

# Monitoring Matrix on Enabling Environment for Civil Society Development

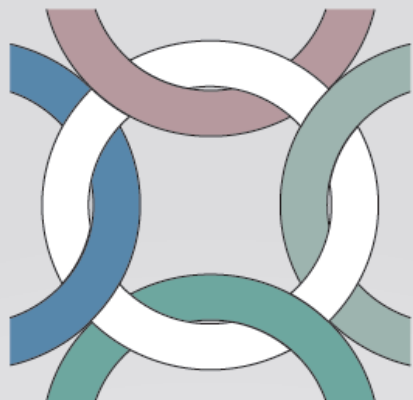
## KOSOVO COUNTRY REPORT 2014



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**B | T | D** The Balkan Trust  
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A PROJECT OF THE GERMAN MARSHALL FUND



# 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 2014



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@KCSF, 2014

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# Executive Summary

## 1. Civil Society and Civil Society Development in Kosovo

The year 2014 in Kosovo was an election year. In addition to the pre-election campaign, which started already in spring, the election of 8<sup>th</sup> of June 2014 produced a long political deadlock and institutional crisis for more than 6 months. During this period where the Assembly could not be established, all legislative and policy initiatives were suspended and the Government continued to perform only its basic functions. Only in mid-December 2014 a coalition of two major political parties could proceed with establishment of the Assembly and a new government, while the normal operation of central institutions continued only in 2015. This is one of the main reasons why few developments were noticed during 2014 and majority of original plans for reforms also in the area of civil society development were delayed.

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 has detailed the entire set of procedures deriving from the Law on Freedom of Association with NGOs<sup>1</sup>, although introduction of provisions on suspension of NGOs is in breach with the primary legislation. Based on these provisions, 14 NGOs have been suspended by the NGO Registration Department. CSOs are free to **seek and secure funds** from various domestic and foreign sources, although the limitations from the Law on prevention of money laundering and financing of terrorism are burdensome and restrictive for NGOs. As **freedom of assembly** is guaranteed by law, CSOs continue to exercise these rights freely, although only few CSOs have been involved in organizing peaceful assemblies during 2014. Kosovar CSOs have a partial **financial viability**, with high dependence on international funds. **Tax incentives** for private donors continue to be part of the legal framework, but their limited scope and ambiguous provisions do not produce any incentive for private donors to support CSO activities. Despite political declarations on regulating the **public funds for CSOs**, no concrete steps have been made to establish standard procedures and criteria on their programming, selection, monitoring and evaluation. Civil society is still not involved in any **employment policy**, while there are very limited and isolated activities to promote **volunteering**. **The institutions for implementation of the Government Strategy for cooperation with civil society 2013-2017** have been established at the end of 2014, while the concrete implementation of the strategic activities has not started yet. The legal framework for **consulting CSOs in drafting laws and public policies** have not changed – the existing requirements at government level are not respected at their full, although CSOs continue to be involved in drafting of laws and policies in many cases. **Participation of CSOs in cross-sector bodies** remains partial and no standard selection criteria have been defined during 2014 - cases of open and transparent selection have taken place, same as cases of non-transparent and highly criticized selection processes. A number of initiatives on **social service provision by CSOs** continue to address issues of licensing of services and service providers, aiming to increase the opportunities of CSOs in these fields. 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.

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<sup>1</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2764>

The key challenges with regards to areas of the Matrix on the future of CSDev are: assess the level of implementation of the current legal framework and identify the issues for improvement of the legal provisions in the basic legislation for CSOs in order to allow for a more forward-looking legal framework for civil society; defending principles of non-profit-law from restrictive initiatives coming from public institutions, as well as removing the existing legal restrictions in the anti-terrorism law; lack of understanding of principles of operation of the civil society sector even from institutions mandated to work on this sector; creating a comprehensive system of state support to ensure transparent and accountable selection, implementation and reporting of CSOs projects and initiatives; bringing the recently established cooperation principles into a standardized approach utilized by the entire public administration; recognizing civil society as capable service-providers and opening of the public procurement system to CSOs. Most of these challenges are addressed also within the Governmental Strategy for cooperation with civil society, which is meant to serve as a framework for specific initiatives addressing particular issues. While public institutions are relatively open to drafting new policies and legislation, it is the implementation of the applicable legislation which is very problematic. This is why, in parallel with proposing new and amending existing legislation, both civil society and government should insist on building the necessary capacities and creating the regular monitoring tools.

## 2. Key Findings

During the last couple of years, civil society development was increasingly present in the discourse of a significant part of the political and institutional constellation of the country. The attitude of the majority of state officials 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 sector. Despite an overwhelming interest of the public authorities to adopt documents rather than focus on their implementation, substantial improvement has been noted both with regards to framework documents and opening of the state institutions towards civil society. Nevertheless, due to large political crisis and absence of central institutions which characterized the major part of 2014, little progress was noticed during this year and the majority of original plans for reforms were delayed. This is why, in the standards covered by the 2014 report, a number of findings and recommendations are passed from the previous year. It remains to be seen whether the new government established during the last days of 2014 will commit sufficient human and financial resources, as well as the necessary political will to further the advancement of the environment for civil society development in Kosovo.

Top 6 findings from the report.		Reference	
1	The specific obligations for NGOs in the Law on prevention of money laundering and financing of terrorism restrict free operation of CSOs and puts burdensome requirements for securing financial resources	<b>Area</b>	<b>1</b>
		<b>Sub-Area</b>	<b>1.1</b>
2	The 2014 initiative from the NGO Registration Department to harmonize the Law on Freedom of Association in NGOs with the restrictive provisions of the Law on prevention of the money laundering and financing of terrorism endangers the free operation of CSOs and allows state interference in the internal governance of CSOs	<b>Area</b>	<b>1</b>
		<b>Sub-Area</b>	<b>1.1</b>
3	Introduction of the “suspension of NGOs” from an administrative body through secondary legislation has allowed for direct state interference in the internal matters of the CSOs, as demonstrated with the suspension of 14 CSOs immediately after introduction of these provisions	<b>Area</b>	<b>1</b>
		<b>Sub-Area</b>	<b>1.1</b>

4	State support to CSOs is still not provided in a transparent way and spent in accountable manner, despite a number of commitments from the Minister of Finance and other officials to regulate this area	<b>Area</b>	<b>2</b>
		<b>Sub-Area</b>	<b>2.2</b>
5	The government strategic approach to cooperate with civil society is still at an early stage, since the implementation of the Government Strategy for cooperation with civil society has been delayed significantly, although some progress has been made in this area through establishing the joint bodies for implementation of the Strategy through a collaborative effort from both sides	<b>Area</b>	<b>3</b>
		<b>Sub-Area</b>	<b>3.1</b>
6	The involvement of CSOs in decision-making is still not standardized and the limited implementation of current legal requirements do not allow for CSOs input in a timely manner in many policy and legislative initiatives	<b>Area</b>	<b>3</b>
		<b>Sub-Area</b>	<b>3.2</b>

### 3. Key Policy Recommendations

Entering a period where major reforms in the main areas of CSDev are planned, it is crucial to find the right balance between drafting favourable legislation and investing in the existing and new mechanisms for its implementation. Fragmented parts of existing legislation and practices should be put within a coherent strategic approach and addressed horizontally towards supporting CSDev. The Government Strategy for cooperation with civil society represents a solid platform on which the reforms should be built, while other initiatives should take into account the strategic direction this framework document has set.

No	Top 6 recommendations for reform	Reference	
1	The Law on prevention of money laundering and financing of terrorism should be amended to remove all restrictive provisions for NGOs, including requirements for prior authorization on receipt and disbursement of funds, as well as criminal offences for failing to adhere to these obligations	<b>Area</b>	<b>1</b>
		<b>Sub-Area</b>	<b>1.1</b>
2	The NGO Registration Department should cooperate with all relevant actors to review the Law on Freedom of Association and its implementation, aiming to identify legal gaps and implementation challenges, and an amendment process should be initiated based on the results of this review.	<b>Area</b>	<b>1</b>
		<b>Sub-Area</b>	<b>1.1</b>
3	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	<b>Area</b>	<b>1</b>
		<b>Sub-Area</b>	<b>1.1</b>
4	As recommended also in the 2013 report, a comprehensive system on public funding should be initiated, based on the objectives of the Government Strategy for cooperation with civil society, and the designed criteria, standards and procedures ensure transparent and accountable implementation of public funds for CSOs. Regardless of a comprehensive system, all information on public funds disbursed to CSOs should be made transparent.	<b>Area</b>	<b>2</b>
		<b>Sub-Area</b>	<b>2.2</b>
5	A more dynamic implementation of the Government Strategy for cooperation with civil society should be initiated by the Government, including setting up a monitoring system for its implementation. Similarly, the Kosovo Assembly should build on the adopted Declaration to design concrete mechanisms of cooperation and involvement of CSOs in the work of the Assembly	<b>Area</b>	<b>3</b>
		<b>Sub-Area</b>	<b>3.1</b>
6	The normative act on Minimum Standards for public consultations at government level should be adopted and implemented, based on the proposals by civil society	<b>Area</b>	<b>3</b>
		<b>Sub-Area</b>	<b>3.2</b>

#### 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<sup>2</sup>. A region 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](http://www.monitoringmatrix.net).

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided 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. Annual monitoring and reporting in 2014 is focused on twelve (12) core standards which have been monitored in all countries involved. The core standards are as follows:

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

In addition, due to specific developments with regards to establishment of bodies for implementation of Government Strategy for cooperation with civil society, another standard on Government – CSO relationship (Standard 1 of the Sub-Area 3.1 - The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector) has been included in the Kosovo Country Report 2014.

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<sup>2</sup> Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey



# 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”*<sup>3</sup>. 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<sup>4</sup>.

This report has addressed issues of civil society in the scope defined above and within the specific standards monitored<sup>5</sup>. Nevertheless, particular initiatives or issues which are not directly within civil society or are covered through other standards have been taken into account, in cases when those initiatives or issues have largely influenced civil society development or specific standards which were part of monitoring. This report covers the developments during 2014, while a number of processes which have been initiated previously have also been tracked for their progress.

## 2. The Monitoring Matrix on Enabling Environment for Civil Society Development

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

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 second 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<sup>6</sup>. A regional Monitoring

<sup>3</sup> CIVICUS Civil Society Index for Kosovo 2011, KCSF 2011

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

<sup>5</sup> The twelve (12) core Standards monitored during 2014 are Standards 1.1.2; 1.1.3; 1.2.1; 2.1.1; 2.2.1; 2.2.2; 2.3.1; 2.3.2; 3.1.2; 3.2.1; 3.2.3; 3.3.1, while the additional Standard monitored specifically for Kosovo is the Standard 1.3.1. For more, see the previous section of the report.

<sup>6</sup> Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

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](http://www.monitoringmatrix.net).

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

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.

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. The selected standards for monitoring during 2014 are available in Section VI. - Findings and Recommendation, while the full Matrix is available at [www.kcsfoundation.org](http://www.kcsfoundation.org), [www.balkancsd.net](http://www.balkancsd.net) and [www.monitoringmatrix.net](http://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

As of 31<sup>st</sup> of December 2014, the total number of registered NGOs was 8,014. 7,731 are associations and 283 foundations. 7,506 are domestic NGOs and 508 are foreign or international NGOs. 102 NGOs have deregistered voluntarily. However, from the total number of registered NGOs only around 10% of them are estimated to be still active. *(Data provided by the NGO Registration Department)*

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. In addition, there are numerous CSOs dealing with specific issues such as human rights (including LGBT rights), youth, women, environment, culture, social inclusion, etc.<sup>7</sup>

Within this constellation, civil society development (CSDev) has been an issue of discussion mostly within limited groups of civil society, and only recently started to be present in the discourse of the entire political constellation of the country. During the last couple of years, the attitude of state officials towards CSO development and civil dialogue is shifting 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 internal pressure from Kosovar CSOs and the continuous emphasis that European Union puts on the need for a developed civil sector resulted in an increased interest of public institutions to involve and cooperate with civil society through formal mechanisms and instruments.<sup>8</sup>

While 2013 was marked by the adoption of the first ever Government Strategy for cooperation with civil society, in 2014 the Government made its first concrete steps to establish the mechanisms for the Strategy implementation. With creation of the Council for implementation of the Strategy in the second part of 2014, the scope of government units involved in CSDev was extended beyond the units of the Office of Prime Minister, to include also a number of line ministries. In addition, with adoption of the Declaration for cooperation with civil society, the Assembly of Kosovo for the first time introduced a formal initiative related to CSDev.

Despite these positive steps, 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 and involvement of civil society in decision-making, the legislative framework is relatively positive but its implementation is limited. For other areas, such as state support to civil society or engagement of CSOs in service provision, the legal framework is inexistent or at very early stages of development, thus the practice is ad-hoc and not based on any strategic or policy document.

The factors that impede CSO development come from both sides. First and foremost, a large civic apathy does not create the necessary pressure to public institutions for investing their energy and funds in an enabling environment for civil society. The distance between a major part of civil society sector and citizens at large only contributes to this apathy and lack of public pressure. CSOs, mostly well-established and professional ones, remain among the few that create a domestic demand for enabling environment, while EU is the main external actor that pushes Kosovo public institutions to work on this. Other sectors, such as business sector, remain aside of the efforts to create enabling environment for CSO development. Another impeding factor is the low understanding of the concept of civil society and its potential for building a democratic and functioning state, including lack of concrete skills necessary to contribute to an enabling environment. Problems in rule of law and corruption, as well as very dynamic political developments are an additional burden in keeping the civil society development in the priority list of both government and civil society. Last and specific for the reporting period, the deep political crisis following the extraordinary elections of June 2014 blocked the normal functioning of the state, including the on-going initiatives to improve the environment for development of civil society.

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<sup>7</sup> Kosovar Civil Society Index 2013, KCSF 2014

<sup>8</sup> Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

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.<sup>9</sup> 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.<sup>10</sup> During 2014 the satisfaction of citizens with the direction of the country decreased further, reaching the lowest levels for a long time. 72% of Kosovo citizens appear to be either dissatisfied or very dissatisfied with Kosovo's current political direction, 78.6% have the same opinion on the current economic direction, while the satisfaction with the work of the Government (19.3%) and Parliament (16.1%) has reached the lowest levels ever.<sup>11</sup>

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 un-subtly, 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 continues to poses additional difficulties in developing new legislation and mechanisms, and in particular in the implementation phase.

#### **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 been the case also with assessing the state of affairs with regards to the specific indicators of the 13 Matrix standards, both for 2013 and 2014. In 2013, KCSF utilized a comprehensive study on civil society which was undertaken parallel to this monitoring report, while in 2014 it had to conduct additional surveys specifically designated for this report. Furthermore, lack of functioning institutions for the major part of 2014 was an additional burden in availability of competent persons to provide updated information on important issues of the CSDev. To illustrate, a number of legislative processes initiated in early 2014 were suspended due to dissolution of the Parliament and for more than six months no official was able to confirm whether those initiatives will continue at all.

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<sup>9</sup> UNDP, Human Development Report 2008, Civil Society & Development, p.12, [http://hdr.undp.org/sites/default/files/nhdr\\_2008\\_kosovo\\_en.pdf](http://hdr.undp.org/sites/default/files/nhdr_2008_kosovo_en.pdf)

<sup>10</sup> 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>

<sup>11</sup> UNDP Public Pulse Kosovo VIII (November 2014), p.3-7 [http://www.ks.undp.org/content/dam/kosovo/docs/publicpulse/pp8/PPR8\\_ENG.pdf](http://www.ks.undp.org/content/dam/kosovo/docs/publicpulse/pp8/PPR8_ENG.pdf)

For 2013 report, an additional challenge was the very fragmented legislation which contains specific provisions relevant for CSDev. Most of the specific provisions were “hidden” in a great number of laws and administrative instructions, and navigation into this complex system of legislation and their proper connection required excessive work in desk research and analysis. For 2014 report, the lack of a functioning Government and Parliament was an easing element in this regard, as this meant that very few elements relevant for CSDev have changed during this year, thus the situation has remained similar to the 2013 monitoring.

Last, CSDev is still a topic which is not part of the work of majority of CSOs active in Kosovo. In 2014, similar to the previous years, very few reports or data were published or made available which could be used to assess specific areas of CSDev.

## **5. Acknowledgements and thanks**

KCSF work in collecting and analysing the data for this report 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 accepted to provide 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.

Last, 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 monitoring exercise for the year 2013 has covered all standards of the CSDev Matrix, the monitoring report for 2014 covers only 13 selected standards. This has been decided by the experts group at regional level, taking into account that some of the elements of CSDev are not subject to continuous change. This is why Kosovo Country Report 2014 is recommended to be read hand in hand with the Kosovo Country Report 2013, in particular for those standards which are not covered in this year's report.

Initially, KCSF monitored the main developments in each of the standards as a part of its daily operation throughout the year. This enabled the research team to focus the primary research only on those issues which needed further information and analyses. During the second part of the year, KCSF initiated an intensive primary research which gathered data for selected standards and indicators to be assessed in the 2014 report. Data collection was carried out using two types of data gathering tools: qualitative and quantitative. Twenty six (26) in-depth interviews with key informants from public institutions and civil society were the main source of information, while a number of other e-mail and phone interviews were used to gather or validate particular issues which were raised during the in-depth interviews. The interviews aimed to gather information both on the legislation and practice of different sub-areas. Moreover, aiming to explore in-depth the supplementary information provided by key informants, the interviews were conducted with an added flexibility in terms of topics and questions covered. The questions for the in-depth interviews are an Annex to this report. An organizational survey was distributed to 100 active CSOs and responded successfully by 41 active CSOs in the period September – November 2014. The survey was used to assess the perceptions of CSOs on the main elements of CSDev in Kosovo, which were then analysed in relation to the findings of the desk research and in-depth interviews. The selection of CSOs receiving the survey questionnaire was based on a standard sampling representing consolidated and small CSOs, as well as equal geographical and sectorial representation. Based on a Master Questionnaire developed for the entire region, specific questions adapted for the Kosovo context were included in this survey. The survey questions are an Annex to this report. Last, a comprehensive desk research of the relevant legislation in force and reports of other local and international organizations and institutions served to collect and analyse the data, mostly for monitoring the indicators of legislation.

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 the sub-areas 1.1. (Freedom of association); sub-area 3.1. (Framework and practices for cooperation); and sub-area 3.2. (Involvement in policy- and decision-making processes).

## 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 41 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 26 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 in 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 each of the sub-areas selected for monitoring during 2014. Each of the interviewed groups had a number of standard questions, as well as specific sets of questions, depending on their specific field of expertise and experience. Complementing the key informants, the methodology consisted on interviewing a number of “outsiders”, namely organizations which are not directly linked with specific sub-areas, but might have information or opinion on any indicator or sub-area of the matrix.

## 3. Lessons learnt

For following of the developments in such a wide list of areas and standards, it is important to keep track of the initiatives and changes in each area throughout the year, instead of focusing the entire research in a specific period of time. For the first two rounds of monitoring in 2013 and 2014, it was an intensive research that took place in the second part of the year that gathered data to complete the monitoring reports. Although KCSF is very well positioned within all major forums related to CSDev, based on the experience in the first two rounds of monitoring, it has decided to create “thematic logs” and follow all important developments during the entire reporting period.

Another lesson learnt is particular to the methodology utilized for 2014 monitoring report. While the selected standards to be monitored this year have covered most important standards within CSDev, there was still important information which had to be included in the report, beyond the selected standards. For example, while monitoring the Standards 2 and 3 within Sub-Area 1.1 (Freedom of Association), it was very difficult to avoid analysing and including in the report parts of the Standard 1 of this sub-area which provide the context for the Standards 2 and 3. Nevertheless, the solution was found to include only those parts of the non-selected standards which were necessary and not cover the entire list of indicators.

# Findings and Recommendations

## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1.: Freedom of association

This sub-area is evaluated based on the following selected standards: Standard 1.1.2: CSOs operate freely without unwarranted state interference in their internal governance and activities and Standard 1.1.3: CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities. To understand the context of the selected standards, this sub-area contains also a very brief description of the Standard 1.1.1: All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online.

The legal framework on freedom of association has not been changed during 2014, 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 in NGOs. In April 2014, the NGO Department initiated a Concept Document on harmonizing the Law on Freedom of Association in NGOs with the Law on prevention of money laundering and financing of terrorism. However, this initiative did not result in any formal Concept Document of amendment process of the law.

During 2014, a secondary legislation deriving from the NGO Law was adopted by the Government and detailed the rules for registration and operation of the NGOs. While the process of its drafting was inclusive and CSOs provided significant contribution, an article on suspension of NGOs was introduced after the drafting process was officially closed. CSOs, including those directly involved in the drafting process, were informed only after its adoption and publication. Concretely, Article 18 of the

Article 18 of the Administrative Instruction GRK – No: 02/2014 on registration and operation of NGOs, adopted in September 2014, allows the NGO Department to suspend NGOs for a maximum duration of one year, based on any request by authorized security institutions. 14 NGOs have been suspended immediately after adoption of this regulation, with the justification that their activities were against the constitutional order of the Republic of Kosovo and international law.

Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs<sup>12</sup> allows the NGO Department to suspend the operation of an NGO, upon a written request and justification of an authorized security institution.

The maximum duration of the suspension is one year, and its justification can be based in cases where NGO activities are alleged not to coincide with the legal and constitutional order of the Republic of Kosovo and international law. This article allows for unwarranted state interference in the internal governance and activities of CSOs. In practice, this interference was reported immediately after the adoption of the Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs. Based on this, 14 NGOs have been suspended in September 2014.

<sup>12</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10287>



Financial reporting requirements have not changed during 2014. Reporting requirements are twofold: reporting to Tax Administration for their financial transactions and reporting to the NGO Registration Department for Public Benefit Organizations. Reporting requirements to Tax Administration are identical to businesses and many CSOs consider these requirements as not in line with the specific nature of the work of CSOs. At the other side, reporting of PBOs is both narrative and financial, and PBOs with an income of more than 100,000 EUR should also submit an external audit report. New narrative report templates have been designed and adopted during 2014.

The restrictive provisions of the Law 03/L-196 for preventing the money laundering and financing of terrorism<sup>13</sup> (and its amendment)<sup>14</sup> 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, the NGO 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 thirty (30) days. FIU-K answers can be: 1) granted 2) conditionally granted or 3) or denied exemption. However, the entire process of request and response is not associated with the criteria that should be considered by FIU-K when taking a decision. This creates a base for different interpretation or arbitrary decisions. These requirements are burdensome for CSOs as they create problems for receiving funds from donors or paying funds from local grant makers to their grantees.<sup>15</sup> Moreover, the sanctions for breaching of these limitations are problematic in three aspects: first, breaching the set limitations is considered a criminal act and is sanctioned with imprisonment, in addition to high monetary fines; second, they are not proportional to the extent of the breach, as they allow even the dissolution of NGOs; third, they give to the NGO Registration and Liaison Office the authority to dissolve the NGO, which is not in line with the provisions of the Law on Freedom of Association in NGOs. The implementation of this law is limited and most of the CSOs are not aware of these obligations. The Financial Intelligence Unit has initiated a Concept Document to precede the process of amending this law. Initial public consultations have been conducted in the end of 2014 and civil society has requested the removal of all specific obligations for NGOs.

The legal provisions on dissolution of NGOs within the Law on Freedom of Association in NGOs have not been changed. However, the Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs has introduced new grounds for suspension of an NGO from the NGO Department. While suspension of an NGO is not a legal category in the NGO Law, the Administrative Instruction provides an administrative unit to decide on this matter. No changes have been made on the distribution of the remained assets of the terminated NGOs either. 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 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

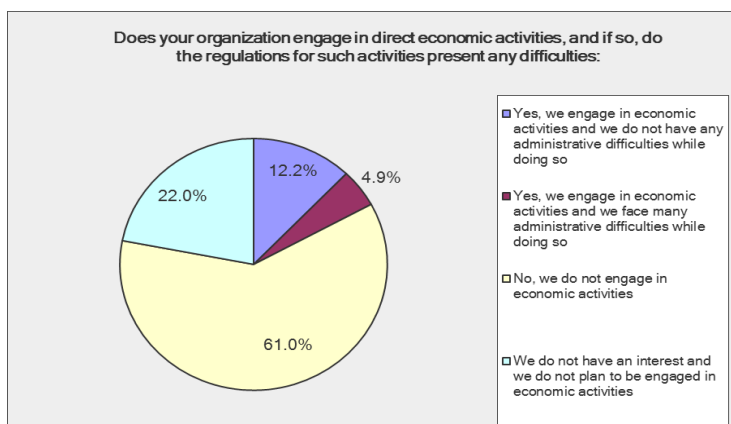
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<sup>13</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2715>

<sup>14</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=8652>

<sup>15</sup> Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

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, while related economic activities are also exempt from the profit tax, based on the Law on Corporate Income Tax<sup>16</sup>. However, 83% of the



surveyed CSOs declare that they do not engage in economic activities and many of them are not familiar with related obligations and limitations. Kosovo Tax Administration did not 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. Receiving foreign funding is allowed – there are no data for 2014 while in 2013 74% of the

resources of civil society came from international donors.<sup>17</sup> In addition, CSOs can receive funding also from individuals, corporations and other sources, but in practice individual and corporate philanthropy is not very common. 82.9% of the surveyed CSOs declared that they do not receive funds from private companies or individuals. The CSOs continue not to be VAT exempted, while exemptions in practice are based on the source of funds - funds coming from EU or most of the bilateral donors are exempt from VAT, regardless of economic operator which operates with these funds. As a result, CSOs that benefit from these funds are subject to this exemption also, for that portion of funds only. However, the exemption procedure is not unified for all donors and practical exemption creates difficulties for CSOs in many cases. Moreover, the exemption period for foreign funds has passed in December 31<sup>st</sup> 2014 and the Assembly of Kosovo has still not extended this exemption.

To conclude, no significant changes have been made in 2014, in exception of the Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs, which has provided extended ground for state interference in internal matters of CSOs. Still, most of the basic legislation for the establishment and operation of CSOs continues to be in compliance with international standards, but 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.

**The main recommendations for Sub-area 1.1 are:**

- **The NGO Department should cooperate with all relevant actors to review the Law on Freedom of Association and its implementation, aiming to identify legal gaps and implementation challenges, and an amendment process should be initiated based on the results of this review**
- **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 capacities of the NGO Department should be increased to properly interpret and implement the Law on Freedom of Associations in NGOs**

<sup>16</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2659>

<sup>17</sup> Kosovar Civil Society Index 2013, KCSF 2014

- The legal framework for financial reporting of CSOs should introduce a system which takes into account the specific nature of CSOs
- The Law on prevention of money laundering and financing of terrorism should be amended to remove all restrictive provisions for NGOs, including requirements for prior authorization on receipt and disbursement of funds, as well as criminal offences for failing to adhere to these obligations

“The EU Guidelines for support to civil society in enlargement countries 2014-2020”<sup>18</sup> 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 to serve to assessment of specific indicators of the EU Guidelines. In each of the assessed sub-areas, general assessment for respective indicators of the EU Guidelines will be provided, based on the monitoring of the respective sub-areas of Monitoring Matrix.

EU Guidelines indicators	Monitoring Matrix assessment
<p>1.1.c. Quality assessment of existing legislation and policy framework</p> <p>1.1.d. Progress with the adoption and implementation of relevant legislation</p> <p>2.1.a. CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)</p> <p>2.1.b. Quality assessment of financial rules (with the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change).</p>	<p><b>The existing legislation and policy framework for the exercise of right of association</b> is generally in place, while its implementation is partial, mostly those provisions related to the operation of NGOs. Restrictive provisions for NGOs are part of the Law on prevention of money laundry and financing of terrorism. A secondary legislation adopted during 2014 has introduced provisions which allow an administrative body to suspend NGOs, although suspension of NGOs does not have a legal basis in the primary legislation. No progress on implementation has been noted during 2014.</p> <p><b>The financial rules and reporting requirements</b> for CSOs are identical to businesses and many CSOs consider them not to be appropriate with the specific nature of their work. The capacities of the Tax Administration to deal with CSO specificities are limited. No progress on the legal framework and implementation capacities has been noted during 2014.</p>

<sup>18</sup> [http://ec.europa.eu/enlargement/pdf/civil\\_society/doc\\_guidelines\\_cs\\_support.pdf](http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf)

## Sub-area 1.2.: Related-freedoms

This sub-area is evaluated based on the following selected standard: Standard 1.2.1: CSO representatives, individually or through their organizations, enjoy freedom of peaceful assembly.

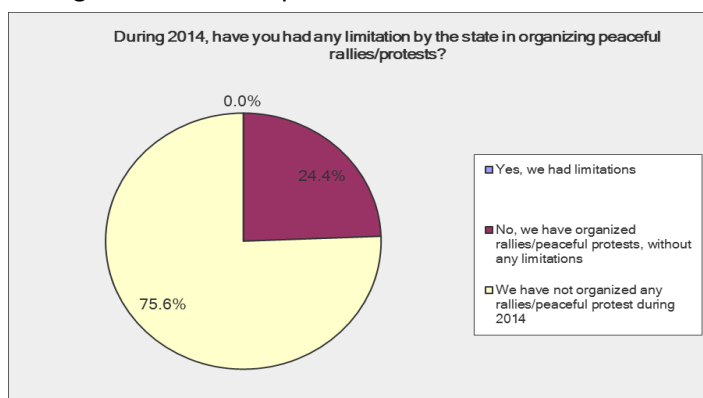
The legal framework on the right to assemble in Kosovo has not been subject to any change during 2014.

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

In February 2014, one case of police intervention has been reported. Police has intervened during the protests organized by the students associations and supported by other CSOs, requesting the resignation of the Rector of University of Prishtina. Among the 33 arrested protesters, there were also civil society activists, including the director of a well-known CSO.

Law 03/L-118 on Public Gatherings<sup>19</sup> guarantees all Kosovar citizens the right to organize and participate in public gatherings. No provisions on the right to assemble exist to those who are not citizens of Kosovo. 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)<sup>20</sup>, the public gathering can take place without any restriction. For any restrictions following the notification for public gatherings is noted, the organizers can appeal to court through a fast-track procedure. Counter-assemblies are not explicitly restricted, although specific

provisions imply that if another protest is announced in a same or nearby location, this can serve as a ground for refusing the permission for organizing a protest/public gathering. Although few CSOs declare to have been involved in organizing peaceful protests during 2014 (24.4%) they do not report any restriction of their right of assembly. Though, it is 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<sup>21</sup>. The gatherings, in particular peaceful protests, are usually organized in public squares or in front of particular institutions which are target of the protest and media has full access to those assemblies. In protests organized by CSOs during 2014, there is only one case where the use of force by police was reported.

To conclude, freedom of assembly is guaranteed by law and in general CSOs exercise these rights freely, despite isolated cases of police interventions during protests.

<sup>19</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2633>

<sup>20</sup> Ibid, Article 6 (3)

<sup>21</sup> Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

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

EU Guidelines indicators	Monitoring Matrix assessment
<p><b>1.1.c. Quality assessment of existing legislation and policy framework</b></p> <p><b>1.1.d. Progress with the adoption and implementation of relevant legislation</b></p>	<p><b>The existing legislation and policy framework for the exercise of right of assembly</b> is in place. Prior notification and permission 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 been involved in organizing peaceful protests. Only one case of police intervention in a protest has been reported during 2014. The legal framework on the right of assembly has not been subject to change in 2014.</p>

## Area 2: Framework for CSO Financial Viability and Sustainability

### Sub-area 2.1.: Tax/fiscal treatment for CSOs and their donors

This sub-area is evaluated based on the following selected standard: Standard 2.1.1: Tax benefits are available on various income sources of CSOs.

No changes in the legal framework on tax treatment for CSOs and their donors have occurred during 2014, although an amendment process for the entire set of tax and fiscal laws has been announced for 2015. In Kosovo, the legal framework provides tax benefits for a number of income sources of CSOs, although their effect in practice is limited. Grants and donations supporting non-for-profit activity of CSOs are not taxed, and there are no reports on any taxation of such income source. With regards to the economic activity, there are ambiguities in the legal framework, in particular on the economic activities of CSOs which do not have the public benefit status. It is unclear whether the provisions on tax exemptions on economic activities include all NGOs or only those with public benefit status. "A non-governmental organization that conducts any commercial or other activity that is not exclusively related to its public purpose shall be charged income tax..."<sup>22</sup>, while the related economic activities of NGOs are tax exempt up to "a reasonable level of income"<sup>23</sup>. Interpretations from tax inspectors provided during trainings organized by KCSF say that the economic activity only of public benefit organizations directly linked to its mission are exempt from income tax, while all other economic activities are subject to income tax. In addition, the reasonable level of income is such an income which ensures sustainability and development of the CSO. However, while the Law 03/L- 162 on Corporate Income Tax could be interpreted that all non-governmental organizations are subject to the tax benefit for related economic activities, the respective Administrative Instruction 14/2010 explaining its implementation talks only about public benefit organizations. This incoherence causes difficulties in its interpretation and implementation, and many CSOs choose not to get engaged in any economic activity.<sup>24</sup> This is confirmed also by the results of the survey conducted in 2014 where only 17.1% of CSOs declare that they do engage in any economic activity. Despite the political deadlock during 2014, Tax Administration has reported that internal working groups have been established to identify issues which need to be amended in the tax and fiscal laws, while a formal process could be initiated during 2015. CSOs still have not been invited to contribute to this process.

Apart from the above, donations from corporations and a category of individuals for humanitarian, health, educational, religious, scientific, cultural, environment protection or sports purposes donated to public benefit organizations are counted as expenses and exempted up to 5% of their taxable income. However, the data from 2013 survey show that few CSOs receive individual or corporate donations, and rarely any of them has reported tax deductions as the main reason for receiving those donations<sup>25</sup>.

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<sup>22</sup> Law 03/L- 162 on Corporate Income Tax - Article 33

<sup>23</sup> Administrative Instruction 14/2010 on Implementation of Law 03/L0162 on Corporate Income Tax – Article 21

<sup>24</sup> Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

<sup>25</sup> Monitoring Matrix on Enabling Environment for Civil Society Development - Kosovo Country Report 2013, KCSF 2013

Similarly, no progress has been noted with regards to passive investments or endowments. Still there are no explicit provisions on any tax benefits on passive investments of CSOs, while passive investments are not common among civil society in Kosovo. There are no provisions on establishment and operation of endowments, nor related to any tax benefit for the latter. Among all interviewed and surveyed CSOs in 2014, no practices of endowments established or operating in Kosovo could have been found.

A draft-law on Sponsorship and Philanthropy in the area of culture, youth and sports is in the process and circulating between the Ministry of Culture, Youth and Sports and the Ministry of Finance for many years now. During its meeting of December 2014, the Council for implementation of the Government Strategy for cooperation with civil society has recommended that the scope of this draft-law should be extended beyond culture, youth and sports, to include all areas where sponsorship and philanthropy could be applicable.

To conclude, tax benefits are available to a number of income sources of CSOs. Grants and donations are not taxed, while only mission-related economic activities of public benefit organizations are exempted from income tax. Incentives for private donors are part of the legal framework, but they are not the main motivation for private donations.

**The main recommendations for Sub-area 2.1 are:**

- **The tax laws, in particular provisions on economic activities of CSOs, should be clarified and harmonized in their full**
- **The system for tax deductions for individual and corporate donations should be reformed with regards to the scale and scope of deductions and its implementation mechanisms, and harmonized with the Public Benefit Status chapter of the Law on Freedom of Association in NGOs**
- **The Ministry of Finance and Ministry of Public Administration should initiate the policy and legal framework addressing explicitly the establishment and operation of endowments, as well as the passive investments of CSOs**
- **The draft law on donations and philanthropy should be extended in scope, beyond culture, youth and sports**

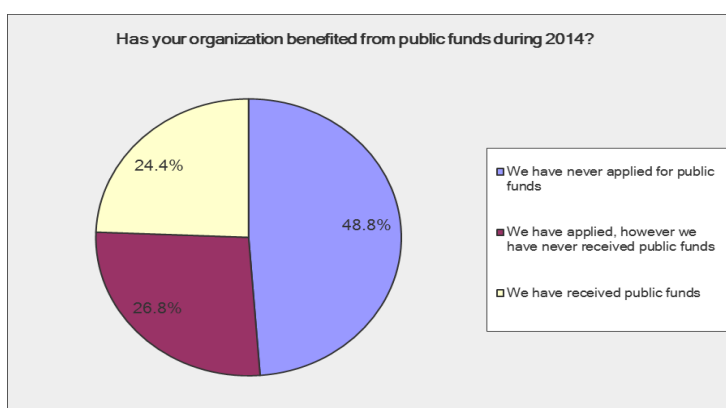
EU Guidelines indicators	Monitoring Matrix assessment
<p><b>2.3.b. Quality of the system of tax benefits for the CSOs’ operational and economic activities</b></p>	<p><b>The system of tax benefits for CSOs’ operational and economic activities</b> provides tax exemption for grants and donations. Only mission-related economic activities of public benefit organizations are exempted from income tax. Nevertheless, the legal framework on this area is ambiguous and not clear. The legal framework on the tax benefits for CSO activities has not been subject to change in 2014.</p>

## Sub-area 2.2.: State support

This sub-area is evaluated based on the following selected standards: Standard 2.2.1: Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants; and Standard 2.2.2: Public funding is distributed in a prescribed and transparent manner.

During 2014, a number of commitments from high government officials have been made with regards to regulating the state support for civil society, in particular during the pre-election period. In a conference organized by KCSF in April 2014 and well as a regional conference organized by TACSO project in June 2014, the Minister of Finance declared that regulating state funds for civil society is one of the priority areas of their ministry. However, these have not resulted with any concrete step in regulating this field and there are no changes noted during 2014.

Still, there is no 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. No special law or national policy regulates the state support for CSOs, similarly as no national or local level mechanisms for distribution of public funds to CSOs exists. During 2013, KCSF has identified an increased share of



public funds for civil society in general<sup>26</sup>, while in 2014 24.4% of the surveyed CSOs have reported to have received public funds. These funds to CSOs are disbursed from specific institutions at central and local level, without any cooperation or coherence. These funds are not planned within the state budget and few cases of specific budget lines for CSOs can be identified in the state budget. The Council for implementation of the Government Strategy for cooperation with civil society has included identification of the model for public funding of CSOs as one of the priorities for 2015, and this has been the only positive development for the reporting period.

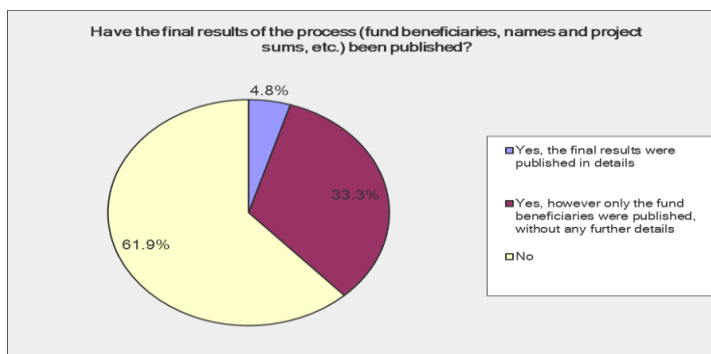
The Law 04/L- 080 on games of chance<sup>27</sup> provides with the possibility to direct a certain amount of funds from the Kosovo Lottery for different social categories, human rights issues, culture and sports. The details of such a transfer shall be determined by an administrative instruction, such an instruction is still not drafted and there are no reports that such funds are collected or disbursed. The interviewed officials from the Ministry of Finance were not able to provide any data on the amount of funds disbursed to CSOs for 2014, including any details for the funds based on the Law on games of chance. This confirms that the funding is unpredictable and it is impossible to identify the amount of public funds committed or disbursed to CSOs. As participatory budgeting is not common in Kosovo, CSOs are not part of the public funding cycle even for public funds for civil society.

<sup>26</sup> Kosovar Civil Society Index 2013, KCSF 2014

<sup>27</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2813>



No changes have been made also on the procedures for distribution of public funds. There are no specific procedures for distribution of public funding to CSOs, including lack of standard selection criteria which would ensure that public funding is distributed in a prescribed manner. 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. There is little publicly available information on application requirements and most of the decisions on tenders are not transparent. 61% of the surveyed CSOs declare that the fund beneficiaries, names of the beneficiaries and project sums have not been published and only 4.8% of them declare that this information has been published in detail. The only CSO specific procedures on addressing the conflict of interest are related to CSOs with public officials as Board members vis-à-vis state funding within the Law on prevention of conflict of interest in discharge of public functions<sup>28</sup>, although no information on fairness and conflict of interest is available.



The same situation is with regards to the accountability, monitoring and evaluation of public funding to CSOs and no progress has been made during 2014.

To conclude, the approach of public institutions does not contribute towards financial viability of CSOs. The political commitments to regulate the state support for civil society have not resulted with any concrete progress on this area. Although the share of public funds for CSOs is increasing, there are no criteria, standards or procedure for their programing, implementation, monitoring and evaluation.

**The main recommendations for Sub-area 2.2 are:**

- **A comprehensive system on public funding should be initiated, based on the objectives of the Governmental Strategy for cooperation with civil society, and the designed criteria, standards and procedures ensure transparent and accountable implementation of public funds for CSOs. Regardless the comprehensive system, all information on public funds disbursed to CSOs should be made transparent**
- **CSOs should be part of drafting the comprehensive system on public funding and its implementation in line with Monitoring Matrix standards.**

EU Guidelines indicators	Monitoring Matrix assessment
2.4.a. Ratio of amount sought vs. amount approved/disbursed annually through state funding to CSOs. (this proves availability of funds)	No state funding framework for CSOs exists in Kosovo, although state institutions increasingly provide funds to CSOs. Due to inexistence of any budgetary planning, specific mechanisms of distribution and standards of monitoring and evaluation, no data on the amount sought and
2.4.b. Quality of state funding frameworks for civil society organisations (focusing on procedural	

<sup>28</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2768>

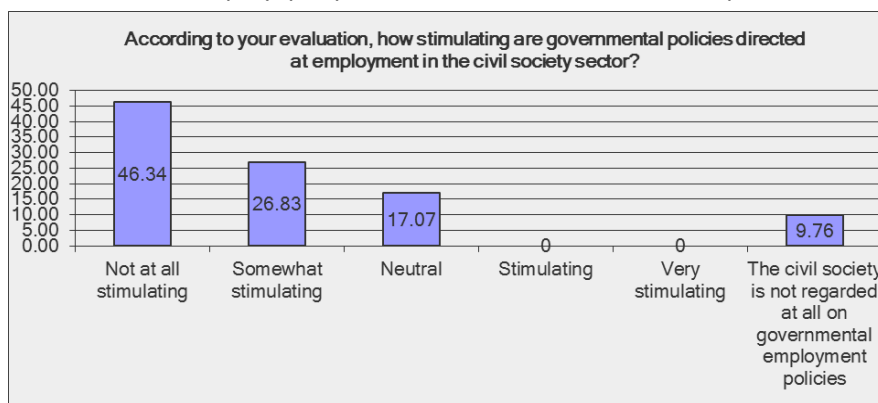
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disbursed is available. Despite commitments from high officials during 2014, no progress on this area has been noted yet.

### Sub-area 2.3.: Human resources

This sub-area is evaluated based on the following selected standards: Standard 2.3.1: CSOs are treated in an equal manner to other employers; and Standard 2.3.2: There are enabling volunteering policies and laws.

Despite wide requests to amend the Labour Law<sup>29</sup>, due to political crisis of 2014, no formal process of its amendment has been initiated. When CSOs employ people, there are no additional requirements or registrations for them comparing to commercial companies and CSOs are treated equally to other employers by law. However, 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 contributes to employment. While there are certain employment generation programs through public and private sector, CSOs are not part of any support or incentive. During the interviews for this report, KCSF has found that Kosovo Statistical Agency does possess some statistics on the number of employees in the non-profit sector, although no categorization was made. According to the data provided by the Statistical Agency, during 2013 793 NGOs have declared 6,589 employees. A similar number was provided also for 2012 and 2011. No information is available on the number of full-time, part-time or external experts within this general number of employees.

A volunteering program by the Ministry of Culture, Youth and Sports has engaged 99 young volunteers over 3 years and provided them with certificates which serve to recognize this engagement as a work experience.

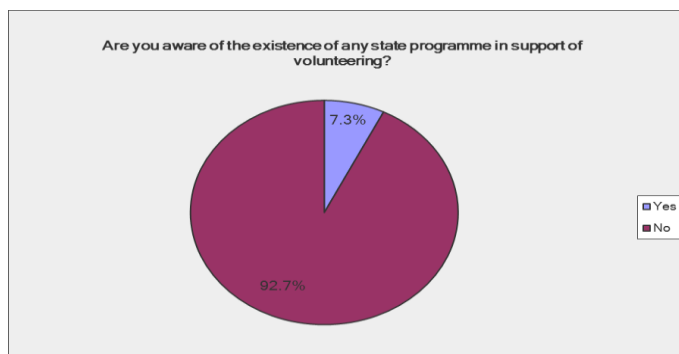
No changes on the legal framework for volunteering have made in 2014, although some steps have been made to address this issue at policy level. During 2014, the Council for implementation of the Government Strategy

for cooperation with civil society has established a working group on identifying the main challenges and issues to be addressed for improving the environment for volunteering in Kosovo. This has been the only reported development on this area for 2014 and Kosovo continues to have no enabling volunteering policies and laws. The only law that contains any provisions on volunteering remains the Law 03/L-145 on Youth Empowerment and Participation<sup>30</sup>, which aims to stimulate volunteering for youth. Other categories of volunteering are not addressed by any law. Some reports suggest that absence of the legal recognition of the voluntary work may be one of the reasons for decreasing levels of volunteering in

<sup>29</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2735>

<sup>30</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2654>

Kosovo<sup>31</sup>. There are very few state incentives and programs for youth volunteering and few CSOs are aware of these programs. 92.7% of the surveyed CSOs declare that they are not aware of the existence of any state program in support of volunteering. Registration of young volunteers is obligatory, same as the obligations for contractual relationship and protection for organized volunteering for youth. However, administrative procedures for host organizations of young volunteers are complicated and burdensome for CSOs, thus volunteering takes place in other forms, mostly without any formal procedure.



To conclude, CSOs are not part of policies that promote employment and the state does not stimulate employment or volunteering with CSOs.

**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 generate employment, thus should be included in state incentive programs for employment**
- **A comprehensive system on volunteering should be initiated, based on the objectives of the Governmental Strategy for cooperation with civil society, with inclusion of other fields beyond youth volunteering**
- **Kosovo Statistical Office, Ministry of Labour and Tax Administration should include CSOs as a statistical category on their employment statistics according to UN/ILO instruments**

EU Guidelines indicators	Monitoring Matrix assessment
<p><b>1.2.a. Number of employees in CSO (permanent and part-time)</b></p> <p><b>1.2.b. Number of volunteers in CSOs per type of CSO / sector</b></p> <p><b>1.2.c. Quality of legislative framework</b></p>	<p><b>The number of employees in CSO sector</b>, based on the Kosovo Statistics Agency, is 6,589, declared from 793 NGOs. No details of the number of part-time and full time employees are provided. CSOs are treated equally to other sectors within the Labor Law, while civil society sector is not part of policies and programs that promote employment.</p> <p><b>The number of volunteers in CSOs</b> is not available. Apart from a number of provisions on youth volunteering, no legal framework exists to regulate and promote volunteering in civil society. As a result, in most of the cases volunteering takes place in a non-standardized and informal manner.</p>

<sup>31</sup> Kosovar Civil Society Index 2013, KCSF 2014

### Area 3: Government-CSO Relationship

#### Sub-area 3.1.: Framework and practices for cooperation

This sub-area is evaluated based on the following selected standards: Standard 3.1.1.: The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector and Standard 3.1.2: The state recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector. As the Standard 3.1.1. has been the one with most developments during 2014, this standard has been added to the 12 core standards for the Kosovo Country Report 2014.

Developments related to the Government Strategy for cooperation with civil society were among the few which continued during 2014, despite the political crisis for the major part of this year. One of the reasons for this was that most of the decisions and processes related to this Strategy are placed at the level of civil servants, at least for its initial stages of implementation. This Strategy, which was adopted in July 2013, did not start its implementation until 2014. In 2014 the focus was in establishing the necessary bodies for its implementation, while most of the content related activities were postponed for 2015 and beyond. Although the Ministry of Finance, during 2014, allocated a solid budget for implementation of this Strategy (137,960 EUR for 4 years), a minor part of this budget has been spent until now. The original Action Plan for implementation of this Strategy has been revised and many specific activities are expected to be initiated during 2015 (a detailed plan for 2015 has been drafted and adopted by the Council for implementation of the Strategy in December 2014). Civil society was directly involved in the revision of this Action Plan. A monitoring system, as part of the work of the Council for implementation of the Strategy, is planned to be designed during 2015. Office for Good Governance within the Office of Prime Minister, which is mandated to serve as the secretariat of the Council, is tasked to design and implement this monitoring system.

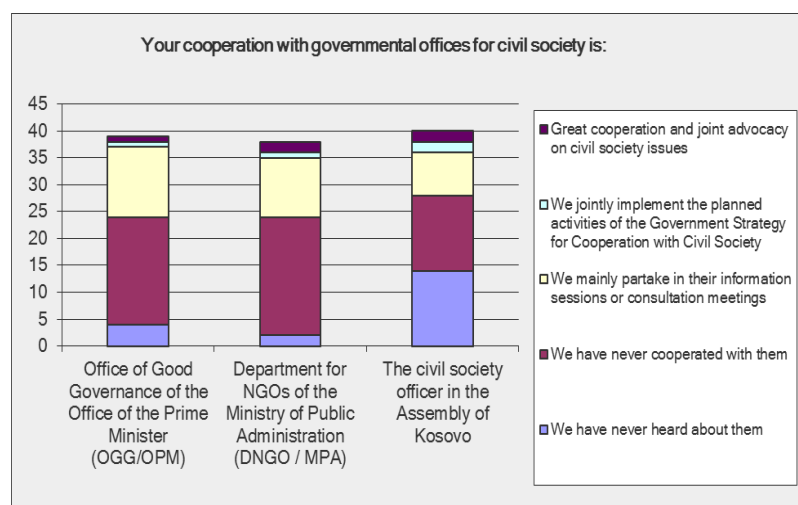
2014 also marked the first document on cooperation with civil society adopted by the Assembly of Kosovo. The Declaration for partnership between the Kosovo Assembly and civil society<sup>32</sup> was adopted in early 2014, and the content of this declaration has been developed in cooperation with CSOs active at the Assembly level. Due to absence of the Assembly during the major part of 2014, this Declaration has not produced any concrete result yet. A joint group with civil society is expected to be established by the Assembly during 2015 aiming to design specific activities for implementation of this Declaration.

Although the institutional setup for cooperation with civil society remains largely unchanged, some progress has been noted during 2014. The Office for Good Governance within the Office of Prime Minister (OGG/OPM) continues to be the focal unit of government cooperation with civil society – the role of the Secretariat of the Council only adds to its mandate to cooperate with the sector. In order to better perform this role, OGG/OPM has recruited two officers to be engaged primarily in tasks related to implementation of the Strategy. In terms of number, the new recruitments somehow address the long-standing challenge of insufficient human resources to perform its wide mandate. However, it is still to be assessed whether the increase of the number of staff will translate into increase of the quality of work of OGG/OPM. The first part of 2014 was marked with drafting the necessary decisions for establishment and

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<sup>32</sup> [http://www.kuvendikosoves.org/common/docs/Declaration\\_Assembly\\_Society.pdf](http://www.kuvendikosoves.org/common/docs/Declaration_Assembly_Society.pdf)

rules of procedures of the Council for implementation of the Strategy, while during the second part of 2014, the Council was made operational and an intensive work was undertaken during the last quarter of the year. From 29 members of this Council, 15 of them are civil society representatives. 14 of them are elected through open and democratic procedure while one is appointed by the CiviKos Platform. During the summer of 2014, CiviKos Platform successfully organized the process of nomination and election of 14 representatives of CSOs in this joint body. Another institution mandated with specific tasks with regards to CSO sector has narrowed its mandate during 2014. The NGO Department within the Ministry of Public Administration which is the competent authority for registration of NGOs and Public Benefit Status, has removed its “liaison” role from its mandate and name - a role that it has never performed anyhow. Nevertheless, the capacities of the NGO Department are still short of supply for performing all the tasks with regard to registration of NGOs, their operation and Public Benefit Status. At the level of the Assembly of Kosovo, the civil society officer has continued its work although no concrete results have been reported from this position established in 2013. Lack of a functioning Assembly for the major part of 2014 has been one of the contributing factors to this. All in all, it remains worrying the very limited reach of these institutions towards civil society in general. As shown by the results of the 2014 survey, their cooperation with civil society seems to be limited only within specific process/initiatives, resulting in major part of the sector being not involved in any cooperation or even unaware of their existence. More than half of the surveyed CSOs declare that they have never cooperated with these institutions, while some of CSOs have never heard about these institutions.



More than half of the surveyed CSOs declare that they have never cooperated with these institutions, while some of CSOs have never heard about these institutions.

To conclude, some progress has been made both in terms of framework documents and institutions for cooperation with civil society, at Government and Assembly level. Nevertheless, still there are few or no concrete results as a result of these documents. Among other factors, the limited human resources and capacities of these institutions do not guarantee that the adopted documents will be properly implemented in practice.

**The main recommendations for Sub-area 3.1 are:**

- **A more dynamic implementation of the Government Strategy for cooperation with civil society should be initiated by the Government, including setting up a monitoring system for its implementation**
- **The Kosovo Assembly should build on the adopted Declaration to design concrete mechanisms of cooperation and involvement of CSOs in the work of the Assembly**
- **The institutions in charge for cooperation with civil society at Government and Assembly level should increase their outreach efforts and get closer to the civil society sector**

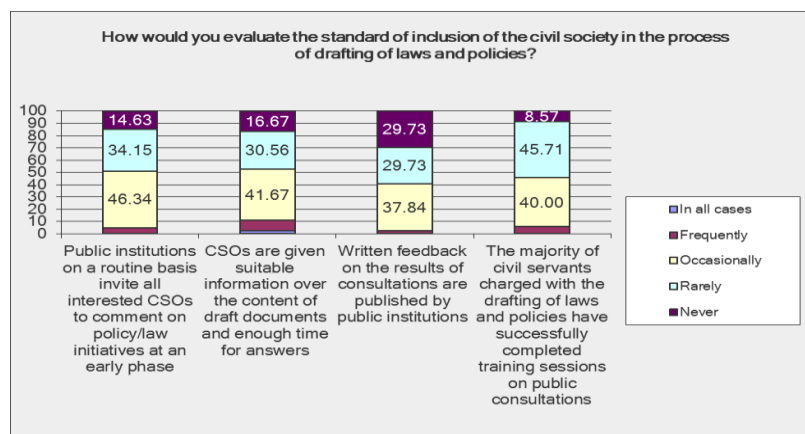
EU Guidelines indicators	Monitoring Matrix assessment
<p><b>3.1.b Quality* of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions</b></p> <p><b>* in terms of:</b></p> <ul style="list-style-type: none"> <li>- CSO representation in general</li> <li>- representation of smaller/weaker CSOs</li> <li>- its visibility and availability</li> <li>- government perception of quality of structures and mechanisms</li> <li>- CSOs perception of structures and mechanisms</li> </ul>	<p><b>The structures and mechanisms for dialogue and cooperation between CSOs and public institutions</b> have seen some progress during 2014. The Council for implementation of the Government Strategy for cooperation with civil society has been established and operationalized during 2014. Civil society representatives in this Council have been selected through an open, transparent and democratic procedure and the representation of the sector is diverse. All the documents and developments related to the Council are published in a specific website managed by the Secretariat of the Council. Nevertheless, the implementation of concrete measures of the Strategy has been delayed and no concrete results of this Strategy can be reported yet.</p> <p>A declaration for partnership between the Kosovo Assembly and civil society has been adopted in early 2014, and the content of this declaration has been developed in cooperation with CSOs active at the Assembly level. However, no concrete results from this declaration can be reported yet.</p> <p>In addition, the outreach of responsible institutions for cooperation with civil society is limited and a significant part of CSOs do not cooperate with these institutions.</p>

### Sub-area 3.2.: Involvement in policy- and decision-making process

This sub-area is evaluated based on the following selected standards: Standard 3.2.1: There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner; Standard 3.2.3: CSO representatives are equal partners in cross-sector bodies and are selected through clearly defined criteria and processes.

Not much has been changed with regards to involvement of civil society in the policy and decision-making process and inclusion of civil society in the decision-making process remains low. The legal framework for CSO involvement in decision-making has not been subject to any change. The existing one provides with many opportunities for CSO input at both levels of governance, but the deficiencies in proper implementation and lack of concrete standards do not enable CSOs for their input in a timely manner.

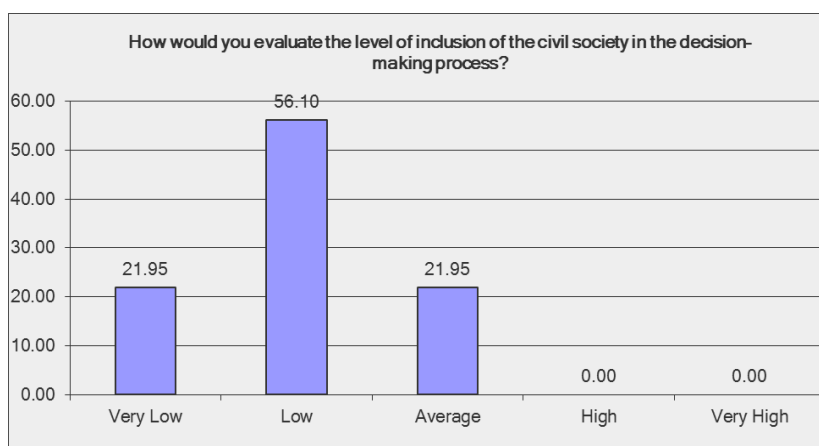
Concretely, the Rules of Procedure of the Government<sup>33</sup> requires public consultations for all draft policies/laws, with adequate and timely information to be provided by the proposing authority, as well as feedback on the consultation results. However, as there are no standards for proper implementation of



these provisions, these requirements are only partially implemented. Only 4.87% of the surveyed CSOs believe that public institutions on a routine basis invite all interested CSOs to comment on policy/law initiatives at an early phase. Similar results are also for the information for the content of the documents, written feedback on the results of consultations and

capacities of civil servants in charge for public consultation. The proposed Minimum Standards for public consultation will be considered by the Government during 2015 and this definition of detailed obligations of public institutions is expected to increase the level of implementation of the current obligations at government level.

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. Although no exact data are available, for many years now Parliamentary Committees organize public hearings only for a certain number of laws. Since the Assembly of Kosovo has been



functional only for less than half a year, during 2014 only few public hearings were held. Similarly, no changes have been made at the local level. The Law on Local Self-government<sup>34</sup> provides with different instruments of citizen participation at local level, including public consultations, sectorial consultative committees, petition, public meetings with the Mayor, etc. However, most of the municipalities do not involve civil society at a regular basis and many of the existing legal instruments are not properly functionalized. 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 2014. A limited number of trainings have been mostly organized by civil society during the previous years and there are very few civil servants in charge of drafting public policies which have completed any educational program/training on CSO involvement. Contacted for the purposes of this report, the mandated institution for capacity building of civil servants - Kosovo Institute for Public Administration – has confirmed that they have no training module on public consultation or any other subject related to involvement of CSOs in the work of

<sup>33</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10543>

<sup>34</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

public institutions. Last, in exception of the Assembly of Kosovo, other institutions do not have specific units/officers who coordinate and monitor the public consultation process. In Ministries, public consultation process is usually run by their legal departments, while in municipalities there are different practices of work.

There have been no changes also in the legal framework on access to public documents, although discussions on this have been part of some conferences organized during 2014. Access to public information is a constitutional right, guaranteed in Article 41 of the Constitution. The Law 03/L-215 on Access to Public Documents<sup>35</sup> obliges all public institutions to proactively publish all adopted documents, but does not explicitly require publishing of the drafts of documents in procedure. As a result, most of the draft laws and policies are not easily accessible to the public in a timely manner. An Administrative Instruction on the content of Ministerial websites lists also “documents in procedure” to be published in their websites. However, only 11.8% of surveyed CSOs who have participated in any drafting process declare to have received the draft documents from ministerial websites. Most of the time, these documents are public upon request or are distributed through CiviKos Platform. When it comes to requests for access to public documents, there are clear legal procedures and mechanisms for access to public information/documents, although administrative proceedings do not always fulfil the legal requirements. 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. According to the 2013 report of the Office of Prime Minister, the percentage of granted requests has reached 91.7%, while there is also an increase in the percentage of non-responded requests to 3.2 %. At the central level most of the requests come from citizens and journalists, while civil society has only 6.9% of the share of total requests at central level. At the local level, civil society is the most active sector with 37% of the requests, followed by journalists at 26.4%.<sup>36</sup> One of the main problems remains the refusals done through administrative silence, as well as rare cases when refusals are followed with a written explanation on the reasons for refusal. 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, but there are no reports that cases of violations of the law have been sanctioned at any level of governance.

Few cross-sector bodies have been established during 2014 and the existing ones have been less active, due to the political deadlock of 2014. The legislation at government level allows, but does not oblige the government to invite CSO representatives in to decision-making or advisory bodies created by public institutions. There are many decision-making and advisory-bodies which include CSO representatives at different levels of governance, such as the National Council on European Integration or the National Council on Anti-Corruption. 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. There are no guidelines or standard selection mechanisms which would ensure appropriate representation from civil society. Nevertheless, the establishment of the Council for implementation of the Strategy was a great example of joint work and selection mechanisms. With exception of the Council, CSO representatives in many cross-sector bodies are rarely selected based on clearly defined criteria and processes. The selection of civil society representative in the Kosovo Prosecutors Council has been widely criticised by civil society as it has not fulfilled the legal obligations for

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<sup>35</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2724>

<sup>36</sup> The Annual Report for the right of access to public documents for 2013, Office of Prime Minister 2014  
[http://www.kryeministri-ks.net/repository/docs/Raporti\\_Gjithperفشires\\_Final\\_Shqip\\_7\\_Prill.pdf](http://www.kryeministri-ks.net/repository/docs/Raporti_Gjithperفشires_Final_Shqip_7_Prill.pdf)



an open process of nomination and selection. Selection mechanism applied for the Council on implementation of the Strategy could be adapted and used also for other similar bodies and forums. 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.

To conclude, the legal opportunities for CSO involvement in the policy and decision—making process are not utilized properly, mostly due to weak implementation from the side of public authorities.

**The main recommendations for Sub-area 3.2 are:**

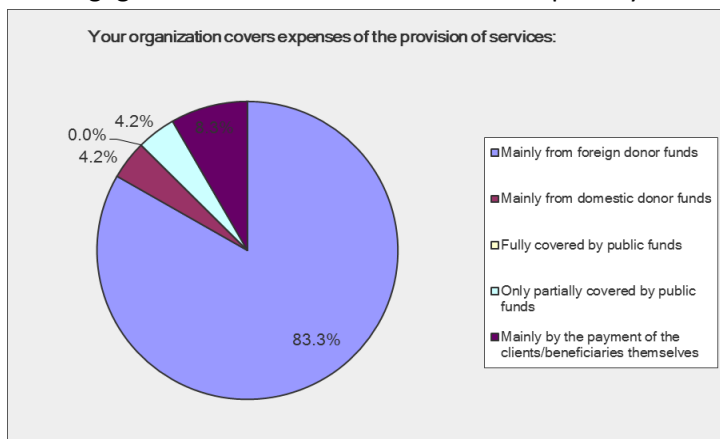
- **The normative act on Minimum Standards for public consultations at government level should be adopted and implemented, based on the proposals by civil society**
- **General selection mechanisms should be designed by the Government so to allow all public institutions to apply them with specific adaptations. The model of selection of civil society representatives in the Council for implementation of the Strategy shall be considered for adaptation for all decision-making and advisory bodies**
- **The Assembly of Kosovo should devise obligatory requirements for involvement of CSOs in the work of the Parliamentary Committees, while the later should organize public hearings for all draft-laws in the process**
- **The Law on Access to Public Documents should be amended so to oblige public institutions to publish proactively draft laws/policies and policy initiatives**
- **Public institutions, including Kosovo Public Administration Institute, should cooperate with civil society in building capacities of civil servants in CSO involvement**

EU Guidelines indicators	Monitoring Matrix assessment
<p><b>3.1.a. Percentage of laws/bylaws, strategies and policy reforms effectively* consulted with CSOs</b></p> <p>* in terms of:</p> <ul style="list-style-type: none"> <li>- adequate access to information</li> <li>- sufficient time to comment</li> <li>- selection and representativeness / diversity of working groups</li> <li>- acknowledgement of input</li> <li>- degree to which input is taken into account</li> <li>- feedback / publication of consultation results</li> </ul>	<p>There are <b>legal requirements for consulting with CSOs</b> at government level, while at the Assembly level the legal provisions are non-binding. Nevertheless, legal opportunities are not utilized properly, mostly due to weak implementation from the side of public authorities. Despite some positive cases, access to information is not adequate in many cases, same as the sufficient time to comment. There are no standard selection mechanisms, although a positive case of open and transparent selection procedure has been reported in 2014. The acknowledgment of input and feedback and publication of the consultation results is not common. Last, due to lack of systematic monitoring, no exact data is available on the <b>percentage of laws/bylaws, strategies and policy reforms which are effectively consulted with CSOs.</b></p>

### Sub-area 3.3.: Collaboration in service provision

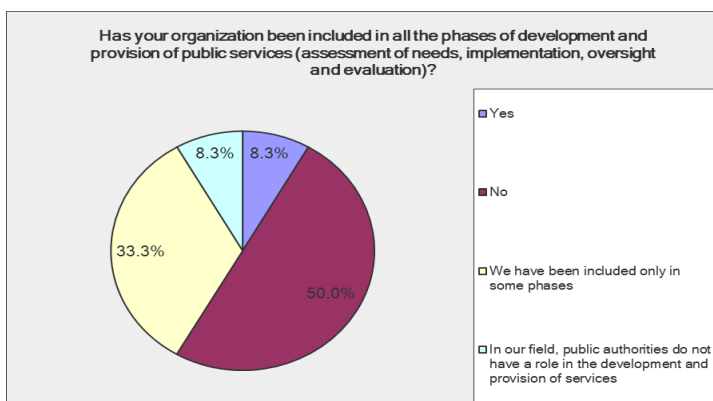
This sub-area is evaluated based on the following selected standard: Standard 3.3.1: CSOs are engaged in different services and compete for state contracts on an equal basis to other providers.

Similar to other sub-areas of the Matrix, few developments have been reported during 2014 for the collaboration in service provision between state institutions and civil society. In Kosovo, not many CSOs are engaged in different services which are paid by state funds – majority of services provided by civil



society still is funded by international donors. The Law 04/L-042 on Public Procurement<sup>37</sup> allows CSOs to provide services in various areas, although there are some hidden legal barriers, which in some cases prevent CSOs to be eligible for service provision contracts. For example, the only registration certificate eligible by law is “a valid certificate of registration issued by the public authority responsible for registering business organizations in

Kosovo”. Since NGO Certificates are issued by the NGO Department, this article implies that NGOs are not eligible for obtaining public contracts. Although there are equal legal requirements for all kind of legal entities, including CSOs, these provisions are not in line with specific nature of the work of CSOs. The situation is different with regards to social services, which is regulated by Law 02/L-17 for Social and Family Services<sup>38</sup> (and its amendments)<sup>39</sup>, which formally recognizes the possibility and allows for different social services to be provided by CSOs. This law takes into account the specific nature of the work of CSOs, thus no hidden barriers are part of legislation. Moreover, in the field of social and family services, further steps in defining standards and licensing have been made during 2014. 25 standards have already been set and the process of licensing individuals has already started, while



licensing of CSOs on these standards is expected to kick-off during 2015. In practice, there are few CSOs which are able to obtain public contracts for services, and most of those are in the field of social services and areas where no other service providers exist. Few CSOs are included in developing and providing services, although their full inclusion in the entire cycle from planning to evaluation is still lagging behind. For CSOs providing social services, a prior registration and licensing is required and procedure for obtaining licenses is equal to other service providers. Being one of the strategic objectives of the Government Strategy for cooperation with civil society, opening the service provision to civil society has been among the most difficult objectives of this strategy. This is due to a large scope of fields to be addressed, as well as lack of expertise at both sides - government and civil society. During 2014, a

<sup>37</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2772>

<sup>38</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2447>

<sup>39</sup> <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2808>

working group on working on this issue has been established by the Council for implementation of the Strategy, although specific measures are still to be devised.

To conclude, in exception for the social service provision, the rest of the environment for service provision is generally closed for CSOs and does not enable CSOs to become equal providers of services. Although it is one of the main objectives of the Government Strategy for cooperation with civil society, lack of expertise at both sides makes it among the most difficult areas for reform.

**The main recommendations for Sub-area 3.3 are:**

- **The Public Procurement Law should be amended so to allow NGO registration certificates to be accepted, same as business registration certificates,**
- **Public institutions should build the necessary expertise and human resources in developing a new legal basis for service provision by CSOs, which should be in line with the principles set in the Government Strategy for cooperation with civil society**

# Findings and Recommendations (Tabular)

## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1.: Freedom of association

#### Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities.</li> <li>2) The state provides protection from interference by third parties.</li> <li>3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities.</li> <li>4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality.</li> <li>5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The legal framework prohibits public authorities to interfere in the work and activities of NGOs. However, secondary legislation adopted in September 2014, through specific provisions on suspension of NGOs, allows public authorities to interfere in the work and activities of NGOs.</li> <li>• No explicit legal provision exists on protection from interference by third parties in exercising the freedom of association</li> <li>• Only PBOs with an income of more than 100,000 EUR should submit an external audit report</li> <li>• Legal framework for financial reporting of CSOs is identical to private companies and does not take into account the size and type/scope of activities of CSOs.</li> <li>• The recently initiated process of amending the fiscal laws does not involve civil society representatives</li> <li>• The money laundering regulations have stricter requirements and lower thresholds for CSOs in</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A comprehensive review of the NGO Law should be conducted, aiming to identify legal gaps and implementation challenges, and an amendment process should be initiated based on the results of this review</li> <li>• Article 18 of the Regulation on Registration of NGOs, which allows suspension of NGOs by the NGO Department, should be removed</li> <li>• The legal framework on financial reporting of CSOs should be amended to take into account the specific nature of CSOs</li> <li>• Money laundering law</li> </ul>

		<p>comparison to other entities and are considered burdensome for daily operation of CSOs</p> <ul style="list-style-type: none"> <li>• The sanctions on breaches of money laundering regulations are not proportionate extent of the breach and they are not in line with the provisions of Law on Freedom of Association in NGOs on dissolution of NGOs.</li> <li>• The sanctions for financial reporting on taxes are identical to private companies and same proportionality is applied also to CSOs</li> <li>• The rules for dissolution and termination of CSOs are in line with the international law and based on objective criteria, in exception of the provisions of money laundering law and the secondary legislation adopted in September 2014 which provides the suspension of an NGO from an administrative unit of the Government</li> <li>• The rules for establishment and procedure of the Committee for Distribution of remained Assets of the terminated NGO are not in place</li> </ul>	<p>should be amended and remove all restrictive provisions for NGOs, including requirements for prior authorization on receipt and disbursement of funds</p> <ul style="list-style-type: none"> <li>• Sanctions on breach of money laundering regulations should be removed and no specific sanctions for NGOs should be in place</li> <li>• The rules for establishment and procedure of the Committee for Distribution of remained Assets of the terminated NGO should be drafted, in cooperation with CSOs</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities.</li> <li>2) There are no practices of invasive oversight which impose burdensome reporting requirements.</li> <li>3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• 14 NGOs have been suspended by the NGO Department based on the secondary legislation adopted in September 2014, on the grounds that activities of these organizations are against the legal and constitutional order of the Republic of Kosovo and international law.</li> <li>• More than half of CSOs consider financial reporting requirements not in line with the specific nature of CSOs</li> <li>• Majority of CSOs report that they had no visits from tax authorities during 2014 Only one of surveyed CSOs reported “surprise visits” by tax authorities during 2014, and one other CSO</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The suspension of NGOs by the NGO Department should be abolished and any further procedure on these cases should be based in the applicable legislation</li> <li>• Kosovo Tax Administration and Ministry of Finance should initiate a process of dialogue with civil</li> </ul>

		<p>reported that excessive inspection was undertaken by the tax authorities within an announced visit Sanctions for CSOs are not common and no evidence of un-proportionate sanction has been collected</p>	<p>society to identify the specific problems and needs of the sector with regards to financial reporting</p> <ul style="list-style-type: none"> <li>• The capacities of Kosovo Tax Administration should be increased to properly understand and address the specific nature of work of CSOs</li> <li>• Tax authorities should draft “user-friendly” guidelines and provide trainings for CSO, so to assist all CSOs to comply with the reporting requirements</li> </ul>
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## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1.: Freedom of association

#### Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Legislation allows CSOs to engage in economic activities.</li> <li>2) CSOs are allowed to receive foreign funding.</li> <li>3) CSO are allowed to receive funding from individuals, corporations and other sources.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The legal framework allows CSOs to engage in economic activities</li> <li>• The legal framework allows CSOs to receive foreign funding</li> <li>• The legal framework allows CSOs to receive funding from individuals, corporations and other sources, although money laundering law limits the amounts of receipt and disbursement without prior authorization</li> <li>• The legal framework for custom tax exemptions is not clear and PBOs are not treated in a standard manner</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Custom tax exemptions should be made available to all PBOs and exemption procedures should be simplified</li> <li>• The limits for receipt and disbursement of funds in the money laundering law should be removed</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs.</li> <li>2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channeling such funds via specific bodies) on CSOs to receive foreign funding.</li> <li>3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• In practice, few CSOs engage in economic activities. 17.1% of the surveyed CSOs report that they are engaging in economic activities and 4.9% that face administrative difficulties while engaging in economic activities</li> <li>• CSOs are not familiar with obligations and limitations on economic activities and no legal advice is available</li> <li>• No restrictions on receiving foreign funding are reported, with exception of the money laundering law limitations and burdensome</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The period for VAT exemption for certain foreign funding should be extended urgently</li> <li>• VAT exemption procedure should be unified for all exempted donors, aiming to ease undertaking of such procedures from CSOs</li> <li>• Until the money laundering</li> </ul>

		<p>procedures</p> <ul style="list-style-type: none"> <li>• VAT exemption is provided based on the type of donor and different procedures are applied. Some procedures for its exemption are burdensome and difficult to implement.</li> <li>• The period on which certain foreign funds are exempted from VAT ended in 31<sup>st</sup> of December 2014 and its extension has still not been adopted by the Kosovo Assembly</li> <li>• For custom exemptions based on the types of donors the competence has been fully transferred to the Kosovo Customs and no “purchase order for relief” should be issues by the Kosovo Tax Administration</li> <li>• CSOs are free to receive funding from different private sources, with exception of the money laundering law limitations and burdensome procedures</li> </ul>	<p>law is amended, the competent authorities should inform all active CSOs with the current obligations</p>
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<b>Area 1: Basic Legal Guarantees of Freedoms</b>			
<b>Sub-area 1.2.: Related freedoms</b>			
<b>Principle: Freedoms of assembly and expression are guaranteed to everybody</b>			
<b>STANDARD 1</b>	<b>INDICATORS</b>	<b>FINDINGS</b>	<b>RECOMMENDATIONS FOR THE STANDARD</b>



<p>CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination.</li> <li>2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies.</li> <li>3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome.</li> <li>4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The legal framework guarantees all citizens of Republic of Kosovo the right to organize and participate in public gatherings</li> <li>• The legal framework has no legal provision regarding the right of assembly of those who are not citizens of Republic of Kosovo</li> <li>• The legal framework indirectly implies that counter-assemblies are not allowed</li> <li>• The legal framework requires for prior notification for public gatherings, except in those places where no additional security measures are required (stadiums, city halls, etc.) and/or closed premises. When no response is provided by authorities in due time, the public gathering can take place without any restriction</li> <li>• Any restriction following the notification for public gatherings can be appealed by organizers to court through a fast-track procedure</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The legal framework should be amended to explicitly allow the right of assembly also to non-citizens of Kosovo, as well as to allow counter-assemblies</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions.</li> <li>2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal.</li> <li>3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly.</li> <li>4) There are cases of freedom of assembly practiced by citizens and CSOs (individually or through</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• CSOs do not report any restriction of their right of assembly Public gatherings are usually organized in public squares, while other places are not common for organizing of public gatherings</li> <li>• Counter-assemblies are not common</li> <li>• Only 24.2% of the surveyed CSOs report to have been involved in organizing assemblies, and none of them have reported any restriction</li> <li>• During 2014, only one case of police intervention has been reported. Police has intervened during the protests organized by the students associations and supported by other CSOs, requesting the resignation of the Rector</li> </ul>	<p><b>Practice:</b></p>

	<p>their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly.</p> <p>5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants.</p> <p>6) Media should have as much access to the assembly as possible.</p>	<p>of University of Prishtina. Among the 33 arrested protesters, there were also civil society activists, including the director of a well-known CSO.</p> <ul style="list-style-type: none"> <li>In general, media has full access to the assemblies</li> </ul>	
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## Area 2: Framework for CSOs' Financial Viability and Sustainability

### Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors

#### Principle: CSOs and donors enjoy favourable tax treatment

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>Tax benefits are available on various income sources of CSOs</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs.</li> <li>The law provides tax benefits for economic activities of CSOs.</li> <li>The law provides tax benefits for passive investments of CSOs.</li> <li>The law allows the establishment of and provides tax benefits for endowments</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs</li> <li>The law provides tax benefits for related economic activities of CSOs up to “reasonable level of income”</li> <li>There are no explicit legal provisions for the treatment of passive investments of CSOs</li> <li>There are no legal provisions for establishing and operation of endowments</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>The legal framework should explicitly address the passive investments of CSOs</li> <li>The legal framework should regulate establishment and operation of endowments</li> <li>The draft law on donations and philanthropy should be</li> </ul>

			extended in scope, beyond culture, youth and sports
	<p>1) There is no direct or indirect (hidden) tax on grants reported.</p> <p>2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs.</p> <p>3) Passive investments are utilized by CSOs and no sanctions are applied in doing so.</p> <p>4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost</p>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• There are no reported direct or indirect tax on grants</li> <li>• In general, tax benefits for economic activities of CSOs are effective, although there are difficulties in reporting due to reporting procedures which are not specific to CSO work</li> <li>• Passive investments of CSOs are not common and only one of the surveyed CSOs has reported to generate income from passive investments.</li> <li>• There are no practices found of endowments established or operating in Kosovo</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Reporting procedures related to tax benefits of CSOs should be taking into account the specific nature of the work of CSOs</li> </ul>

**Area 2: Framework for CSOs' Financial Viability and Sustainability**

**Sub-area 2.2.: State support**

**Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner**

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects.</li> <li>2) There is an effective national level mechanism for distribution of public funds to CSOs.</li> <li>3) Public funds for CSOs are clearly planned within the state budget.</li> <li>4) There are clear procedures for CSO participation in all phases of the public funding cycle.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There is no law or national policy/document that regulates state support for CSOs</li> <li>• There is no national level mechanism for distribution of public funds to CSOs</li> <li>• Public funds for CSOs are not clearly planned within the state budget</li> <li>• There are legal provisions on the possibility for directing Lottery Funds for different social categories, human rights issues, culture and sports, but no procedure on that exists</li> <li>• There are no procedures for CSO participation in public funding cycle</li> <li>• The Council for implementation of the Government Strategy for cooperation with civil society has included identification of the model for public funding of CSOs as one of the priorities for 2015</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A comprehensive system on public funding should be initiated, based on the objectives of the Governmental Strategy for cooperation with civil society and the Action Plan for 2015</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Available public funding responds to the needs of the CSO sector.</li> <li>2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding.</li> <li>3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify.</li> <li>4) CSO participation in the public funding cycle is transparent and meaningful.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Public funding is available, but does not respond to the needs of the CSO sector</li> <li>• No government body has a mandate to distribute and monitor the distribution of state funding</li> <li>• Funding is not planned and predictable and the budget amount for CSOs is impossible to identify</li> <li>• No information for collection or disbursement of Lottery Funds exists</li> <li>• There is no CSO participation in public funding cycle</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Public funding for CSOs should be made transparent, regardless the comprehensive system of public funding</li> <li>• Public funding for CSOs should be planned in advanced and be predictable on annual basis</li> <li>• CSOs should be part of the drafting of the comprehensive system on public funding and its implementation</li> </ul>

**Area 2: Framework for CSOs' Financial Viability and Sustainability**

**Sub-area 2.2.: State support**

**Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner**

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>Public funding is distributed in a prescribed and transparent manner</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The procedure for distribution of public funds is transparent and legally binding.</li> <li>2) The criteria for selection are clear and published in advance.</li> <li>3) There are clear procedures addressing issues of conflict of interest in decision-making.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There is no specific procedure for distribution of public funding to CSOs</li> <li>• There are no standard selection criteria and different state institutions use different selection criteria</li> <li>• The only CSO specific procedures on addressing the conflict of interest are related to CSOs with public officials as Board members vis-à-vis state funding</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A comprehensive system on public funding should be initiated, based on the objectives of the Governmental Strategy for cooperation with civil society</li> <li>• The comprehensive system on public funding should have clear procedures on addressing the conflict of interest</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Information relating to the procedures for funding and information on funded projects is publicly available.</li> <li>2) State bodies follow the procedure and apply it in a harmonized way.</li> <li>3) The application requirements are not too burdensome for CSOs.</li> <li>4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance.</li> <li>5) The public funding is distributed in a transparent manner based on an open competition between eligible applicants.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Information on procedures and funded projects are publicly available only in rare cases</li> <li>• State bodies have no harmonized procedure that they apply</li> </ul> <p>There are no sufficient information to assess and report the application requirements</p> <ul style="list-style-type: none"> <li>• Most of the decisions on tenders are not transparent and no information on fairness and conflict of interest is available</li> <li>• Only a small portion of public funding is distributed in a transparent manner based on an open competition between eligible applicants.</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• All information on public funding should be public in an adequate and timely manner</li> <li>• Current application requirements should be public in all cases</li> <li>• Decisions on provision of public funds should be made by independent boards, which include also CSO representatives</li> </ul>

## Area 2: Framework for CSOs' Financial Viability and Sustainability

### Sub-area 2.3.: Human resources

**Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs**

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs are treated in an equal manner to other employers</p>	<p><b>Legislation:</b></p> <p>1) CSOs are treated in an equal manner to other employers by law and policies.</p>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• CSOs are treated in equal manner to other employers by law</li> <li>• CSOs have difficulties in implementing the provisions of the Labour Law on maternity leave, due to their specific nature of funding</li> <li>• The process of amendment of the Labour Law, initiated by the Ministry of Labour and Social Welfare in 2013, has been paused due to the institutional blockade of 2014</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The amendment of the Labour Law should include CSOs, in order to explore and address solutions on maternity leave for CSO employees</li> </ul>
	<p><b>Practice:</b></p> <p>1) If there are state incentive programs for employment, CSOs are treated like all other sectors.</p> <p>2) There are regular statistics on the number of employees in the non-profit sector.</p>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• CSOs are not treated in state incentive programs for employment.</li> <li>• A policy document on regulation of Social Enterprises has been initiated by the Ministry of Labour and Social Welfare and some CSOs have been invited to provide their comments on this process</li> <li>• In general, no regular statistics on the number of employees in the non-profit sector exist. A general number of those who pay income tax from the non-profit sector is available upon request by the Kosovo Agency of Statistics, although no adequate categorization of full-time employees, part-time employees and external</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• When designing employment policies, state should acknowledge that civil society is one of the sectors that generate employment, thus should be included in state incentive programs for employment</li> <li>• Kosovo Statistical Office, Ministry of Labor and Tax Administration should include CSOs as a statistical category on their</li> </ul>

		associates is available within this number.	employment statistics and publish all of these statistics
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**Area 2: Framework for CSOs' Financial Viability and Sustainability**

**Sub-area 2.3.: Human resources**

**Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs**

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>There are enabling volunteering policies and laws</p>	<p><b>Legislation:</b>            1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices.            2) There are incentives and state supported programs for the development and promotion of volunteering.            3) There are clearly defined contractual relationships and protections covering organized volunteering.</p>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Legislation stimulates volunteering only for youth, and registration of young volunteers is obligatory</li> <li>• There are very few incentives and state supported programs for development and promotion of volunteering for youth</li> <li>• There are obligations for contractual relationship and protection for organized volunteering for youth</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A comprehensive system on volunteering should be initiated, based on the objectives of the Governmental Strategy for cooperation with civil society, with inclusion of other fields beyond youth volunteering</li> </ul>

	<p><b>Practice:</b></p> <p>1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner.</p> <p>2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs.</p> <p>3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.</p>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• There are very few incentives and programs on youth volunteering and the volunteering provisions on youth are not implemented</li> <li>• A volunteering program by the Ministry of Culture, Youth and Sports has engaged 99 young volunteers over 3 years and provided them with certificates which serve to recognize this engagement as a work experience</li> <li>• A limited number of grants and support for projects on volunteering is provided by the Ministry of Culture, Youth and Sports. Only 2.4% of the surveyed CSOs are aware of this support.</li> <li>• A Working Group on Objective 4 (Volunteering) of the Government Strategy for cooperation with civil society has been established and is mandated to devise the policy options for improving the voluntary work in civil society sector</li> <li>• Administrative procedures for host organizations of young volunteers are complicated and burdensome for CSOs</li> <li>• Volunteering takes place in any form, mostly without any formal procedure</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Administrative procedures for host organizations of young volunteers should be simplified</li> </ul>
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**Area 3: Government – CSO Relationship**

**Sub-area 3.1.: Framework and practices for cooperation**

**Principle: There is a strategic approach to furthering state-CSO cooperation and CSO development**

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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<p>The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There are strategic documents dealing with the state-CSO relationship and civil society development.</li> <li>2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators).</li> <li>3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A Government Strategy for cooperation with civil society was adopted in July 2013, and has started with its implementation only by the end of 2014</li> <li>• The Governmental Strategy for cooperation with civil society includes strategic objectives and measures, as well as a specific action plan with allocation of responsibilities,</li> <li>• The Ministry of Finance has allocated the budget for implementation of this Strategy (137,960 EUR for 4 years)</li> <li>• The measures within the Governmental strategy for cooperation with civil society have been developed jointly with CSOs</li> <li>• A Declaration for cooperation between the Kosovo Assembly and civil society has been adopted in early 2014, and the content of this declaration has been developed in cooperation with CSOs active at the Assembly level.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A monitoring system for implementation of the Government Strategy for cooperation with civil society should be established as soon as possible</li> <li>• The Kosovo Assembly should build on the adopted Declaration to design concrete mechanisms of cooperation and involvement of CSOs in the work of the Assembly</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation.</li> <li>2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in the strategic document.</li> <li>3) The implementation of the strategic document is monitored, evaluated and revised periodically.</li> <li>4) State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• There were many CSOs from different areas of interest which participated in the phase of development of the Governmental Strategy for cooperation with civil society</li> <li>• The responsible bodies for implementation of this Strategy have been functionalized only by the end of 2014 and its implementation is expected to be initiated only by 2015. A detailed Action Plan for 2015 has been adopted by the Council for implementation of the Strategy</li> <li>• Due to absence of the Assembly during the major part of 2014, the Declaration for cooperation between the Kosovo Assembly and</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The political will for a proper implementation of the Strategy shall be increased</li> <li>• A more dynamic implementation of the Government Strategy for cooperation with civil society should be initiated by the Government</li> <li>• There should be intensive education and capacity-building activities for civil</li> </ul>

	into consideration the diversity of the sector.	<p>civil society has not produced any result still. A joint group with civil society is expected to be established during 2015 for designing specific activities for implementation of this Declaration.</p> <ul style="list-style-type: none"> <li>• The Governmental Strategy envisages continuous monitoring and periodic evaluation and revision. Monitoring system is planned to be established during 2015 and a revision of the Strategy is planned to take place by the end of 2015</li> <li>• The Governmental Strategy has been based on data collected mostly by CSOs</li> </ul>	<p>servants on the Government Strategy for cooperation with civil society and their role in implementation</p> <ul style="list-style-type: none"> <li>• Kosovo Statistical Office should cooperate with CSOs in collecting and publishing relevant data on civil society sector</li> </ul>
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### Area 3: Government – CSO Relationship

#### Sub-area 3.1.: Framework and practices for cooperation

**Principle: There is a strategic approach to furthering state-CSO cooperation and CSO development**

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p><b>Legislation:</b></p> <p>1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council).</p> <p>2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s).</p>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Office for Good Governance within the Office of Prime Minister has the mandate to facilitate cooperation between government and civil society</li> <li>• A Council for implementation of the Government Strategy for cooperation with civil society was established in 2014. Out of 29 members of this Council, 15 of them are civil society representatives. 14 of them are elected through open and democratic procedure while one is appointed by the CiviKos Platform</li> <li>• The Rules of Procedures of the Council oblige</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Office for Good Governance within the Office of Prime Minister should establish a specific unit for cooperation with civil society, with a specific mandate to facilitate government-CSO cooperation</li> </ul>

		<p>this body to consider all initiatives and comments received from CSOs, while there are other provisions which ensure a full participation of civil society in the work of this Council</p> <ul style="list-style-type: none"> <li>• A senior officer for cooperation with donors and civil society is part of the Secretariat of the Assembly.</li> </ul>	
	<p><b>Practice:</b></p> <p>1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society.</p> <p>2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s).</p>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• During 2014, the Office for Good Governance has recruited two officers to be engaged primarily in tasks related to implementation of the Strategy. It is still to be assessed whether this will create the sufficient capacities to serve as a fully-functional secretariat of the Council and complete all the tasks in implementation of the Strategy.</li> <li>• 61.5% of the surveyed CSOs declare that they did not cooperate with OGG while 33.3% of the surveyed CSOs declare to have participated in the information sessions or consultative meetings organized by OGG</li> <li>• Activities related to the implementation of the Strategy always involve and are consulted with CSOs</li> <li>• The senior officer for cooperation with donors and civil society of the Assembly of Kosovo has still not produced any significant improvement in the relations of civil society and the Assembly. 70% of the surveyed CSOs declare that they do not have any cooperation or have not heard for the civil society officer within Assembly, with the rest declaring cooperation at different levels and forms</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The Office for Good Governance should increase the quality of delivering its tasks as a Secretariat of the Council and other tasks in implementation of the Strategy</li> </ul>

**Area 3: Government – CSO Relationship**

**Sub-area 3.2.: Involvement in policy- and decision-making processes**

**Principle: CSOs are effectively included in the policy and decision-making process**

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner</p>	<p><b>Legislation:</b></p> <p>1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfill.</p> <p>2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions.</p> <p>3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work.</p>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Rules of Procedures of Government requires public consultations for all draft policies/laws, while Minimum Standards for Public Consultation are expected to be adopted during 2015.</li> <li>• The Law on Local Self-Government provides with instruments of citizen participation at local level decision-making</li> <li>• The Rules of Procedures of the Assembly provides with non-binding opportunities for CSO involvement in the work of Parliamentary Committees</li> <li>• Although part of the Government Strategy for cooperation with civil society, no no educational programs/trainings for civil servants on CSO involvement have been initiated to the date. Similarly, Kosovo Institute for Public Administration has no training modules on public consultation or cooperation with civil society</li> <li>• With exception of general offices/officers for cooperation in the Government and Assembly, line ministries and other public institutions have no internal regulations which require for specific units/officers to coordinate, monitor and report CSO involvement in their work</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The normative act on Minimum Standards for public consultations at government level should be adopted and implemented</li> <li>• The requirements for involvement of CSOs should include the entire cycle of decision-making, starting from agenda-setting to reformulation</li> <li>• The Assembly should devise obligatory requirements for involvement of CSOs in the work of the Parliamentary Committees</li> <li>• Public institutions should appoint specific units/officers for CSOs involvement and design related capacity building programs for their staff</li> </ul>

	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage.</li> <li>2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond.</li> <li>3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included.</li> <li>4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training.</li> <li>5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Public institutions, in particular line ministries, invite CSOs to provide with written comments on draft laws/policies in many cases, although rarely at an early stage.</li> <li>• Most of the municipalities do not involve civil society at regular basis and many of the existing legal instruments are not properly functionalized.</li> <li>• The Assembly of Kosovo has been non-functional during most of 2014; otherwise in normal circumstances Parliamentary Committees organize public hearings only for some draft-laws in process.</li> <li>• CSOs are provided with adequate information on the content of draft documents occasionally, and the usual time to respond on Ministerial invitations is 15 working days</li> <li>• Written feedback on the results of consultations is provided or made publicly available on rare cases</li> <li>• Although there are no official data, most of the surveyed CSOs think that few civil servants in charge drafting public policies have successfully completed any educational program/training on CSO involvement</li> <li>• There are no units/officers coordinating and monitoring public consultations</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Ministries should invite CSOs to provide with written comments at early stages of drafting the initiatives</li> <li>• Ministries should use the recommended format for written consultations, with adequate information for the content of the draft document</li> <li>• Parliamentary Committees shall organize public hearings for all draft-laws in the process</li> <li>• The obligation for feedback should be implemented by the government</li> <li>• Government should cooperate with civil society in building capacities of civil servants in CSO involvement</li> </ul>
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**Area 3: Government – CSO Relationship**

**Sub-area 3.2.: Involvement in policy- and decision-making processes**

**Principle: CSOs are effectively included in the policy and decision-making process**

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions.</li> <li>2) There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Existing legislation, allows, but does not oblige public institutions to invite CSO representatives on to decision-making or advisory bodies created by public institutions</li> <li>• There are no selection mechanisms or standard guidelines of representation from civil society. Some advisory bodies use tailor-made selection mechanism for representation from civil society</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Rules of Procedures of the Government and Law on Local Self-government should be amended so to oblige public institutions to invite CSO representatives in decision-making/advisory bodies</li> <li>• General selection mechanisms should be designed by the Government, so to allow all public institutions to apply them with specific adaptations</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives.</li> <li>2) CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned.</li> <li>3) CSO representatives are selected through selection processes which are considered fair and transparent.</li> <li>4) Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• There are a number of decision-making and advisory bodies on different issues which include CSO representatives</li> <li>• CSO representatives in these bodies generally are free to present and defend their positions, without being sanctioned</li> <li>• Few decision-making and advisory bodies have selected CSO representatives through an open selection process, such as the Council for implementation of the Government Strategy for cooperation with civil society</li> <li>• CSOs participating in decision-making and advisory bodies generally are free to use alternative ways of advocacy which are not in</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Invitation and selection of CSO representatives in decision-making and advisory bodies should be public and transparent in all cases</li> <li>• The model of selection of civil society representatives in the Council for implementation of the Strategy shall be considered for adaptation for all decision-making and advisory bodies</li> </ul>

		line with the position of the respective body	
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Area 3: Government – CSO Relationship			
Sub-area 3.3.: Collaboration in service provision			
Principle: There is a supportive environment for CSO involvement in service provision			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSOs are engaged in different services and compete for state contracts on an equal basis to other providers	<p><b>Legislation:</b></p> <p>1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services.</p> <p>2) CSOs have no barriers to providing services that are not defined by law (“additional” services).</p> <p>3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers.</p>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• General legislation allows CSOs to provide services in various areas, and specific legislation allows CSOs to provide social services</li> <li>• There are hidden legal barriers in general legislation which in some cases prevent CSOs to be eligible for service provision contracts (i.e. requirement for business registration certificate)</li> <li>• There are no additional legal requirements for CSOs in comparison to other service providers,</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Public Procurement Law should be amended so to allow NGO registration certificates to be accepted, same as business registration certificates</li> <li>• The service provision system should be reformed and opened for CSOs at all</li> </ul>

		<p>although the general requirements are not in line with specific nature of work of CSOs, in exception of social service provision where specific nature of work of CSOs is part of the legislation</p>	<p>sectors, as required with the Government Strategy for cooperation with civil society</p>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training).</li> <li>2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation).</li> <li>3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• There are few CSOs which are able to obtain contracts, mostly in social services and areas where no other service providers exist</li> <li>• CSOs are included only in some stages of developing and providing services</li> <li>• Registration and licensing is required for all social services, and the procedure for obtaining that is equal to other service providers.</li> <li>• Based on a number of structural and professional standards set recently, licensing of individuals has been initiated, while licensing of CSOs that provide social and family services is due to start during 2015.</li> <li>• The decentralization of social services has been agreed between central and local governments, but no concrete results have been reported from this process</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• CSOs should be included in all stages of developing and providing services</li> <li>• New legal basis for licensing of social services and providers should be in line with the principles set in the Governmental Strategy for cooperation with civil society</li> </ul>



# 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 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 Laundering 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 Lw 03/L-162)
- Law 03/L-161 on Personal Income Tax (including Law 04/L-104 on amending the law 03/L-161)
- 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 2013
- Law 04/L-051 on prevention of the conflict of interest in exercising the public function
- Law 04/L-042 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 08/ 2010 on implementation of Law 03/L- 162 on Corporate Income Tax
- Administrative Instruction 12/2010 on informal education of youth
- Administrative Instruction 04/2011 for providing and ensuring financial support to local NGOs for 2011
- Administrative Instruction 2008/09 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 2013
- Code of Ethics of Kosovo Press
- Kosovo Statistical Office reports for census 2012
- Governmental Strategy for Cooperation with Civil Society
- Governmental Yearly Report on Access to Public Documents 2012
- The Annual Report for the right of access to public documents for 2013, Office of Prime Minister 2014
- Ombudsperson Ex-officio Report 28/2012 on the developments during the protests of 14th and 22nd of January 2012
- Annual Report of Kosovo Tax Administration for 2012
- Annual Report of Kosovo Judicial Council for the statistics of regular courts for 2012
- Freedom House "Freedom in the world" report for Kosovo
- South East Europe Media Organisation (SEEMO) Report for Kosovo,
- Civil Rights Defender reports,
- 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
- Association of Professional Journalists of Kosovo reports
- Internet penetration and usage in Kosovo – Kosovo Association of Information and Communication Technology (STIKK), 2013
- Kosovo Security Studies Center report on Telecommunication Monitoring
- IPKO Foundation Financial Statements for the year ended on 31 December 2012 (audit report)
- Transparency Index 2012 for public institutions in Kosovo, Fol Movement
- Statistical Business Register 2013, Kosovo Agency of Statistics
- UNDP Public Pulse, Volume VIII, November 2014
- 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. Arhim Ajazi, Municipality of Prizren
2. Albert Krasniqi, KIPRED
3. Bajram Kosumi, Ministry of Public Administration
4. Bujar Haziri, Municipality of Gjilan
5. Blerim Krasniqi, Kosovo Customs
6. Donika Gashi, Ministry of Culture, Youth and Sport
7. Enis Spahiu, Ministry of Finance
8. Engelbert Zefaj, Municipality of Peja
9. Flutura Blakçori, Financial Intelligence Unit
10. Faton Morina, Ombudsperson Institution of Kosovo
11. Hajriz Koca, Municipality of Skenderaj
12. Irfan Qajani, Municipality of Hani i Elezit
13. Kaltrina Sylejmani, Municipality of Vitia
14. Leunora Ahmeti, Ministry of Labour and Social Welfare
15. Miranda Mullafazliu, Municipality of Prishtina
16. Meriton Ferizi, Municipality of Gjakova
17. Muhamet Kastrati, Kosovo Agency of Statistics
18. Muhamet Gjocaj, Ministry of Labour and Social Welfare
19. Petrit Baliija, Kosovo Banking Association
20. Sami Salihu, Tax Administration of Kosovo
21. Shqipe Krasniqi, The Assembly of the Republic of Kosovo
22. Shpend Emini , D4D
23. Trendelina Dreshaj, Office of Good Governance
24. Teuta Kuqi Maloku, Kosovo Institute for Public Administration
25. Valbona Salihu, NORMA
26. Valdete Krasniqi, Kosovo Customs

# Annex 2 – List of interview questions

## **Kosovo Tax Administration**

- Is there any change in reporting legislation/practice for NGOs to Kosovo Tax Administration? If yes, which are the changes?
- Is there any case of passive investments or endowments in Kosovo that you are aware of?
- Is there any guideline for reporting procedures for NGOs? Did you conduct any training for tax inspectors on addressing NGO specificities during their work?

## **Ministry of Public Administration – NGO Department**

- Which are the practical implications of the Article 18 of the Administrative Instruction for NGOs? Which is the legal basis for Article 18?
- Did you draft the Regulation for functioning of the Commission for Distribution of remained Assets of the terminated NGO? Is there any case where this Commission has been established and functional?
- Which are the main developments related to your initiative to amend the NGO Law and harmonize it with the Anti-terrorism Law?

## **Legal Office – Office of Prime Minister<sup>40</sup>**

- Which are the practical implications of the Article 18 of the Administrative Instruction for NGOs? Which is the legal basis for Article 18?
- Is there a budget allocation for implementation of the Government Strategy for cooperation with civil society? If yes, which is the total amount?
- Did the activities on Objective 4 – Volunteering start to be implemented?
- Did the government conduct any training for civil servants for the Strategy implementation? How do you assess their capacities to conduct and lead public consultation processes, as required with the Rules of Procedures of the Government and Guidelines on Public Consultation? Did the government conduct any training for legal officers on public consultation process?
- Do you require from the leading legal officers to assess the contributions received within public consultation process and sharing the assessment with parties that have provided comments?
- Is there any change in the mandate of the Office for Good Governance? If yes, which are the specific changes with regards to facilitation the cooperation with CSOs? Is there any assigned staff to be tasked with this cooperation?
- Which are the main developments on drafting the Minimum Standards for public consultation process?
- Are there any responsible officers/units (within Ministries) mandated with coordination, monitoring and reporting on the public consultation process?
- How do you invite CSOs and which are the selection mechanisms for representatives of civil society in advisory bodies of the government?

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<sup>40</sup> KCSF researchers were not able to set an interview or receive written responses from the Legal Office of the Office of Prime Minister, despite numerous attempts.

### **Office for Good Governance – Office of Prime Minister**

- Did the activities on Objective 4 – Volunteering start to be implemented?
- Is there a budget allocation for implementation of the Government Strategy for cooperation with civil society? If yes, which is the total amount?
- Did the government conduct any training for civil servants for the Strategy implementation and increasing their understanding for civil society sector?
- Is there any change in the mandate of the Office for Good Governance? If yes, which are the specific changes with regards to facilitation the cooperation with CSOs? Is there any assigned staff to be tasked with this cooperation? If yes, which will be the specific tasks of the hired staff? Which is the experience and qualifications of the hired staff? Do they have any previous experience in working with NGOs?
- Did you appoint the contact points for Strategy implementation in line ministries?
- How do you invite CSOs and which are the selection mechanisms for representatives of civil society in advisory bodies of the government?
- Is there any example of implementation of any specific Strategy measure/activity?

### **Ministry of Finance**

- Which are the main developments on public funds for CSOs?
- Which is the amount of funds disbursed to CSOs from the Kosovo Budget during 2014?
- Based on which procedures are these funds disbursed? Do you publish the awarded grants/contracts?
- Is there a budget allocation for implementation of the Government Strategy for cooperation with civil society? If yes, which is the total amount? If yes, how much is the spending during 2014?
- Was there any change in the Public Procurement Law?
- Which is your interpretation of the Article 65.4.11 of the Public Procurement Law, which states that the only certificate to be accepted is the business certificate? Does this prevent NGOs to tender and receive contracts from public funds? Which is the legal basis for contracting NGOs? Is there any plan to amend the Public Procurement Law and/or addressing this issue?

### **Financial Intelligence Unit**

- Which are the last developments on the amendment of the Anti-terrorism Law? Which are the main changes related to NGOs which are planned?
- Which is the number of NGOs requiring prior permission for receiving/dispersing funds, as per Article 24.1 and 24.2? Is there any sanction applied for NGOs not respecting these requirements?

### **Kosovo Customs**

- Is there any change in the customs legislation for NGOs? Is there any change in practice of work?

### **Ombudsman Institution**

- Is there any reported case of restriction of the right of assembly for NGOs? If yes, can you provide the details?

### **Ministry of Culture, Youth and Sports**

- Which are your procedures for funding NGOs? Do you publish the awarded grants? Which are the budget lines for these funds?
- Which are the procedures for recognition of the voluntary work? Are these procedures implemented? Which are the benefits for young volunteers? Is the young volunteers' registration system functional? How does it function? How many volunteers did you register?
- Are you aware of any other program (except within your Ministry) which promotes the voluntary work?
- Did you assign any officer for cooperating with civil society?

#### **Municipalities**

- Did you provide any funds for NGOs during 2014? If yes, what is the amount? If yes, which are the selection criteria? How was the decision taken? Do these NGOs report for the public funds? Do you have any reporting template? Which is the budget line for these funds?
- Did you assign any officer for cooperating with civil society?

#### **CSOs**

- Do you face any difficulty in implementing the legal provisions on Maternity Law?
- Do you face any difficulty in implementing the legal provisions on Anti-terrorism Law?
- Are you aware of any development within the Kosovo Assembly on cooperation with civil society? Do you have access in the work of the Parliamentary Committees? Are public hearings conducted for every law in procedure? Did you notice any effect from the work of the civil society officer of the Kosovo Assembly?

#### **Kosovo Statistical Agency**

- Are there any specific statistics for NGOs? Are there any statistics for the number of employees in NGO sector?

#### **Ministry of Labour and Social Welfare**

- Which is the current phase of the amendment process of the Labour Law? Which are the expected changes?
- Do you have any program for employment generation? Are CSOs part of this program?
- Did you adopt the Administrative Instruction on licensing the services and service providers?

#### **Kosovo Institute for Public Administration**

Do you have any training module/curriculum on public consultation process? Is there any initiative to develop such a module/curriculum?

## Annex 3 – Organizational survey questionnaire

**Question 1:** Name of the organization:

**Question 2:** Name and surname of the respondent:

**Question 3:** Position in the organization of the respondent:

**Question 4:** Two main fields of operation of the organization:

**Question 5:** Location of the organization (city/municipality):

**Question 6:** Telephone number:

**Question 7:** Email of the organization:

**Question 8:** Number of staff employed in the organization (mark the number):

**Question 9:** Has the state interfered (directly and indirectly) in your organization`s internal matters (eg. excessive audits, targeted inspections, pressures etc.):

**Question 10:** During 2014, have you had any visit from an inspecting body/authority?

**Question 11:** According to the state measures against money laundering and the financing of terrorism, the obligations of NGOs are:

**Question 12:** Does your organization engage in direct economic activities, and if so, do the regulations for such activities present any difficulties?

**Question 13:** Does your organization receive funds from private/corporate individuals or companies?

**Question 14:** What has been the reason for receiving funds from:

**Question 15:** From which incentives has your organization benefited during 2014 (circle all that are applicable)?

**Question 16:** Does your organization have a Public Benefit Status?

**Question 17:** During 2014, have you had any limitation by the state in organizing peaceful rallies/protests?

**Question 18:** Does your organization generate income from passive investments? (Income from passive investments is considered that income that is generated from the organizations assets in which the organization does not have an active involvement in their management (i.e. rent, dividends from the ownership of a joint stock company, interest from bank deposits, etc.)

**Question 19:** Does your organization generate income from investment funds? (Investment funds represent the investment of assets/capital of the organization, where the organization operates only through the income that is generated by this investment)

**Question 20:** How would you evaluate the availability of public/state funds for the support of the civil society in Kosovo?

**Question 21:** How would you evaluate the distribution of public funds for the civil society?

**Question 22:** In your field of activity, are there regular calls for proposals (at least once a year) by relevant state bodies for public funds?

**Question 23:** Do relevant public institutions consult you during the decision-making process of priorities for public funds?

**Question 24:** Has your organization benefited from public funds during 2014?

**Question 25:** When you applied for public funds, the application process has been:

**Question 26:** Have the final results of the process (fund beneficiaries, names and project sums, etc.) been published?

**Question 27:** According to your evaluation, how stimulating are governmental policies directed at employment in the civil society sector?

**Question 28:** Are you aware of the existence of any state programme in support of volunteering?

**Question 29:** Your cooperation with governmental offices for civil society is:

**Question 30:** How would you evaluate the standard of inclusion of the civil society in the process of drafting of laws and policies?

**Question 31:** How would you evaluate the level of inclusion of the civil society in the decision-making process?

**Question 32:** During 2014, has your organization been engaged in the drafting of a public policy, law or municipal regulation?

**Question 33:** List all laws/policies/strategies/other acts in drafting of which your organization has actively participated (consultations, task forces, roundtables organized by relevant institutions, etc.):

**Question 34:** How were you informed on the beginning of a drafting process of a law/policy? (circle all applicable answers)

**Question 35:** During consultations, in what form have you received draft laws/policies:

**Question 36:** Has the Ministry contacted you after the reception of your comments:

**Question 37:** Your participation in the preparation of laws/policies has been:

**Question 38:** How would you evaluate the participation of the civil society in cross-sectorial bodies?



**Question 39:** How often do you communicate (exchange of information/documentation, joint activities, meetings) with public institutions relevant to your activities?

**Question 40:** Does your organization provide services to certain groups of beneficiaries? (Commercial and consulting services excluded)

**Question 41:** How would you evaluate CSO public service contracting procedures?

**Question 42:** Your organization provides services:

**Question 43:** Your organization covers expenses for the provision of services with:

**Question 44:** Is the registration/licensing procedure for the provision of services complicated?

**Question 45:** Public services are regulated by:

**Question 46:** Has your organization been included in all the phases of development and provision of public services (needs assessment, implementation, oversight and evaluation)?