹ Administrative Instruction (MLSW) No. 14/2013 on Monitoring and Inspection of Legal Entities/Organizations providing Social and Family Services, available at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10368>.

¹² Regulation (MIA) No. 04/2015 on Subsidizing of Projects that promote reintegration of repatriated persons in the Republic of Kosovo, [http://www.mpb-ks.org/repository/docs/rregullore \(mpb\) nr. 04_2015_per_subvencionimin_e_projekteve_qe_promovojne_riint_egrimin_e_personave_te_riatdhesuar_ne_republiken_e_kosoves.pdf](http://www.mpb-ks.org/repository/docs/rregullore_mpb_nr_04_2015_per_subvencionimin_e_projekteve_qe_promovojne_riint_egrimin_e_personave_te_riatdhesuar_ne_republiken_e_kosoves.pdf).

¹³ Administrative Instruction No. 02/2014 on Offering and providing of Financial Support to the Domestic NGOs during the year 2014. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10253>.

organizations and associations, faith based organizations, self-help groups and other local, national and international organizations are encouraged to provide Social and Family Services, either on their own initiative or, under contract, on behalf of the municipal Directorate in the case of local services, or the Ministry in the case of Kosovo wide services.”

The Municipalities and the Ministry are responsible to facilitate this process by offering advice and guidance to the NGOs proposing to undertake such activities.¹⁴ Under this Law the NGOs providing Social and Family Services have an obligation to register and be licensed¹⁵ at the Ministry of Labor and Social Welfare and are obliged to stick to the legal framework and the policies in place. At the local level the Municipalities are allowed to establish cooperation and sign contracts with the NGOs who are licensed to provide specific Services on behalf of the Municipality. In this case, the areas that could be covered by the work of the NGOs should meet the condition that they are planned and contained in the Municipal annual Social and Family Services plan.¹⁶ Based on this law¹⁷ through the procedures of the committee and contracting, the Ministry of Social Welfare is vested with the authority to offer grants, offer material assistance including premises as well as to guide the NGOs providing particular Social and Family Services Kosovo wide.

It is relevant to mention that since 2009, in accordance with decentralization, municipalities are responsible for the provision of social and family services. In February 2009, a Memorandum of Understanding was signed between the Municipalities in Kosovo, the Ministry of Labour and Social Welfare, Ministry of Finance and the Ministry of Local Government Administration for the transition of social services to municipalities. In practice this means that Decentralization of service delivery is done through MoUs with Municipalities, transferring under their management residential/housing for elderly and other vulnerable groups.

Licensing of the Natural Persons, NGOs and enterprises in the field of social and family services

Based on the current legal framework in Kosovo individuals and CSOs specialized in provision of services that are not offered by the government institutions can benefit from the state contracts based on the criteria that is determined through the public calls made by the relevant ministry. Before they apply for the state contracts they need to undergo the process of the licensing of individuals and the CSOs. This criteria is in particular needs to be fulfilled for the contractors interested to benefit from the Ministry of Labour and Social Welfare.

The Ministry of Labour and Social Welfare and the General Council of Social and Family Services calls are issued based on the provisions of the Law No. 04/L-081 on Amending and

¹⁴ Law No. 04/L-081 on Amending and Supplementing the Law No. 02/L-17 on Social and Family Services. Article 8.2.

¹⁵ Ibid. Article 8.3.

¹⁶ Ibid. Article 8.4.

¹⁷ Ibid. Article 8.5.

Supplementing the Law No. 02/L-17 on Social and Family Services and the Administrative Instruction for the Licensing.

Entities or candidates wishing to be licensed for the provision of social and family services are required to meet specific conditions and criteria: to be citizen of Kosovo; to have adequate education in conformity with the Law for Social and Family Services; to have at least one year of professional practical experience in the field of social and family services. Entities and Candidates should submit specific required documentation to be considered for the licensing. The documents include: biography of the entity/candidate; an identification document; proof of professional education; proof of professional practical experience in the field of social and family services; proof that the entity/candidate is neither under the investigation nor fined during the provision of social and family services; recommendation letter and a proof of payment of an administrative tax for application amounting 5 EUR. The General Council of Social and Family Services would then control/investigate the statements made under the application. Potential fraudulent information, violations or errors may result in suspicious application for the license.

The request for the licensing of the entities or candidates is available for download on the Webpage¹⁸ of the General Council of Social and Family Services or it could be manually obtained from the secretariat of the General Council of Social and Family Services or the Department of Social Welfare of the Ministry of Labour and Social Welfare.

On 10 July 2015 the Minister of the Ministry of Labour and Social Welfare and the Director of Family and Social Policy licensed thirteen legal persons and NGOs providing social and family services in Kosovo. They are: Centre for Protection of Victims and Preventio of Trafficking in Human Beings (Qendra për Mbrojtjen e Viktimave dhe Parandalimin e Trafikimit të Qenieve Njerëzore) in Prishtine; Centre for Protection and Rehabilitation of Women and Children, Shellter Liria (Qendra për Mbrojtjen dhe Rehabilitimin e Grave dhe Fëmijeve Strehimorja-Liria) in Gjilan; Hope and Childrens Homes (Shpresa dhe Shtëpitë e Fëmijëve) in Prishtinë; Safe House (Shtëpia e Sigurtë) in Gjakovë; Centre for Protection of Women and Children “Raba Voca” (Qendra për Mbrojtjen e Gruas dhe Fëmijës “Raba-Voca”) in Mitrovicë; Centre for accommodation of Women and Children (Qendra për Strehiminë e Grave dhe Fëmijëve) in Prizren; Centre for Women Welfare (Qendra për Mirëqenien e Gruas) in Pejë; Ai.Bi Associazione Amici Dei Bambini, in Prishtinë; HandiKos in Suharekë; SOS Children’s Villages (SOS Fshatrat e Fëmijeve) Prishtinë; Daily Care Centre “Pema” (Qendra e Kujdesit Ditor “Pema”) in Prishtinë; Association of Paraplegics and Paralyzed Children of Kosova - HandiKos (Shoqata e Paraplegjikëve dhe Paralizës së fëmijëve të Kosovës) HandiKos in Prishtinë and the Non-Social Services Non-Governmental

¹⁸ The Webpage of the General Council of Social and Family Services: www.kpshsf-rks.net. The location where the application forms can be manually picked is: General Council of Social and Family Services, Ministry of Labour and Social Welfare – Department of Social Welfare at Qafa Area, Str. “UCK” nn. 10000, Prishtine.

Organization “Humanity” (Organizata Joqeveritare e Shërbimeve Sociale “Humaniteti”) in Rahovec.¹⁹

The above listed legal persons and NGOs are eligible under the current legal framework to apply for the provision of social and family services in Kosovo when calls for such services are publicly announced by the Ministry, following the criteria and standards set for the winners of the contracts under the legal framework of Kosovo. More detailed information on how the subsidies and grants in the field of social and family services are made available is provided in the following section of this paper.

Subsidies and Grants for the Natural Persons and NGOs offering social and family services

The Regulation (MLSW) No. 02/2015, on the Criteria and Procedures of Financial Support for Subsidies and Grants sets out the general conditions and criteria for the Natural Persons and the NGOs applying for the financial support. According to Article 10.1 Natural Persons applying for the financial support must be the citizens and permanent residents of the Republic of Kosovo. This law under Article 10.2 exceptionally allows foreign nationals to be the beneficiaries of financial support in cases as provided by the applicable law in Kosovo. The NGOs applying for subsidies or grants have an obligation to be registered under the applicable legislation on Freedom of Association in Non-Governmental Organizations. In addition, Article 10.3 states “*enterprises which apply for subsidies or grants, must be registered under the applicable law*”. More precisely Article 10 and Article 11 of the Regulation specify the general conditions for the subsidizing of the Natural Persons, NGOs and Enterprises.

Natural Persons applying for subsidies in the areas such as vocational training and employment are required to be registered in the employment offices as job seekers or as unemployed, to hold a qualification in a specific field of work, to provide evidence if they are engaged as interns, to have an employment contract between the employer and employee and to have attended a vocational training related to a specific field of work. In the field of Social Welfare, Natural Persons should meet a set of criteria. They need to submit a request with the justification regarding the need for benefit, to submit a specification for spending the subsidy as well as deliver additional documents which prove other needs for benefit.²⁰ Natural Persons are required to have specific qualifications in order to be considered for the license in the area of social welfare. They need to be registered in the registry of social workers, to be licensed in the field of social and family services, and to present project idea for the provision of services for the categories as specified in the law.

¹⁹ Koha.net Article in Albanian language “Licencohen 13 subjekte juridike të OJQ-ve” published on 10 July 2015 available at <http://koha.net/?id=27&l=65856>.

²⁰ Article 13.

NGOs that apply for the subsidies or grants should meet the general condition and to be registered as NGOs under the conditions of the Law on the Freedom of Association in Non-Governmental Organizations. NGOs are required by the law to prepare the application documents for the subsidies and the documentation should contain the project proposal detailing the purpose of the project activities, detailed budget and justification of each budget line, precise timetable for the implementation of the project activities and the venue where the activities will take place. It also needs to present description in details of the beneficiaries and participants, description of managerial capacities of the NGO such as personnel and equipment, demonstrating ability to manage the previously planned budget activities. Furthermore, the CVs of the experts engaged in the projects need to be provided together with the paperwork of the NGO (Certificate of NGO, bank account details, fiscal number certificate and the report on the financial conditions for the last two years of the functioning of the NGO). When speaking of NGOs which providing social and family services, except the paperwork mentioned so far, they have an obligation to be licensed for the specific type of services they provide.²¹

Enterprises are requested by the Article 15 of the law to provide specific documents for the application for grants. Enterprises should have prepared draft project proposal with detailed activities, budget lines and justifications, implementation timetable and places of implementation of the project activities, description of the internal managerial capacities of the Enterprise (personnel, equipment, ability to manage planned budget), references, bank, fiscal and tax administration certificates and the last two years Audit statements. It is very important to remember that enterprises providing social services should be licensed for the type of services they provide as specified in Article 15.

The process for obtaining subsidies and grants from the Ministry of Labour and Social Welfare

The process starts after the Ministry of Labour and Social Welfare is responsible to issue a public announcement call for the proposals and competition for obtaining subsidies or grants within a specific deadline for the applications. Public calls should be issued in the official languages in Kosovo and should have maximum publicity. A good source of information for the NGOs would be the traditional media such as Newspapers, electronic media or the Webpage of the Ministry or the Social Media pages run by the relevant ministry. The entire paperwork for the applications are prepared by the Ministry and all the requested paperwork for such calls are submitted to the MLSW. The applications are submitted at the central archive of MSLW. Published calls determine who can qualify for the application and what criteria are to be met. Upon the application deadline the list of applicants is compiled by the Ministry which is submitted to the Committee for the Evaluation of Applications and requests (Committee)²². This Committee is composed of three members, one of them serving as a

²¹ Article 14.

²² Article 17.

chairperson. Within ten days the Committee is obliged to review the requests for subsidies and to prepare the final evaluation report. The Committee has 30 days of time for reviewing the applications, and to prepare the final evaluation report with the list proposed for the approval. The mandate of this Committee is one year. In this regard, the final assessment is at the end submitted to the Secretary General of the Ministry for issuing a decision on budget allocation for subsidies. In the aftermath a final beneficiaries list of winners is published and the Agreement of Understanding between the Ministry and the beneficiary is signed, as specified in the Law.

Upon the signature of the Agreement of Understanding, for natural persons monitoring officials are authorized and assigned from the local and central level and the monitoring is done at both levels. For legal entities there should be established a Monitoring Committee gathering the representatives of local and central level. For the co-financing projects, a steering committee should be established with involved stakeholders in the implementation of it. Monitoring reports are prepared for both the natural person and legal persons as specified in the Article 19. The law also regulates the issue of co-financing of the programs and projects run by the local institutions, ministries and public enterprises.

Beneficiaries of subsidies and grants are responsible to report on the achievement of the objectives of the projects and submit narrative and financial reports as foreseen by the law.

Subsidizing of Projects that Promote Reintegration of Repatriated Persons in the Republic of Kosovo under the legal framework of the Ministry of Internal Affairs

The Ministry of Internal Affairs in Kosovo has a leading role in the management of the process of reintegration of repatriated persons in Kosovo. It has established the Department for Reintegration of Repatriated Persons from the outset of this process, and it has established and adopted legal framework and policies needed for the management of the process of reintegration of repatriated person Kosovo-wide. The Ministry also manages a fund allocated to in for the provision of emergency assistance for the repatriated persons in Kosovo who have left Kosovo before the 28 July 2010. The legal basis for the regulation of this field steams from the Law No.03/L–208 on Readmission²³, which sets out the rules and procedures²⁴ for the repatriations to Kosovo. The Ministry of Internal Affairs has adopted a Regulation (GRK) No. 08/2015 on Reintegration of Repatriated Persons and Management of the Reintegration Program²⁵ and the Regulation (MIA) No. 04/2015 on Subsidizing of

²³ Law No.03/L–208 on Readmission, June 2010.

²⁴ This law sets forth the rules and procedures for readmission of a person who is either a citizen of the Republic of Kosovo or a foreigner, who does not fulfil or who no longer fulfils the requirements for entry or residence applicable on the territory of the requesting State.

²⁵ Regulation (GRK) No. 08/2015 on Reintegration of Repatriated Persons and Management of the Reintegration Program approved on 29 meeting of the Government of the Republic of Kosovo by the decision No.08/29, date 15.05.2015.

Projects that Promote Reintegration of Repatriated Persons in the Republic of Kosovo²⁶, which has been approved and entered into force in September 2015.

The Ministry has discussed over the last two years the possibility of decentralization of the services and the budget in the field of reintegration of repatriated persons to the Municipalities. Based on the information from the MIA, the Ministry of Finance has not allowed the transfer of these funds to the local level due to the lack of specific budget lines that this could have been undertaken. In addition, to clarify this issue and in order to enable the Municipalities and NGOs to contract services from the MIA it has adopted the regulation for subsidizing of the projects aiming to promote the reintegration of repatriated persons in Kosovo. The aim of this regulation is to set up the procedures, criteria, form of financing and monitoring of projects in the field of reintegration of repatriated persons²⁷.

The current Regulation allows the Government Institutions and the NGOs to engage into projects that benefit the process of reintegration of repatriated persons. Due to the fact that the budget of the reintegration is not decentralized the Ministry came up with this solution in order to spend funds where there is needed the most. For example, if the budget of the reintegration would have been distributed equally to each municipality, based on the number of the repatriated persons from low to high fluctuating in different municipalities it would mean that some municipalities need to spend more money while some others less. Those municipalities who would need to spend more money than others would face sufficit of funding while smaller municipality could possibly end up not being in position or in need to spend the allocated budget. Therefore, the Regulation No. 04/2015 enables all municipalities to submit projects that aim to improve the reintegration of the repatriated persons, as well as it allows the CSOs to apply for the specific projects falling under the scope of the MIA DRPR annual plan for the supporting of the reintegration process for all the persons meeting the repatriation criteria set under the Regulation No. 08/2015.

Under Article 5 of the Regulation (MIA) No. 04/2015 on Subsidizing of Projects that Promote Reintegration of Repatriated Persons in the Republic of Kosovo the main fields of subsidy are: projects that have as a purpose to support and promote the reintegration of repatriated persons in the Republic of Kosovo; fields of subsidy are determined from DRPR in its annual work plan; procedures of subsidizing of projects are realized based on open and transparent competition according to determined criteria; and projects are implemented in the territory of the Republic of Kosovo.²⁸ The Regulation specifies that the Ministry, applies two forms of project subsidy such as: subsidizing of programs of Institutions; and Subsidizing of projects of Organizations.²⁹

For Institutions, the Ministry supports programs that contribute to the sustainable reintegration of repatriated persons. Regarding the rules of financing, co-financing and

²⁶ Regulation (MIA) No. 04/2015 on Subsidizing of Projects that Promote Reintegration of Repatriated Persons in the Republic of Kosovo.

²⁷ *Ibid.* Article 1.

²⁸ *Supra* 26. Article 5.

²⁹ Article 6.

implementation of programs are defined in the Agreement for Cooperation bonded between the institutions.³⁰

For the projects of CSOs, the Ministry subsidizes projects of organizations in three forms: through the call for application; through the request for subsidizing of projects, in cases when the organizations ensures financing of at least 50 % of the project amount; and, through direct subsidy, in cases when reintegration projects are interlinked with the mandate of organizations defined with special law.³¹

The Ministry announces an open call in the official website of the Ministry³² and in one of daily newspapers. In the call for application is defined the form of obtaining of necessary documentation and its submission for application, and it remains open for 15 days from the date of its announcement. It is very important to mention that the Regulation in Article 10 stipulates that, “[...] *for subsidizing of projects from Reintegration Program can apply: 1.1. NGOs registered according to the Law No. 04/L-57 on the Freedom of Association in Non-governmental Organizations in the Republic of Kosovo and organizations registered in the register of business*”. Furthermore it states under paragraph 2 that, “*The applicant must be directly responsible for preparation and implementation of the project, as well as to have experience and capacity to manage and implement activities related to the Project.*” Lastly, it specifies under paragraph 3 that, “*organizations that have expertise in the respective field and that act in Kosovo, can also apply in partnership for implementation of projects.*” The necessary paperwork for the application is specified under the Article 11³³ while the assessment criteria is specified in Article 12³⁴.

Article 16 of the Regulation stipulates that, “*Subsidy agreement is signed between Ministry and beneficiary, within 10 days after notification for selection of the beneficiary project*” Under paragraph 2 it states that, “*Before signing the agreement, the winning Organization through call for application shall submit to Ministry a bank guarantee for the execution of the Project, in the amount of 50 % of subsidized project*”. The last paragraph might make it difficult for the NGOs to provide guarantees of amount of 50% of the subsidized project. This remains to be seen from the cases of the future contracted NGOs by the MIA how does it work in practice and what are the difficulties in ensuring such a guarantee is provided.

³⁰ Article 7.

³¹ Article 8.

³² Article 10.

³³ Article 11, “*Necessary Documentation for application: 1. The Applicant when applying must submit the following documents: 1.1. Project along with other necessary documents and the calculated project cost presented in narrative and on table form, by emphasizing period of time within which the project it is expected to start and end; 1.2. Copy of identity card of authorized representative of organisation; 1.3. Copy of registration certificate; 1.4. Fiscal Number Certificate; 1.5. Copy of the Organization Statute; 1.6. Certificate that the applicant does not have any tax obligations issued by Kosovo Tax Administration; 1.7. Form of Financial Identification on the name of the Organization and 1.8. Other specific documents defined in the call for application.*”

³⁴ Article 12, “*Assessment Criteria 1. Assessment relies on: 1.1. Compliance of project with the purpose of organization and the program that implements; 1.2. Applicant’s capacities and experience; 1.3. Financial Cost; 1.4. Effectiveness of activities and 1.5. Expectations*”.

As far as the Monitoring of the CSO projects is concerned the Article 18 specifies that the “*DRRP is responsible for monitoring of implementation of the project subsidized from Reintegration Program*” it also states that the, “*beneficiary must keep to the realization plan of the project*” It also obliges the “*beneficiary of the project*” the CSO to report “*regularly on the implementation of the project. Ministry/DRRP can request in any phase a report from beneficiary related to the implementation of the project*”. It would be very interesting to monitor a potential beneficiary of a future contract under the DRRP to identify if there are any issues or difficulties in complying with such provisions.

Positive example of contracted CSOs in Kosovo to offer services to the repatriated persons

Red Cross of Kosovo is among the first NGOs that has so far benefited from establishing a contractual obligation with the Department of Reintegration of Repatriated Persons in the field of provision of services such as food and hygienic items for the repatriated persons to Kosovo³⁵.

The Ministry of Internal Affairs at the time of the signature of this Agreement used the as the legal basis for this agreement the Article 25 paragraph 2.10 of the Regulation on Reintegration of Repatriated Persons and Management of the Reintegration Program which stipulates under paragraph 2 the tasks and responsibilities of Department for reintegration of repatriated persons among which under paragraph 2.10 stipulates the “*Cooperation with national and international organizations for the reintegration of repatriated persons*”.

To date there is no information of any CSO has benefited from a state contract or subsidized project from the MIA budget for reintegration of repatriated persons. Clearly there are areas that NGOs could benefit from this budget based on the needs of the citizens for various assistance upon the repatriation in Kosovo. Specialized NGOs could be of great support for the smooth reintegration of the repatriated persons Kosovo-wide ensuring that through their work and assistance for the repatriated persons the NGOs reduce the risk that the repatriated persons leave Kosovo again, and potentially damage the efforts made by all stakeholders to ensure their legal and long term integration into the Kosovo’s mainstream society.

Potential areas of improvement

The current legal framework and policies offering opportunities to the CSOs need to undergo a review in terms of the quality and the efficiency of the services to the final beneficiaries. The monitoring of the service providers needs to identify and highlight the practical problem areas in the implementation of the legal and policy framework and seek alternatives to remedy any potential delays or issues related to the provision of their services. What is

³⁵ Co-operation Agreement between the MIA and the Red Cross of Kosovo, signed on 21.04.2015.

relevant to be understood by both the government institutions and the CSOs is that entities that are not licensed under the Kosovo legal framework should not benefit for the state contracts in particular when offering social and family services. Licensed service providers should be enabled regular funding from the State in order to prevent lowering of the standards for the beneficiaries of such support by the CSOs due to the lack of finances or donations. The Government institutions should understand that when CSOs are dealing with sensitive issues falling under the area of social and family services, women, and children, elderly that the highest attainable standards for supporting them should be taken into the account. For example, SOS Children's Village is an excellent example to illustrate this issue. SOS Village applied for the licensing in January 2015, and obtained the license in June 2015. The license is valid for three years. SOS Village has established cooperation agreements with the Centres for Social Welfare. Children under the specific care of this NGO need a regular support from the state. State has designated the Centre for Social Welfare to be the legal guardians of the children of the SOS Village. However, the children do not have health insurance or other benefits that enable them to advance toward becoming independent. SOS Children's Village applied for a grant this year and received 20000 EUR. This amount of money does not cover the minimum needs of the SOS Village, considering the needs and the number of children this NGO accommodates.

The Ministry of Labour and Social Welfare and the Municipalities of Kosovo could engage in preparing and negotiating the needs to be covered by the NGOs at the local level and for that purpose to establish a specific funding in the form of Grants for the NGOs licensed to provide social and family services.

Another example is presented here to highlight the lack of sufficient support through the subsidies for the repatriated persons. This issue was raised by the interlocutors that were interviewed for this research paper. During the field visits, it was observed that sometimes there are potential delays in the delivery of food and hygienic articles, or that the provided assistance does not meet the minimum requirements for the repatriated families. This matter raises the issue of underfeeding and under nurturing of the repatriated families and children. Such issue was identified in the Municipality of Fushë Kosovë, where the Kosovo Red Cross delivery of items was delayed. Similar example was also observed in the Municipality of Mitrovica. A repatriated family from Germany complained that since the new contracting of the Kosovo Red Cross to provide food and hygienic items to the repatriated family the value and the amount of such assistance is less than half of what they received in the beginning from the previously contracted company. According to the repatriated persons, previously every repatriated person received food items valued to 71.60 EUR per month, while under the new contract the value of assistance is around 390 EUR for three months³⁶ for the whole family. The researcher of this paper was not able to witness how much food the family received from the Red Cross of Kosovo to assess whether that food is sufficient or not for the entire family.

³⁶ Budget line for food for three months for one family from the Project of the Kosovo Red Cross subsidized by the MIA DRRP.

Conclusions

This policy document (research paper) aims to contribute to the OCSF/KCSF Matrix 2014 in Kosovo produce a policy document opening the way forward to equal access of CSOs to the competition process for state contracts. CSOs in Kosovo should be able to develop or provide new services even if such services are not defined under the current legal framework. The findings of this research paper would be used to raise awareness through an advocacy campaign on this subject and influence an effective policy change. CSOs play a pivotal role in influencing the legislator in Kosovo in developing legal and policy instruments. The CSOs in Kosovo remain not treated as equal partners in discussions in cross-sector bodies and are not always selected through clearly defined criteria and processes when it has to do with the collaboration in the service provision. In support to promoting the discussion with the stakeholders on this matter, the CRPK will organize a policy event gathering CSO representatives to discuss the current state of affairs and to explore the ideas for further improvements.

A more creative and supportive environment needs to develop for the CSOs inclusion in all stages of developing and providing services. CSOs should be part of all consultative processes that are undertaken to build up the legal and policy framework for the CSOs. On the other hand, the state needs to show higher commitment to funding services, which is predictable and available over a longer period for the contractual services with the CSOs. Procedures in place for contracting services need to be clear and defined. Of key importance is to have legislation and policies in Kosovo that will enable the CSOs to actively participate in the public life as well as to become beneficiaries of the state contracts, thus filling the gaps, which institutions cannot fill in provision of services that are not directly defined by the legal framework. Based on information collected the CRPK could not assess if CSOs are excluded from the competition for the provision of services or if they are subject to stricter requirements in the areas in which they provide services compared to other service providers in Kosovo. CRPK could identify that the amount of grants for the CSOs does not even close meets the needs of the CSOs for offering social and family services. This matter requires further attention and needs proper planning and budgeting to enable CSOs to deliver to the required standards. Finally, an advocacy campaign is needed to raise awareness for the existent legal framework regulating the issue how can CSOs benefit from the state contracts, and what are the constraints in such a process.

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