

Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:
Kosovo
2019





FONDACIONI KOSOVAR PËR SHQËRI CIVILE
KOSOVAR CIVIL SOCIETY FOUNDATION



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Country Report for Kosovo 2019

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List of abbreviations

BCSDN	Balkan Civil Society Development Network
CSO	Civil Society Organization
MM	Monitoring Matrix
AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism
CSR	Corporate Social Responsibility
DNGO	Department for Non-Governmental Organizations
KCSF	Kosovar Civil Society Foundation
KIPA	Kosovo Institute for Public Administration
TAK	Tax Administration of Kosovo
NGO	Non – Governmental Organization
OPM / OGG	Office of Prime Minister / Office of Good Governance
PBO	Public Benefit Organization
PBS	Public Benefit Status

Introduction

Kosovar Civil Society Foundation (KCSF) and the Balkan Civil Society Development Network are pleased to present the fifth edition of the *Monitoring Matrix on Enabling Environment for Civil Society Development*, covering developments in Kosovo in 2019.

This report is part of a series of country reports covering seven countries in south eastern Europe: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia and Turkey. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country at www.monitoringmatrix.net.

The Monitoring Matrix, developed in 2013 by BCSDN with support of its members, partners, ICNL and ECNL, 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-areas¹:

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

The principles, standards and indicators 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 the optimum conditions for civil society to function and develop effectively. At the same time, it aims to define a realistic framework that can be followed and implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators are enumerated to monitor both the existing legal framework and its practical application².

In addition to on-going in-depth and qualitative monitoring, in 2015 an assessment of the enabling environment was introduced, with an environmental categorization ranging from 'fully disabling' to 'fully enabling'. The system was created in order to address the need for 'compressed' and effective visual communication of findings and capacity for a systematic presentation of changes in the enabling environment for CSDev across countries and years. It does not replace, but complements the qualitative assessment, as the narrative country reports are the basis on which the categorization is conducted.

The research conducted under the MM aims to provide for shadow reporting on the enabling environment for CSDev and to influence EU Enlargement policy and funding support for sustainable and strategic development of the sector.

¹. As a research tool for measuring the health of the legal, regulatory, and financial environment in which CSOs in WBT operate, the Matrix aims to respond to the need of CSOs to have evidence-based research products and capacities to advocate for policy changes towards a more enabling civil society environment.

². For these purposes, within the findings part, the report further makes references and correlations to the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020.

Acknowledgments

KCSF's work in collecting and analyzing the data for this report was based on a team effort, which included the major part of its staff, and was built based on the outcome of its projects and initiatives. Therefore, the contribution of every member of KCSF team is highly acknowledged.

In addition, KCSF would like to express its gratitude to all those CSOs, representatives of public institutions and donors, as well as to other sectors who have provided their opinions and thoughts through surveys and interviews, as well as through requests for public information/documents. The information collected from relevant actors to civil society work in Kosovo was crucial to cover the entire scope of this matrix. Finally, KCSF acknowledges the support provided by BCSDN Executive Office as very helpful to put the entire information within a clearly defined format, which is comparable regionally while providing sufficient space for country specific information.

Background - Country overview

The year 2018 was characterized by political instability in Kosovo. The government led by Prime Minister Ramush Haradinaj lacked a parliamentary majority, meaning that many Assembly meetings were over before they could start due to a lack of quorum. As a result, between April and June, around 60 agenda items were not considered and were postponed to later Assembly meetings. The government's agenda during the year was entirely focused on two controversial issues: the dialogue with Serbia for the normalization of the relations between two countries and the border demarcation with Montenegro. Areas directly related to the welfare of citizens like rule of law, economic development, the fight against corruption and organized crime received low attention. In addition, the public discourse was dominated by an idea put forward by Kosovo's then-president Hashim Thaçi about border correction between Serbia and Kosovo. This proposal has sparked strong condemnation from opposition political parties and the general public in Kosovo.

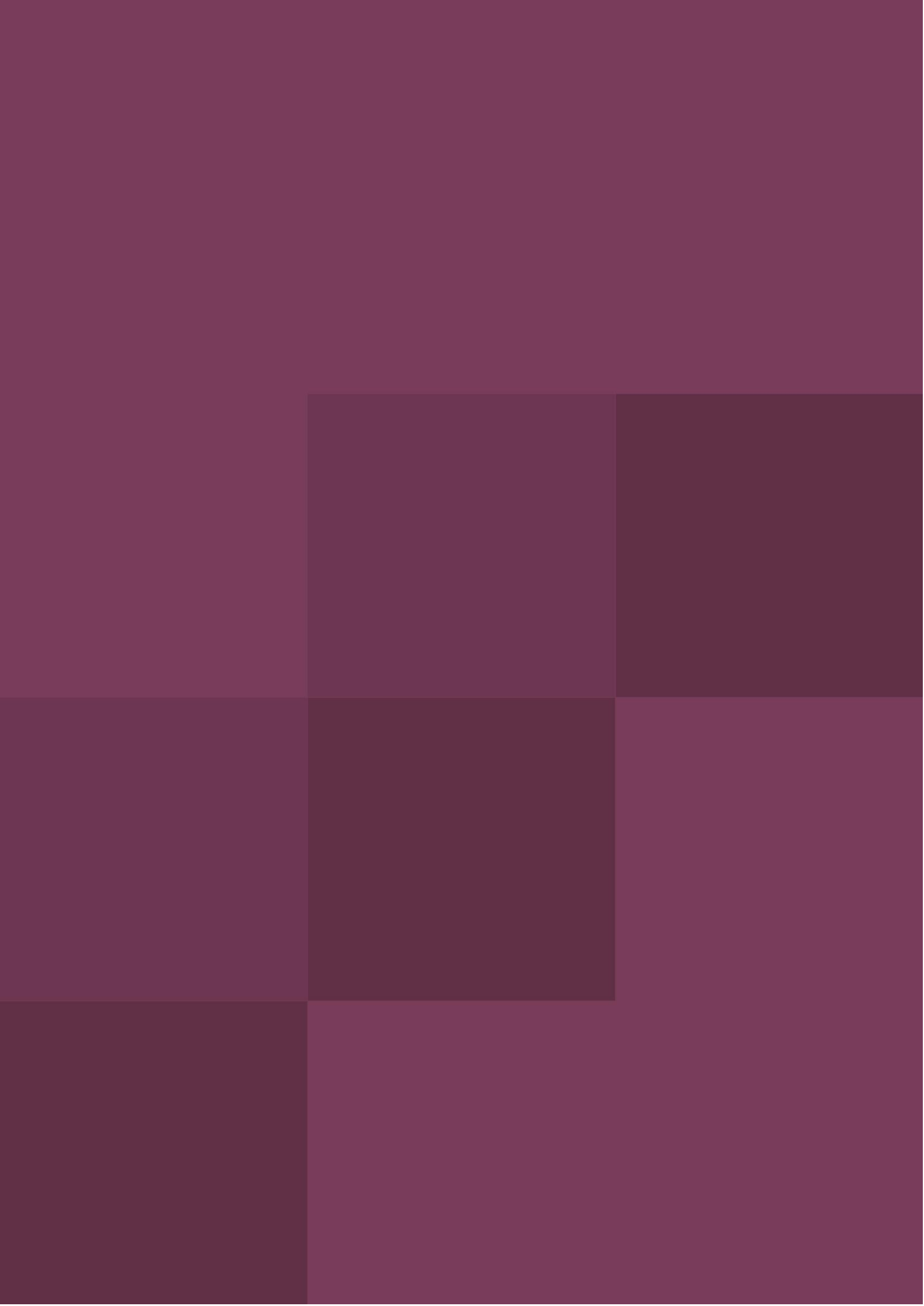
Kosovo's GDP in 2018 was €6.7³ billion, the second lowest in the western Balkan countries. Kosovo's GDP per capita is EUR 3.64⁴, ten times lower than the EU average. The average monthly wage is €360, and growth is dependent on remittances from the diaspora, with around 80% of foreign direct investment coming from Kosovans overseas. Unemployment is around 30% and youth unemployment is over 50%. Kosovo has the lowest average age in Europe, but the economy generates only half the number of jobs annually needed for the young people entering the workforce.⁵

A Stabilization and Association Agreement between the Kosovo and the EU is in force since 2016, and in November of the same year the EU launched a 'European Reform Agenda'. However, successive governments have been slow to implement activities that would accelerate the European integration process. On the other hand, the ratification of border demarcation agreement with Montenegro in 2018 removed the final block within Kosovo for visa-free access to the border-free Schengen zone. In this regard, the European Commission confirmed that Kosovo has fulfilled all the criteria required for visa liberalization set by the European Council. Despite the fact that civil society found itself operating under unfavorable political circumstances which affected the advocacy processes due to the Parliament's lack of quorum, still a few positive developments were noted. The Financial Intelligence Unit started sectoral risk assessment regarding terrorist financing, upon the civil society's long-standing insistence. The government published an annual report on its public consultation processes. Despite the drawbacks that the entire public consultation process entails, the report represents a positive step towards further improving the participatory policymaking process.

³ The World Bank, 2018.

⁴ The World Bank, 2018.

⁵ MacDowall, 2020.



Executive summary

Civil Society Overview

	2018	2019
Number of registered organizations (per type)	Registered: 541 Associations: 508 Foundations: 32	Registered: 569 Associations: 513 Foundations: 32
Main civil society laws	<p>The law on:</p> <ul style="list-style-type: none"> • Protection of whistleblowers • Social enterprises <p>Secondary legislation:</p> <ul style="list-style-type: none"> • Minimum Standards on Public Consultation in municipalities 	<p>The law on:</p> <ul style="list-style-type: none"> • Freedom of association in NGOs • Access to public documents <p>Strategy on:</p> <ul style="list-style-type: none"> • Government – CSOs cooperation 2019 – 2023
Relevant changes in legal framework	<p>Draft laws on:</p> <ul style="list-style-type: none"> • Freedom of association in NGOs • Labor • Maternity leave • Access to public documents <p>Concept documents on:</p> <ul style="list-style-type: none"> • Public gatherings • Volunteering 	<p>Draft laws on:</p> <ul style="list-style-type: none"> • Labor • Maternity leave <p>Concept documents on:</p> <ul style="list-style-type: none"> • Public gatherings • Volunteering • Family and social services
State funding (for the previous year) (key bodies and amounts)	<p>Public funds distributed to CSOs Government's report v. KCSF's analysis:</p> <p>Total in Mill: €24 v. €9 Government in Mill: €13 v. €7 Municipalities in Mill: €8 v. €2</p>	<p>Public funds distributed to CSO's Government's report v. KCSF's analysis</p> <p>Total in Mill: €21 v. €7 Government in Mill: €14 v. €6 Municipalities in Mill: €7 v. €1</p>
Human resources (employees and volunteers)	<p>3,729 employees have continuously paid contributions in the past 12 months: 6,762 employees have more than one occupation, one of them being in the CS sector: Volunteers: 5,104</p>	<p>4,009 employees have continuously paid contribution in the past 12 months: 9,533 employees have more than one occupation, one of them being in the CS sector: Volunteers: 10,000</p>

<p>CSO-Government Cooperation (relevant and new body: consultation mechanism)</p>	<ul style="list-style-type: none"> • The online Platform for Public Consultation • The Office of Good Governance • Kosovo's Assembly Media and Mass Communication Department • Kosovo's National Council for European Integration 	<ul style="list-style-type: none"> • The online Platform for Public Consultation • Kosovo's Assembly Media and Mass Communication Department • The Council for Implementation of the Government Strategy for Civil Society Development • The Office of Good Governance • Kosovo's National Council for European Integration
<p>Other key challenges (e.g. lack of official data related to CS)</p>	<ul style="list-style-type: none"> • Lack of official data on the civil society sector, especially related to the economic value of the sector 	<ul style="list-style-type: none"> • Lack of official data on the civil society sector especially related to the economic value of the sector

Key findings

There have been several positive developments regarding the legal framework on the enabling environment for civil society development in Kosovo. The Law on Freedom of Association, the Regulations on Public Funding for NGOs and the Public Consultation Process, as well as the Strategy for Cooperation with Civil Society have marked initial steps of an attention shift from public authorities towards improving legislation for civil society development. Nevertheless, there is room for improvement, especially more effort and resources must be put to increase public officials' capacities and build implementation mechanisms, as well as improve implementation and monitoring of existing legal framework and strategies.

Key findings of the report

1.	The amendment of the Law no.06/L-043 on Freedom of Association in CSOs has introduced institutes as the third legal form to register an organization. Additionally, it has expanded protection against the state's interference in internal matters of CSOs, and has reduced organizations' registration period from 60 to 30 days. The list of Public Benefit activities has also been extended to: human rights protection and promotion, support to democratic practices and civil society, consumer protection, and refugee assistance and support, while all NGOs are obliged to complete their financial transactions through the bank,
2.	Legislation on the Prevention of Money Laundering and Combating Terrorist Financing is not in line with FATF Recommendations and the EU Directive 2015/849. It regards CSOs as reporting entities and subjects them to burdensome requirements. CSOs have reported difficulties when accessing banking services such as: the mandated physical presence of an organization's founders when opening, updating, or closing a bank account and non-linear account maintenance fees levied by commercial banks.
3.	During the year, two initiatives with the intention to limit the freedom of expression were noted. Kosovo's Prosecutorial Council adopted a regulation stating that its officials may communicate with media and journalists only when the chief prosecutor is notified in advance. On the second occasion, the Independent Media Commission initiated drafting a policy that forbids reporting from court rulings of public officials until the final ruling.
4.	Regulation no. 04/2017 governing the Criteria, Standards and Procedures on Public Funding for CSOs has not been fully implemented three years after it came into force. There is an increase of public calls for proposals also the report on public funds distributed to CSOs is annually published. Still, the latter despite the fact that contributes in building a culture of transparency, among CSOs beneficiaries incorrectly lists other legal entities as well. Whereas, the other requirements such as monitoring and evaluation of public funds have hardly started to be implemented.
5.	The new Strategy Governmental Strategy for Cooperation with Civil Society 2019 – 2023 has entered into force in February 2019. Its objectives include: increasing public servants capacities and implementation mechanisms over implementation of the Regulation on minimum standards for public consultation and the Regulation on Public Funding for CSOs, improving the system of public service provision by CSOs and increasing volunteering in public interest programs.
6.	Entry into force of the Regulation no.05/2016 on Minimum Standards for Public Consultation, has established a set of standards and a systemic procedure for public consultation process. Yet, practice shows that not all elements set by the Regulation that make a public consultation process complete and effective are taken into consideration. Although characterized by the lack of systemic standards and criteria to conduct public consultation, the recent adoption of the Administrative instruction on public consultation in municipalities marks an important step.

Key recommendations

While a number of the areas need improvement in terms of legislation, the rest require proper implementation of already adopted regulations. The significant improvements in the regulatory framework in the NGO Law, public consultation and public funding areas can be sustainable only if sufficient capacities and resources are ensured by the government. Continuous efforts to draft supportive legislation on civil society development and ensure proper implementation in practice remains a huge challenge for both civil society and the public sector. This is due, in particular, to the limited number of institutions and CSOs working in this field.

Key recommendations of the report

1.	The Department for NGOs should draft by-laws of the NGO Law with the involvement of NGOs. Moreover, DNGO should increase its capacities in order to properly implement its mandate. Its staff should be trained about the international principles of freedom of association and the new provisions included in the recently adopted law on NGOs.
2.	The Financial Intelligence Unit, the Ministry of Finance and the Central bank should draft and adopt the specific regulatory framework on banks and CSOs based on FATF recommendation 8, respectively sectoral risk assessment so to allow unhindered financial services for CSOs and encourage bank transactions within CSO financial operations.
3.	The Ministry of Finance and the Tax Administration should address the specificities of CSOs in primary legislation as well as reporting forms. These should be harmonized with the NGO Law to provide specific benefits to CSOs. Capacities of civil servants should be increased so that administrative procedures regarding tax exemption for CSOs and donors runs more effectively.
4.	The Ministry of Finance, together with the other budgetary organizations at the central and local level should work on increasing transparency regarding public funds distributed to NGOs, with a focus on monitoring and evaluation. The system of data maintenance in terms of beneficiaries and amounts distributed to NGOs should be improved also capacities of public officials to fully implement requirements derived from the Regulation on public funds should be increased further.
5.	The Office for Good Governance in the Office of Prime Minister (OGG OPM) should allocate a specific budget and increase its human capacities for proper implementation of the Strategy for cooperation with civil society. Additionally, the evaluation methodology of the Strategy implementation should be updated so to allow for an comprehensive and accurate data presentation.
6.	Central level institutions should ensure that public consultation processes are organized entirely in accordance with the standards specified by the Regulation on public consultation. The percentage of draft policies and laws present in the criteria for an effective public consultation should be increased. Besides an online platform for public consultation, other means of consultation should be utilized as to allow a wider access from CSOs and general public. Last, building on the positive attitude and willingness of a number of civil servants, capacities of civil servants for the implementation of the Regulation, in general, should be strengthened while CSO should continuously monitor its implementation. For the local level, the Ministry of Local Government Administration (MLGA) and the municipalities should work on fully operationalizing the implementation of minimum standards for public consultation at the local level, while also undertaking a public information campaign promoting available opportunities for citizens and CSOs.

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

1.1.1. Establishment of and Participation in CSOs

Enabling environment is the category assigned indicated by this standard's findings.

Freedom of association is guaranteed by Article 44 of the Constitution of Kosovo. Law no.06/L-043 on freedom of association in non-governmental organizations was recently amended and entered into force during the second quarter of 2019. The drafting process was characterized by civil society efforts to ensure its alignment with best international standards and practices. The NGO Law guarantees the right to associate in three legal forms: associations, foundations and institutes. The *Institute* was just recently introduced as a legal form, and therefore a deadline of one year was provided for existing organizations wishing to change their legal form.

Secondary legislation defining the registration and operation of institutes is in the drafting process. Association into trade unions, political parties, religious communities, etc. is regulated by specific laws. In 2018, a new Law no.06/L-22 on social enterprises entered into force. To obtain the status of a Social Enterprise, legal persons should apply to the Ministry of Labor and Social Welfare. The law determines that social enterprises are allowed to assign up to 30% of their profit for staff's salaries. Nevertheless, civil society organizations claimed that there are no actual benefits on this law. It prescribes a very limited range of field of activities, sets time – consuming registration procedures and lacks a clear definition what is a social enterprise. Neither law contains any restrictive provisions that would require organizations to operate only in certain areas, nor does either limit the number of organizations which can operate for similar purposes.

Freedom of association applies equally to individuals and legal entities that want to establish associations, foundations or institutes. Protection against any form of discrimination is guaranteed as specified by the Law on Protection from Discrimination. No one is to be persecuted for the decision to associate or not to associate, and no person shall be required to associate against their will. CSO activities must be in line with the principles of respecting and protecting the human rights and freedoms set forth in the Constitution, Laws and international agreements in force. Registering an organization is not mandatory. The legal framework allows establishment of grassroots bodies. However, it does not define them as a specific category. Nevertheless, to obtain a legal status, certain

criteria must be met. Since associations are membership organizations, their establishment requires at least three physical or legal persons. Foundations can be established by one person, or a testament and an initial monetary fund is required; whereas institutes can be established by at least one person. The new law shortened the registration procedure from 60 to 30 days. Registration is free of charge and registration rules are simple to follow. The [online platform for CSO registration](#) eases the process. Networks are registered as associations, thus the same rules and procedures apply as those prescribed by the law on freedom of association in CSOs. There are no obstacles that hinder online communication including online communication with groups outside the country.

As of December 31, 2019 the Public Registry of NGOs enumerates 10,124 organizations⁶. In 2019, 569 CSOs were registered, which represents a similar trend for several consecutive years of organizations registered per year. The CSOs cover a vast areas operation such as; persons with special needs, empowerment, democratization and civil society development. The majority of surveyed CSOs⁷, registered during the last year did not report any form of pressure from state authorities to register. None of the surveyed CSOs⁸ said they faced any form of limitations when exercising freedom of association online or offline. In the past few years, there has been an increase in non-registered ad hoc initiatives. These initiatives usually focus their activities on women empowerment and environmental protection, whereas a shared characteristic is that they refrain from their activities once a particular issue is solved. No representative or member of informal groups⁹ has reported receiving requests from state authorities to register, nor have any been sanctioned being unregistered. Legal aid support provided by the Kosovo Democratic Institute to a citizen's initiative opposing the construction of the hydropower plants in their village is an example of cooperation between non-registered initiatives and CSOs.

Of the organizations surveyed, 18¹⁰ registered during last year. The registration procedure is perceived as easy to follow for 14 of them, whereas for 11 surveyed CSOs, the registration procedure is not costly.¹¹ Around 50% of CSOs¹² stated that the registration procedure lasted more than 60 days (as stipulated by the previous CSO law). Seven out of the 18 CSOs¹³ regarded the administrative procedures as excessive. The majority of CSOs perceive that decision making from the Department of NGOs was neither arbitrary nor politically influenced.

Our survey data show low levels of networking between Kosovar organizations and their international counterparts. Around 40% of CSOs denied membership in any network, while 15% of surveyed CSOs are part of only one network.¹⁴ Around 10% of surveyed organizations¹⁵ have a membership in two or three networks. There have been no reported cases of restrictions for participation in a network.¹⁶

⁶ CSOs Public Registry, Department of Non-Governmental Organizations, accessed on March 2020

⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹² Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹³ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

1.1.2. State Interference

Enabling environment is the category assigned indicated by this standard's findings.

The recently promulgated law no. 06/L-043 on freedom of association in NGOs includes new measures regarding protection against state interference. In general, state institutions are prohibited to engage in any activity that limits freedom of association. They are expected to create an enabling environment that stimulates CSOs to fulfill and advance their mission and activities.

There is no official data for 2019, but the year before, 20 CSOs¹⁷ were suspended by the government's NGO Department. The legal basis is Administrative Instruction GRK – No: 02/2014 governing the Registration and Functioning of NGOs. It regulates organizations and provides for action against organizations which are "endangering the security and working against the constitutional order of Kosovo" based on the request of the "competent security body". No prior investigation on the matter has been conducted. were suspended from 2014 to date. Twenty-four organizations remain suspended, since suspension decisions are renewed automatically. There is not enough evidence to conclude that there is persecution against CSOs in Kosovo since the number of suspensions as well as organizations suspended each year are the same. The DNGO has begun the process of drafting the secondary legislation for the implementation of the NGO Law. Although civil society is represented in the working group so far only one joint meeting has been held, it is important that this process is well administered and that the secondary legislation remains within the margins of the main principles set by primary legislation.

The law protects against any form of interference when organizations determine their activities and objectives, and when they regulate their internal structures to determine the scope of activities as well as level of governance to work with. Contrary to the previous law, the new one contains specific provisions on protecting CSOs from third party interference. State institutions are obligated to not violate freedom of association in any form and to allow operation of CSOs, but also to provide protection to CSOs in cases of interference by third parties.

Kosovo's legislation on financial reporting and accounting rules does not take into account the specific nature of CSOs. Financial reporting requirements are twofold: reporting financial transactions and annual financial statements to the Tax Administration, as well as reporting the following tax payments must also be reported where applicable: payroll tax, corporate tax, property/rent tax and pension contribution tax. Reporting to the NGO Registration Department is mandatory for organizations with Public Benefit Status. Reporting requirements to the Tax Administration, as well as sanctions for failing to fulfill these reporting requirements do not take into account peculiarities of CSOs but are identical/proportionate to businesses. Only PBOs are subjected to specific reporting requirements such as annually submitting their financial and narrative reports to the NGO Department. PBOs¹⁸ with an income higher than €100,000 are required to submit an external audit report.

Legislation on the prevention of money laundering and combating terrorist financing is not in line with Financial Action Task Force (FATF) Recommendations and the EU Directive 2015/849, and are therefore restrictive for CSOs. The law regards all CSOs as reporting entities and subjects them to burdensome requirements. Such requirements ask that each CSO have a certified staff on anti-money laundering legislation, also CSOs should keep track of their entire beneficiaries as well as other financial and administrative issues. In line

¹⁷Interview with the Department of NGOs

¹⁸ Until the end of 2018, the total number of PBOs was 184.

with FATF recommendations, a risk assessment of the civil society sector was conducted in 2018, which presented a long list of problematic issues. If adopted, they would result in further monitoring and inspecting for CSOs from municipalities and other institutions. Civil society organizations provided detailed comments and recommendations, which were almost entirely accepted by the working group. On the other hand, the Government delayed approval of the risk assessment report, and made it impossible for its recommendations to be considered for the National Strategy on Prevention and Fighting the Informal Economy, Money Laundering, Financing Terrorism and Financial Crimes 2019 – 2023. As a result, the Strategy adopted in May 2019 lists CSOs among the few sectors representing high risk to terrorism financing. The working group on amending the Law on AML/CFT held a few meetings during 2019, as well as a series of workshops on proposing ideas for solutions were organized between civil society representatives and civil servants. CSOs may be subject to material sanctions in case of failing to notify the NGO Department within 30 days when changing their organizations’ name, address, mission and vision, or contact information. In such cases, fines prescribed by the NGO Law are €250 to the organization itself and €80 to the authorized person. Nevertheless, these fines are considered proportionate to the circumstances of civil society sector in Kosovo. An organization can decide to terminate its operation on the following circumstances: a voluntary decision is taken by the highest governing body in accordance with the statute; the CSO becomes insolvent; a termination deadline is foreseen in the statute or in the founding act; or based on a court decision. Within the Law on Freedom of Association in NGOs, legal provisions on the dissolution of CSOs are in line with international principles and standards. Despite the existence of an administrative instruction on the establishment of the Committee for Distribution of Remained Assets of the terminated NGOs, the specific procedures and criteria on decisions from this Committee are not in place.

In general, CSOs in Kosovo operate without state interference into their internal matters. The survey showed that no organization has been subject to government harassment because of their criticism.¹⁹ Nor have there ever been reported cases of invasive oversight in terms of excessive audits. On the other hand, no CSO²⁰ breached the law last year, and therefore no sanctions were imposed. A limited number of four organizations²¹ reported having experienced state interference in their internal matters, either through unannounced official visits, unreasonable limitations on their activities, illegitimate attacks against their CSO, or discriminatory administrative measures applied against their organizations. Several CSOs reported difficulties accessing banking services. A number of banks set additional requirements to CSOs, such as the physical presence of the organization’s founders when opening or closing a bank account. A grant-making organization interviewed²² stated that “additional requirements to open a bank account caused difficulties for a few NGOs

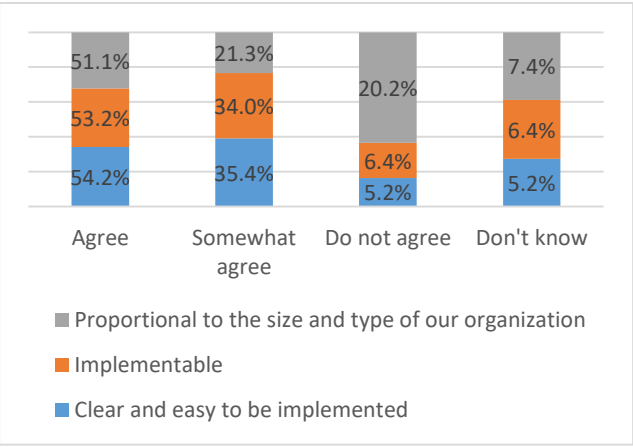


Figure 1 Reporting requirements (including financial) by state authorities

¹⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
²⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019
²¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
²² Interview with Advocacy Training and Resource Center, 31st of October 2019

complying with our deadlines therefore a few of them were almost late to receive the grant at all". Different banks have set different maintenance fees for CSOs accounts. They are not linear; ranging from €1-20, decided individually by each bank, since the Central Bank has set a range from €0.99 to €20, within which the maintenance fee must fall. It is logical to infer from these discrepancies that banks are deliberately denying access to their services, under so-called bank de-risking policies, because of the civil society sector categorization as vulnerable to terrorist financing.

1.1.3. Securing Financial Resources

Enabling environment is the category assigned indicated by this standard's findings.

CSOs are allowed to engage in economic activities in order to support their actions in line with the non-for-profit principle. Legislation allows CSOs to engage in economic activities both directly or by owning property and assets. Income generated from such activities should be used only for purposes related to organizations' mission. Financing organizations whose activity does not coincide with the legal order and international law is prohibited. CSOs are also allowed to use foreign and private sources of funding, whereas the legislation in force does not prohibit it in any form. The Anti-Money Laundering and Prevention of Financing of Terrorism law used to contain provisions requiring CSOs to seek permission before accepting foreign funds either in cash or via a bank transfer, but after the law was amended such restrictions were removed. The law on freedom of association in CSOs allows fund raising also from individuals, corporations and other sources without limitations.

In practice, there is a slight increase of CSOs that engage in economic activities, compared to 88% of CSOs²³ that said they had not done so in 2016. From the 22% of CSOs²⁴ which had economic activity this year, most of them said they faced no difficulties. The rest of CSOs stress the need to simplify tax and accounting procedures, as well as

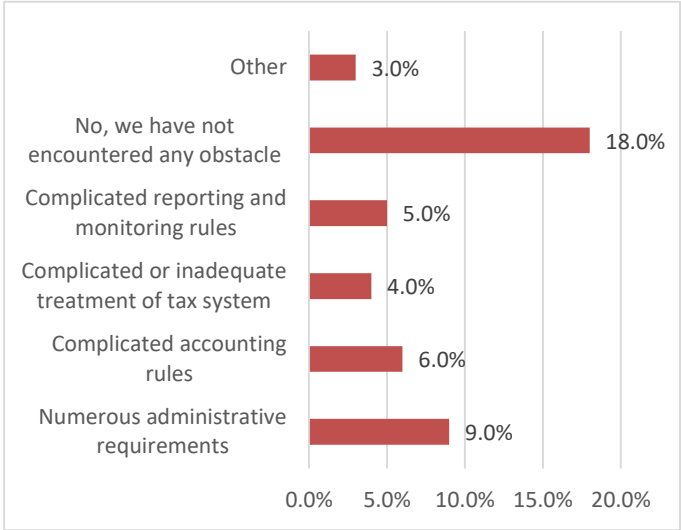


Figure 2 Experiences of CSOs engaged in economic activity

monitoring and evaluation rules. Burdensome excessive requirements were also listed among difficulties. According to research findings, foreign donors are the biggest source of funding for Kosovar CSOs, with 41%. The EU and most of the bilateral donors are exempt from VAT, just as goods and services for humanitarian purposes. Still, only 5%²⁵ of donors have been VAT exempted as opposed to 30%²⁶ of CSOs. Funding from private sources remains a non-viable source of funding for civil society in Kosovo. Less than 20%²⁷ of surveyed organizations stated to have received donations from private companies and individual donors. There have been no difficulties reported related to complicated

²³ Monitoring Matrix for Enabling Environment for Civil Society Development, Kosovo country report 2016
²⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019
²⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019
²⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019
²⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

administrative procedures.

Box 1: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 1. Result 1.1.a; 1.1.b; 1.1.c. Freedom of association is a constitutional right also guaranteed by the law on freedom of association in NGOs. The latter has been amended during 2019 expanding further principles and standards of freedom of association in line with international standards and practices. The AML/CFT legislation still regards CS sector as a reporting entity, whereas for the first time in Kosovo has entered into force a new law on social enterprises.

Objective 1. Result 1.3.a. the legal framework does not contain provisions on creation and operation of grassroots organizations. However, the legal framework recognizes the right to exercise freedom of association without registering an organization.

Sub-area 1.2. Related-freedoms

1.2.1. Freedom of Peaceful Assembly

Enabling environment is the category assigned indicated by this standard's findings.

Freedom of assembly in Kosovo is a constitutional right, guaranteed by Article 43 of the Constitution. Additionally, the Law 03/L-118 on Public Gatherings guarantees all Kosovar citizens the right to organize and participate in public gatherings.

CSOs enjoy the right to freedom of assembly either individually or through their organization, while administrative procedures are considered easy to follow. The legal framework requires for prior notification for public gatherings, except in such cases where no additional security measures are required. Public authorities should be notified 72 hours in advance, and all preconditions required by law to organize a public assembly must be ensured.

When no response is provided by authorities in due time (48 hours' prior the public gathering), the public gathering can take place without any restriction. If the decision to prohibit an assembly is regarded as unjust, the law allows the organizer of the assembly to submit a complaint to the police within 48 hours. The authorities must issue an answer within another 48 hours. Afterwards, if the decision is considered dissatisfactory, the Law guarantees the right to appeal to a court within three days through a fast-track procedure.

However, the law provisions refer only to the citizens of Kosovo. It remains unclear if freedom of assembly extends also to the stateless persons, refugees, foreign nationals and others. Simultaneous and counter assemblies are not allowed, though this is not explicit. The law states that a request to organize an assembly can be denied if at the near or exact time and place another permission for another assembly has been granted. The legal framework has not changed during the last year. In 2019, the Ministry of Internal Affairs began the process of drafting the Law on Public Gatherings. At the moment, the draft law has passed the phase of online public consultation, while it does not seem to address the problematic areas identified by CSOs.

The survey showed that 52% of CSOs²⁸ have attended a public assembly: a march, protest or outdoor performance, either individually or through their organization. In comparison, 24% of organizations²⁹ have organized a public assembly themselves. Both groups reported no limitations when organizing or attending public gatherings. Along similar lines the interviewed CSOs³⁰ specialized on monitoring the freedom of public assembly in Kosovo.

Data provided by the Kosovo Police show that in 2019, permission was issued for 532 public assemblies, while only seven were forbidden. Three out of seven of the restricted public assemblies were accompanied with a written explanation. No appeals were made to the police for banned or restricted assemblies.³¹

Over the years there has been a noteworthy increase in protests organized by the public to make their voices heard over issues like environmental protection, better living standards, or showing discontent with the education reform in Kamenica. Media reports show³² that police used force against protesters of Bitia who had been condemning hydropower plant construction in their village. Several citizens, including children, were injured in the police action. No other protests where police force was used were reported. Despite the fact that it is forbidden by law, members of four CSOs attended counter-assemblies in the last year. They reported that police protection was ensured. During the protest #Riseup4Rojava in solidarity to the Kurdish people, a counter-protest was organized nearby. A group of people condemned the protest, however no incidents were reported. Statistics obtained from Kosovo Police³³ show that no counter-assembly was prohibited, whereas six spontaneous assemblies were dispersed due to a lack of notification. In total, nine public assemblies were dispersed in 2019.³⁴ Last year, security guards of one of the political parties and civil society representatives and activists collided, while the latter were protesting against the draft law on financing of political parties.

Three organizations out of 52³⁵ which attended a public assembly stated that media was restricted from attending such assemblies. Also, statistics provided by the public relations office within the Kosovo Police, claim that force was used in one public assembly, while eight protesters were detained during 2019.

1.2.2. Freedom of Expression

Enabling environment is the category assigned indicated by this standard's findings.

Freedom of expression is a constitutional right based on Article 40 which guarantees freedom of expression to all, and can be restricted only if necessary to prevent violence or racial, ethnic or religious hate. There is no particular law that applies specifically to freedom of expression but a number of laws contain provisions related to it such as: The Civil Law Against Defamation, the Law on Protection of Informants, the Law on Access to Public Documents, the Law on Protection of Journalistic Sources, the Law on Protection of Personal Data etc. The Law on Protection of Informants and another on Access to Public Documents have been amended in the past two years.

The former has been abolished by the new law no.06/L-085 on the Protection of Whistleblowers, which introduced the following changes. It replaced the term 'informant' with that of 'whistleblower', expanded protection from employers to interns, volunteers, trainees and to every other person that provides help of any kind to a whistleblower. The

²⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

²⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

³⁰ Interview with the Kosova Rehabilitation Centre for Torture Victims, 18th of May 2020

³¹ Request for access to public information to Kosovo Police, 14th of May 2020

³² <https://www.koha.net/kosove/187964/dhjetera-te-lenduar-nga-intervenimi-i-policise-ne-protosten-ne-shterpece-kunder-hidrocentralit/>

³³ Request for access to public information to Kosovo Police, 14th of May 2020

³⁴ Request for access to public information to Kosovo Police, 14th of May 2020

³⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

law recognizes three types of whistleblowing: internal, external and public. No civil, criminal or disciplinary proceedings can be issued against the whistleblower. In addition, the law requests that public institutions with more than 15 employees, and private ones with more than 30 employees, assign a staff member responsible for whistleblowing. Despite the primary legislation being in favor of freedom of speech, the government is procrastinating in drafting secondary legislation that would define procedures for dealing with a whistleblower.

The latter has detailed further procedures for obtaining access to public documents, such as proactively updating and publishing lists of documents an institution has in disposal. The legal framework in place does not contain any provisions that would require permission to speak, deliver presentations/lectures in public nor the requirement that publications of organizations must be preapproved. Local media experts have evaluated freedom of expression as enabling. Nevertheless, its implementation is slow, mainly caused by lack of supporting mechanisms.

Two cases of public institutions initiating draft policies which would harm freedom of expression were noted in 2019. On the first occasion, the Kosovo Prosecutorial Council adopted a Regulation on public communication that prohibits its officials to communicate with media and journalists regarding “special developments” unless the head prosecutor is notified in advance. The Regulation does not specify what constitutes a “special development”. On the second occasion, the Independent Media Commission put forward a draft policy that would prohibit reporting from court rulings of public officials until a final ruling. At the moment that this policy went into public consultation, media and civil society submitted their comments to address problematic provisions.

As prescribed above, all cases of limitations of freedom of speech are clearly prescribed and in line with international law and standards. Recent years have been characterized by an increasing number of attacks on journalists, and this is believed to be related to the lack of institutional protection. The responsible institutions are not doing enough to solve cases of assaults against journalists. Investigations are delayed and/or affected by third parties, resulting in a low rate of solved cases and short sentences. In this regard, the Basic Court of Prishtina recently appointed a coordinator in an attempt to increase the rate at which cases regarding assaults against journalists are solved. Such coordinators have also been appointed by the State Prosecutor office and by the Basic Prosecution office. The effectiveness of such recent appointments has yet to be evaluated. The penal code was amended in 2019, while libel is still considered a misdemeanor rather than part of it. In general, the Civil Law against Defamation and Insult does not contain overly protective provisions toward state officials.

Survey data show that CSOs in Kosovo in general enjoy freedom of expression. More than 80%³⁶ of respondents claimed to neither have been pressured when using critical speech, nor when their critique targeted state authorities. The use of online communication tools without being hacked or blocked was reported by 93%³⁷ of CSOs, whereas 90%³⁸ of CSOs stated to have not been threatened due to their critical opinions. There have been no reported cases of CSOs³⁹ being sanctioned or imprisoned because of critical reporting. Representatives of the Kosovo Association of Journalists⁴⁰ said they did not notice cases of individuals or CSO representatives succumbing to self-censorship. Nevertheless, when seen through the lens of the media and journalists’ freedom of expression, it is not at the right level. One journalist was denied entry into Kosovo Assembly premises because of a

³⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

³⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

³⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

³⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁴⁰ Interview with the Association of Journalists of Kosovo, 28th of May 2020

lack of accreditation. Nevertheless, no media was accredited at the time, due to delays within the Assembly administration. In a separate case, the director of the Air Navigation Service Agency urged its staff to stop communicating with a journalist. He stated that he did not like the journalist's investigative reporting. The Association of Journalists of Kosovo reports⁴¹ that in 2018, 16 investigative journalists were threatened or persecuted, from both state and non-state actors. Municipality officials, business people and a few cases of attacks by citizens make the list. Freedom House's 2020⁴² report ranks Kosovo as partly free, whereas the Reporters without borders 2019⁴³ Report shows an increase in ranking for Kosovo, compared to last year from 75 to 78.

1.2.3. Access to Information

Enabling environment is the category assigned indicated by this standard's findings.

CSOs have free access to information and are free to receive and impart information through different media. Data from the Kosovo Statistics Agency and EUROSTAT show that 93% of households had internet access at home in 2018.

The possibility to communicate and access information, including via the internet and ICT, is legally guaranteed by the Law on Electronic Communication, adopted in 2012. The Law on Monitoring Electronic Communication was adopted in 2015 and civil society representatives were part of its drafting. It prohibits unjustified monitoring of communication channels, except for monitoring based on a court decision, after demonstrating that all other investigative means have been exhausted. The law has a number of control mechanisms built in to ensure that any monitoring of electronic communication was legal, such as the courts, parliamentary committees, the Ombudsperson etc.

There have been no restrictions accessing any source of information, including websites or online communication platforms for 97%⁴⁴ of surveyed CSOs. None of the surveyed organizations⁴⁵ reported to have been illegally monitored by the authorities. Additionally, no CSO⁴⁶ has reported experiencing police harassment because they belong to particular social networking groups.

Box 2: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 1. Result 1.1.a; 1.1.b; 1.1.c. Freedom of assembly and freedom of expression are guaranteed by the Kosovo's Constitution. The legal framework on the freedom of assembly is generally positive, except that it does not recognize counter-protests, so it is unclear if international citizens have a right to conduct an assembly. There are several laws regulating freedom of expression, which in general is enabling despite the fact that it lacks mechanisms to ensure effective implementation.

⁴¹ <http://agk-ks.org/wp-content/uploads/2018/12/Summary-of-the-findings-Indicators-on-the-level-of-media-freedom-and-journalists-safety-Kosovo-2018.pdf>

⁴² <https://freedomhouse.org/country/kosovo/freedom-world/2020>

⁴³ <https://rsf.org/en/kosovo>

⁴⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁴⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁴⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

Area 2: Framework for CSO Financial Viability and Sustainability

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

2.1.1. Tax Benefits

Partially enabling environment is the category assigned indicated by this standard's findings.

There have been no recent changes on the legal framework covering tax benefits for CSOs. A number of CSO funding sources are tax exempt, such as grants, donations and subventions based on the Explanatory Decision published by the TAK in 2016. The legal framework on economic activity remains ambiguous, in particular regarding the economic activities of CSOs that do not have Public Benefit Status. According to the TAK, the economic/commercial activities of PBOs are exempt from the corporate income tax if the income destination is solely for the public benefit purpose and up to a "reasonable level" of income. While this article mentions only the PBOs, another article on commercial activities refers to all registered CSOs whose "commercial or other activity shall be exclusively related to its public purpose up to a reasonable level of income". This implies that the economic activity of any registered CSO shall be directly linked to its mission and the income should be up to a reasonable level, whereas all other economic activities are subject to income tax. This incoherence causes difficulties in interpretation and implementation. The legal framework in place argues that the meaning of a "reasonable level of income" should be determined through secondary legislation, which has never been drafted. In 2016, the Ministry of Finance announced plans to functionalize passive investments by utilizing income generated from the privatization process. However, by the end of the same year, the government removed its intention to draft the law on passive investments from its legislative program. It has not been part of the legislative program in subsequent years. The Ministry did not specify for what purposes such investments would be used. There is no legal framework regarding the establishment or operation of endowments in Kosovo. Nor is there a policy that foresees tax benefits on endowments.

As in previous years, no CSO⁴⁷ has reported any direct or indirect tax on grants and donations. Both, alternative funding sources and tax benefits are uncommon. Eight percent⁴⁸ of CSOs said economic activity was a source of their funding, though none of them said they received tax benefits for it. Passive investment has been a funding source for 6%⁴⁹ of CSOs, while two CSOs and two donor organizations have been tax exempt. Yet, the annual financial return form does not contain a special category for income from passive investments. CSOs consider procedures of obtaining tax benefits as difficult. More than 40%⁵⁰ of CSOs evaluate them as difficult or somehow difficult, whereas only 11%⁵¹ of CSOs think that they are simple to use. Complexity of such procedures might be one of the reasons for the low rate of organizations that have had tax benefits.

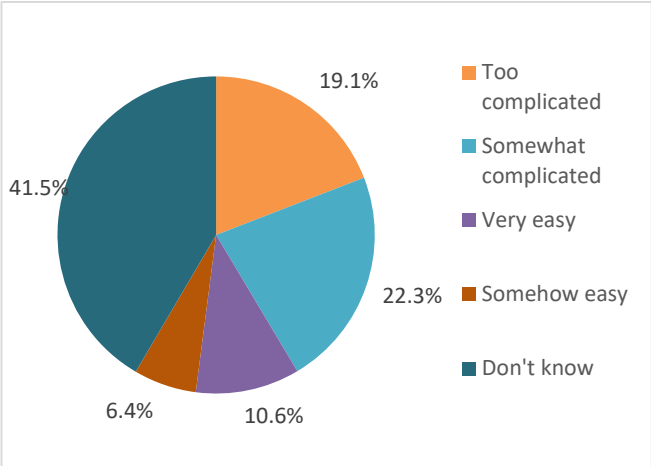


Figure 3 Tax benefits procedures

2.1.2. Incentives for Individual/Corporate Giving

Partially enabling environment is the category assigned indicated by this standard's findings.

There have been no changes in tax legislation regarding tax incentives on corporate and individual giving, since 2010 and 2015 respectively. The laws on Personal Income Tax and Corporate Income Tax offer 10% deductions of the taxable income of individuals, corporations and other sources, if those donations are intended for humanitarian, health, education, religious, scientific, cultural, environment protection and sport purposes. Eligible recipients of such donations are CSOs and any other non-commercial organization that directly performs activities in the above-mentioned areas. The provisions for CSOs in the Law on Corporate Income Tax remain ambiguous and it is not clear whether the exemptions on the standard corporate tax are applicable to all CSOs or only to those with Public Benefit Status.

In the first half of 2017, the Law on Sponsorships in the area of culture, youth and sports entered into force. The Law, which does not specifically mention CSOs among tax exemption beneficiaries, only lists activities that qualify for tax exemptions. It provides a 20 % income tax exemption for youth and culture related activities based on Corporate Income Tax. Additionally, the sponsorship income is exempt from all taxes. From the information given above, it can be concluded that the legal framework contains positive provisions regarding tax benefits on donations, particularly for those from private donors. Laws on corporate and personal income tax offer a 10% tax deduction on donations, only for a limited number of publicly beneficial activities. The list is far less than the list of public benefit activities determined in the new NGO Law. These public benefit activities are organizations protecting human rights and consumer rights, supporting democratic

⁴⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁴⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁴⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁵⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁵¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

practices and civil society, and those assisting refugees. This means effectively that Public Benefit Status does not play any role in access to tax benefits, making the fiscal legislation incoherent with the public benefit status of the NGO Law.

Corporate Social Responsibility is not a common concept among private companies in Kosovo and as a concept is not promoted by the state. As such, no policy document on the matter exists.

As has been noted in previous reports, no CSO⁵² has reported benefiting from tax deductions for their individual and corporate donations. However, there are no reported cases of limitations on the types of CSOs that can receive tax-deductible donations. When asked to evaluate tax exemption procedures on donor giving, 58% of surveyed CSOs responded that they have no knowledge regarding the legal framework or the existence of such procedures. Five organizations answered that there are no tax incentives for donors, whereas only 14% of CSOs evaluated them as encouraging or comprehensive enough.

Box 3: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 2. Result 2.1.a; 2.1.b; 2.1.c. The legal framework on reporting rules and tax/fiscal treatment did not change in 2019. The financial rules and reporting requirements for CSOs are identical to businesses, which in general follow the principle of proportionality, but are considered complicated by CSOs.

Objective 2. Result 2.3.a; 2.3.b. A number of CSO donation sources are tax exempt, yet there are ambiguities if the economic activity of a CSO without PBO is exempt from the corporate tax. The Law on Personal Income Tax and that on Corporate Income TAX offer 10 per cent deductions.

Sub-area 2.2. State support

2.2.1. Public Funding Availability

Enabling environment is the category assigned indicated by this standard's findings.

The year 2019 marks the third year of implementation of the Regulation MF-NR-04/2017 governing the criteria, standards, and procedures on public fund distribution for CSOs. Its implementation is mandatory for central and local level institutions. It is the first policy that regulates distribution of public funds to CSOs. It was signed after a thorough cooperation between public officials and civil society. Meanwhile the Strategy for Government–CSO cooperation for 2019 until 2023, envisions building a co-financing scheme for EU funds for CSOs.

The Regulation has built the decentralized system of public funds distribution where each public institution is responsible for the distribution of its own funds aligned to their strategic objectives and field of operation. Regulation requires that public funds intended for CSOs to be planned through specific budget lines in the annual state's budget. Upon request, the Ministry of Finance creates specific budget codes for each public institution that intend to distribute public funds. This is related to preparations of the annual budget where requests overpass the meant budget. Therefore, the Ministry of Finance makes the final decision on

⁵² Organizational Survey with CSOs in Kosovo, conducted in September 2019

priority areas to support. However, since the Regulation’s entry into force, such codes were not created. Hence, the state’s annual budget for 2019 includes no specific lines for CSOs, though it does have common budget lines like cultural services, youth and sports and gender issues. A few municipalities like Rahovec and Istog had budget lines for funding and co-funding of CSOs projects.

The Law 04/L-080 on games of chance allows the allocation of a certain amount of money from the Kosovo Lottery Fund that could be used for funding of social categories, human rights issues, culture and sports. The details of such transfers remained to be determined through secondary legislation. Nevertheless, by the middle of 2019, the Law on Games of Chance was repealed by the Government of Kosovo thus canceling the legal provisions for eventual financing of civil society from the Lottery funds.

Every public fund provider is obliged by the Regulation to plan within the state’s annual budget in line with their priorities, strategic objectives and in consultation with civil society organizations. The Regulation specifies that an Evaluation Committee should consist of five members, one of whom should be a representative of CSOs, chosen via a public call.

According to survey results, 37 CSOs⁵³ have received public funds. Most received grants for specific activities or projects, while five CSOs were given institutional grants. One organization received co-financing for EU projects. Based on their organizations experiences around 70%⁵⁴ of respondents consider public funding insufficient to meet their needs. The system of public funds distribution in Kosovo is decentralized, as revealed by the government’s annual

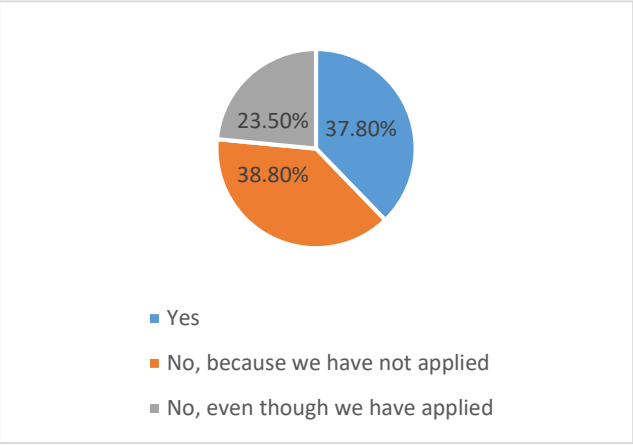


Figure 4 CSOs that have received public funding

publication of a list of CSO beneficiaries and the amounts they are allocated. The government’s report emphasizes the need to operationalize the monitoring and evaluation systems of public funds providers. Public institutions have not yet managed to incorporate specific budget lines for CSOs support in the annual budget even though it is mandatory. Nevertheless, the government’s report on public funds distributed to CSOs allows observers to compare the amounts distributed to CSOs. The Annual Report on Public Funds Distributed to NGOs shows that in 2018, €24 million were distributed to CSOs compared to €1.8 billion of the total annual budget. When KCSF filtered and sorted the lists of beneficiaries, it turned out that from €24 million reported as public financial support, only €9 million were distributed to civil society organizations. The rest went out to federations, sports clubs, economic operators, and services provided by CSOs on behalf of state institutions. CSOs received an average grant payment of €9,731.71.

Lists of public funds beneficiaries reveal that public institutions categorize funds allocated for sports clubs, federations, religious institutions, private schools, art ensembles, and city theatres, as support for civil society organizations. The total funds distributed to these entities amounts to €7 million, compared to €9 million allocated to CSOs. On the other hand, €1 million was distributed to veteran’s organization without open calls, in contravention of the criteria and forms set by the regulation on public fund disbursement.

⁵³ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁵⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

Despite the fact that as nominal values, public funds distributed to CSOs are increasing from year to year (€16 million in 2017 compared to €24 million in 2018), again after analyzing lists of beneficiaries it turns out that there is a slight decrease in percentage of public funds distributed to CSOs. In 2017, 42 per cent of public funds went to civil society organizations in comparison to 38 per cent in 2018.

After the entry into force of the Regulation on public funds distribution to CSOs, public institutions are more involved to increase public funds availability to CSOs. However, a lot remains to be done in terms of increasing transparency and enhancing monitoring and reporting systems. An Evaluation Committee should be comprised of three representatives of public institutions, and two external experts, one of whom must be from civil society. Members of the Complaints Commission are appointed by decision of the chief administrative officer/head of the institution. It is not specified if civil society representatives must play a role. Of the five institutions giving the greatest share of public funds to CSOs, in the central level, two have not published open calls for external experts to join the Evaluation Committee. On the local level however, none of the municipalities has published an open call online for members of the Evaluation Committee. Only 30 per cent⁵⁵ of civil society organizations said they were invited to participate in meetings during which public funding priorities are decided.

2.2.2. Public Funding Distribution

Enabling environment is the category assigned indicated by this standard's findings.

The Regulation in force prescribes the entire process of public funds distribution through established uniform criteria, guidelines and documents to be submitted. The call should be published on each provider's website and must remain open for at least 15 working days. In order to increase competition and expand outreach, using alternative ways of communication is encouraged. Besides general criteria such as a CSO's registration certificate and fiscal number, each call should contain specific criteria based on the objectives and scope of activity of each public institution. Guidelines and forms for application should be published online as a package at the moment of opening the call. The following but not limited elements should be part of the call: objectives of the call, criteria to apply, guidelines on submitting the application as well as evaluation criteria, mandatory and non-mandatory documents to be submitted, deadlines, contraction information, monitoring and evaluation information and a tentative calendar for call implementation.

Within seven days after the call is closed, preliminary results should be published online, and all applicants should be informed in writing about the status of their application. This list becomes final only after the Complaints Commission has reviewed all complaints, in a timeframe of five days. Article 19 of the Regulation requires all public financial support providers to prevent conflicts of interest upon selection of beneficiaries, as specified by applicable legislation. Appointed members of the Evaluation Committee and the Complaints Commission should sign a statement affirming that their presence on such commissions constitutes no conflict of interest. If a conflict of interest arises, member/s should be replaced.

Seventy percent⁵⁶ of surveyed CSOs said they have encountered open calls for public funds distribution at least once per year. The government's Report on Public Funds distributed to CSOs 2018⁵⁷ does not provide a clear estimate on the total of funds distributed without

⁵⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁵⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁵⁷ <https://kryeministri-ks.net/wp-content/uploads/2019/07/Raporti-p%C3%ABr-financim-t%C3%AB-OJQ-ve2018-ang.pdf>

open calls. However, it recommends several steps public institutions can take to increase transparency. Additionally, the Report distinguishes between the primary distributors of public funds at both levels of government. After analyzing their websites, turns out that four out of five distributors at the central level published open calls on their websites. But at the local level, only one of the five biggest distributors of funds published open calls online. At the central level, only the prime minister's office and the Ministry of Culture, Youth and Sports have published an annual report of public funds distributed to CSOs. This report details the names of the organizations and funds allocated to them. It also details the specific activities, projects or programs supported. At the local level, none of the five biggest public funds distributors has published an end of year report. Such data are only available in summaries at the end of each year through the government's annual report on financial support provided to civil society organizations by all public institutions. Around 70%⁵⁸ of CSOs agree or agree somewhat that application forms are comprehensive and that criteria to apply for funds are not excessive. Selection criteria are easy to comprehend and publicly available for half of the surveyed CSOs. 73% of surveyed organizations disagree or disagree somewhat that funding allocation decisions are fair and do not entail conflict of interest. Findings of the 2017 Annual Audit Report⁵⁹ (published in 2018) mention the lack of monitoring mechanisms for public funds allocated to CSOs in the field of education.

2.2.3. Accountability, Monitoring and Evaluation of Public Funding

Partially enabling environment is the category assigned indicated by this standard's findings.

A system of monitoring and evaluation of public funds is in place now for the first time since the Regulation entered into force. Provisions of the Regulation state that for each signed contract, the provider of financial support assigns a responsible official or team to monitoring the project/program's implementation. Monitoring of financial support is to be done through regular visits and financial oversight to ensure compatibility with Regulation requirements and fulfillment of the purpose for which monetary support is provided. If the monitoring officer/team notices abuses of funds, he or she must alert the chief administrative officer or the head of institution. Further measures should be taken in accordance to the extent of the breach committed by the beneficiary. Depending on the breach, measures stipulated by the Regulation range from canceling the contract to court proceedings. Additionally, beneficiaries are obligated to report on a regular basis regarding the implementation of their projects/programs.

Thirty-three organizations⁶⁰ who said they received public funds said they were required to submit a detailed report of their activities and expenses. Seven CSOs⁶¹ said they were subjected to unannounced monitoring visits, while four said they were notified by state authorities prior to their visits. Five organizations⁶² said they had not been monitored at all, while two of the respondents said they had not been asked to submit any reports on activities or expenses. The government's report on public funds distributed to CSOs suggests that public institutions should invest more in their monitoring and evaluation systems. Similar to this, the Auditor's annual report for 2018 suggests that grants delivered to sport clubs and federations by the Ministry of Culture Youth and Sports, which is the greatest distributor of funds to CSOs, were not monitored in order to show whether the intended purpose has been met. All of this leads to a general perception that

⁵⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁵⁹ <http://www.zka-rks.org/wp-content/uploads/2019/08/RVA-2018-Eng-2.pdf>

⁶⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶² Organizational Survey with CSOs in Kosovo, conducted in September 2019

the monitoring and evaluation going is insufficient according to the standards set by the Regulation on public funds distribution to CSOs. On the other hand, a review of the websites of the core public funds distributors shows that no institution has published a monitoring or evaluation report. Access to public documents has shown that even public institutions themselves do not keep track of whether or not the monitoring officials are assigned as prescribed by the legal requirements.

2.2.4. Non-Financial Support

Partially enabling environment is the category assigned indicated by this standard's findings.

Law no.06/L-092 on Allocation for Use and Exchange of Municipal Immovable Property was amended in 2019. It aims at ensuring the effective use of municipalities' immovable property. The new law, like the previous one, defines only general criteria for all users without taking into account the character of civil society organizations. As such, the municipal property can be allocated for use to natural or legal persons through an open public competition, following the proposal of the mayor and a decision of the municipal assembly, after an evaluation conducted by the evaluation commission. One of the commission's seven members should be an expert from civil society. While the procedures can be skipped in some special cases defined by the law, CSOs do not fall in this category. No specific provisions exist on one-time usage of municipal or other public properties by civil society. The main changes introduced by the new law are related to deadlines and the creation of the evaluation and complaints commissions. The selection criteria for CSOs interested in utilizing non-financial support are left to be developed via secondary legislation. Still, the draft sub-legal act says that each municipality should develop its own selection criteria. This proposal is entirely in discordance with what civil society organizations have been demanding.

On the other hand, Regulation on public funding for CSOs states that its provisions are applicable equally to the public non-financial support for CSOs. It applies to central and municipal public properties and to any other form of non-financial support, which according to the budget organization must pass through a competitive process. Other forms of state non-financial support are not available. There are several CSOs that offer free spaces to other organizations, as well as CSOs that provide capacity building activities free of charge.

According to the survey, around 20%⁶³ of CSOs have had access to non-financial state support in the past year. Approximately 35%⁶⁴ of surveyed CSOs said they had never applied for non-financial support from the state, while 25%⁶⁵ were not aware that such support is available. Five per cent⁶⁶ of CSOs have benefited from non-financial support through open calls, compared to 17%⁶⁷ of them, which asked state institutions for access directly. Twelve⁶⁸ CSOs claimed that their applications through open calls were denied whereas five⁶⁹ CSOs said they were refused after they directly contacted state institutions. In practice, there are no cases of CSOs being denied access to non-financial state support due to their political ties or critical stance. Data derived from the access to public information has shown that non-financial support to CSOs from the municipalities is rare. Common types of nonfinancial support provided are public space for conducting meetings,

⁶³ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁶⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

trainings, anniversaries and internet services. Only seven municipalities provided non-financial support to CSOs, and none of them has provided the same to businesses. Most of the time, public space is provided based on CSOs' requests.

Box 4: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 2. Result 2.4.a; 2.4.b; 2.4.c. The Regulation on public funding for NGOs has established a decentralized system of public funds distribution. In practice, around 70 per cent of CSOs agree or somewhat agree that application forms are comprehensive. Seventy-three per cent of CSOs disagree or somewhat disagree that public funds are allocated fairly and do not entail conflict of interest. In 2018, from the state's budget totaling €1.8 billion, according to the Government's report €24 million were reported as funds distributed to CSOs. After KCSF analyzed the lists of beneficiaries, it turned out that only €9 million were distributed to CSOs. The rest went to economic operators, federations and sport's clubs, and services provided by CSOs on behalf of the state.

Sub-area 2.3. Human resources

2.3.1. Employment in CSOs

Partially enabling environment is the category assigned indicated by this standard's findings.

The process of amending the Labor Law was initiated in 2014 and remains in process. The current law does not have specific provisions on CSOs. As a result, the civil society sector is subjected to the same requirements as other sectors. Provisions on maternity leave, which are obligatory for all employers, are burdensome for CSOs. Due to the prevalence of project funding in the civil society sector, only a few CSOs have sufficient funds to cover their part of maternity leave payments. Another challenge identified by CSOs is the prevalence of project-based contracting for their staff. This model does not necessarily cover all potential benefits for employees guaranteed by law, in particular those related to the duration of employment. The draft law has passed its first reading in June 2019. It lacks specific provisions on employment in CSOs. The main changes include provisions prohibiting discrimination of any form against employees, including against pregnant employees. The draft law shortened the duration of fixed term contracts from ten to three years, whereas a fixed term contract might be extended no more than twice within a period of three years. An exception is made for project-based work. This exception has positive association with the dominance of project funding in CSOs

Still, KCSF's comments on the draft policy demand further details regarding exceptions on the basis of civil society funding characteristics. While the labor law is being amended, the Ministry of Labor and Social Welfare has initiated a separate process to draft another law on maternity and parental leave. Civil society suggests that the government covers 70% of an employee's salary during the first six months of maternity leave. The draft law presented currently stipulates that the first three months of paid leave are to be covered by the employer, which that pays 70 % of the base salary, while the next six months are covered by the government at a rate of 50% of the base salary. The draft law provides the opportunity to extend maternity leave for three extra months without payment. Since both laws complement each other, civil society representatives have demanded their simultaneous proceeding. Yet, since the law on maternity and parental leave entails heavy

financial costs to the government, its introduction to the parliament is postponed.

The majority of CSOs said they have no information about the government's programs for employment (57%)⁷⁰, whereas seven per cent responded that there are no incentive programs for employment in CSOs. Seven percent⁷¹ of organizations which knew about existence of such programs think that they are not interesting enough. Twenty-three percent of CSOs have not benefited from state incentives because they have not hired employees during last year. Only five organizations⁷² said they benefited from such programs. The Kosovo Pension Savings Trust is the body that collects information about the number of employees in the civil society sector, full time and part time employees, and the total contributions paid by civil society sector.

2.3.2. Volunteering in CSOs

Partially enabling environment is the category assigned indicated by this standard's findings.

The legal framework in place regulates only volunteering by youth aged 15-24, according to the Law 03/L-145 on Youth Empowerment and Participation, and Administrative Instruction no. 01/2016 on youth volunteering. The latter establishes procedures for registration, verification and certification of youth volunteers. Initiated in the second part of 2017, the process of drafting the law on volunteering in general is still in its beginnings. Recently, a working group that includes civil society representatives is drafting the concept document. Its main tasks are defining the principles, conditions and rights of volunteers, creating a volunteer support body and establishing mechanisms for monitoring and evaluation. Available incentives for volunteers include access to capacity building activities and reimbursement for expenses during the period of engagement. Both aim to maximize youth involvement in volunteering. On the other hand, government officials interviewed⁷³ listed meetings with CSOs and volunteers, and workshops on procedures to certify volunteers as incentives to promote volunteering. The absence of state programs and mechanisms make the existing government efforts to promote volunteering rather weak. [The online platform for volunteer registration](#) has eased the process, while procedures are easy to follow. Registration procedures do not prohibit spontaneous or volunteering in general.

An agreement should be signed between volunteers and organizations. Youth volunteering should follow certain criteria regarding its length such as: people under 18 years old can volunteer no more than 26 hours per month. Volunteers between 18-24 years old can volunteer no more than 130 hours per month. Volunteers under 16 years old are obligated to validate their engagement through parental or guardian permission. Additionally, Article 3 of the Administrative Instruction says that prior to their engagement new volunteers should be notified regarding their rights, duties, benefits and potential associated risks.

Youth Department within the Ministry of Culture, Youth and Sports, is the only body that generates data regarding the number of registered young volunteers, number of organizations that have volunteers and available incentives on volunteering of youth. The vast majority of CSOs interviewed (86%)⁷⁴ stated that they are not aware about any state's program that promotes volunteer engagement. When such programs exists no difficulties to access them were reported. Around 44%⁷⁵ of CSOs think that legal framework is simulative or somehow simulative for organizing volunteer activities. At the other end of

⁷⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁷¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁷² Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁷³ Interview with the Ministry of Culture, Youth and Sports, 18th of June 2019

⁷⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁷⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

the scale, 27%⁷⁶ of organizations think that the legal framework it is not at all stimulating. Whereas 11⁷⁷ organizations claimed that there is no legal framework on volunteering. CSOs have not reported any form of restrictions on volunteering⁷⁸.

2.3.3. Non-Formal Education

Partially enabling environment is the category assigned indicated by this standard's findings.

Kosovar CSOs are allowed to provide educational activities, including non-formal education, in accordance to their statutes and fields of activities. Non-formal education is regulated by an administrative instruction on non-formal education for youth, adopted in 2015 by the Ministry of Education and Science. There were no developments regarding legislation on the promotion of non-formal education during 2019. The National Qualifications Authority is mandated to accredit and recognize non-formal education. State curricula include limited civil society related topics, mostly at the primary level of education through the subject of civic education. However, the interviewed representatives of the Ministry of Youth Culture and Sports consider the legislation in place appropriate and responsive to the needs of the CSO sector. Representatives from the Ministry of Education and Science said "there is no need to change the curriculum, since it is considered that civil society-related subjects are sufficiently included". What is considered more of an issue for the Ministry is the level of teachers' understanding and comprehension of the subject. The Ministry does not have a system of monitoring and evaluation in place for this issue.

Considering the fact that civil society topics are rare in educational curricula, there are only a few cases of memorandums of understandings between private universities and CSOs for internship and volunteering programs. Provision of non-formal education is not a common activity for civil society organizations in Kosovo. Data provided by the National Qualification Authority signify a small presence of CSOs certified to provide trainings and non-formal education. In 2019, only one CSO was certified, whereas the lists provided enumerate three other CSOs certified during previous years. They mainly offer vocational trainings.

Box 5: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 1. Result 1.2.a; 1.2.c; 1.2.d; 1.2.e. There is a lack of official statistics about the civil society sector in Kosovo. Several institutions produce partial information on civil society that have to be combined with KCSF data gathering instruments in order to create an overall picture. In the past 12 months, 4,009 employees have payed tax contributions. The number of employees with more than one occupation, one of which is in the civil society sector, is 9,533. The number of volunteers is 10,000.

⁷⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁷⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁷⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

Area 3: Government-CSO Relationship

Sub-area 3.1. Framework and practices for cooperation

3.1.1. State Policies and Strategies for Development of and Cooperation with Civil Society

Partially enabling environment is the category assigned indicated by this standard's findings.

The new Strategy Governmental Strategy for Cooperation with Civil Society 2019 – 2023⁷⁹ entered into force in February 2019.. Its objectives and overall framework address the lack of mechanisms and challenges identified during the implementation of the previous Strategy.

The entire strategic objectives and activities of the new Strategy are built on the results of the previous one. Even though it is minimally implemented, it represents a very solid base for further built-up by the Government, civil society and other stakeholders. The new strategy's objectives include increasing public servants' capacities and improving the implementation mechanisms of the Regulation on Minimum Standards for Public Consultation and the Regulation on Public Funding for CSOs. It also aims to improve the system of public service provision by CSOs, and increase volunteering in public interest programs. The government has committed a budget of €235,500 for implementation of the Strategy and its Action Plan, which entails indicators, objectives, intended results and a timeframe. Additionally, the Strategy foresees hiring two specific staff members solely engaged for the purpose of its implementation.

The Government did not provide neither the budget nor the human resources it committed to the 2013-2017 strategy. The Ministry of Finance pledged a budget of €137,960 to advance the Strategy's implementation. However, aside from meetings held at government premises, which were covered by the budget of the Office of Good Governance (OGG), all other activities were made possible through donor support.

KCSF and a few civil society representatives were part of the working group drafting the current Strategy for cooperation from the beginning, providing a substantial contribution. In addition, these representatives demanded greater distribution and involvement of the civil society sector and other actors during the drafting process. In addition, Civikos Platform, a CSO network, conducted extensive consultative meetings with CSOs for the preparation of the new Strategy during 2018.

In 2019 a new Council responsible for the monitoring of the implementation of the strategy was established. It has 29 members, 15 of whom are civil society representatives elected by CSOs themselves through open, transparent and competitive process. The rest are civil

⁷⁹ <https://kryeministri-ks.net/wp-content/uploads/2019/08/Strategjia-ne-tri-gjuhe.pdf>

servants. The Council’s members are part of working groups focused on each of the four strategic objectives. The Council’s rules of procedure ensure that all initiatives coming from CSOs are taken into consideration, and the same applies for the working groups as well.

The majority of the civil society organizations did not participate in the drafting process of the Strategy for cooperation with the Government. Only around 23%⁸⁰ of organizations stated they participated in the drafting process, while 53%⁸¹ of them were not engaged in the process. Additionally, CSOs lack awareness about the existence of the Strategy. Twenty-two percent⁸² stated that they have no information that a document on cooperation between the Government and the sector exists, while two organizations said they did not know any document defining principles of cooperation between civil society organizations and the central government. Face to face meetings were held with CSOs in Prishtina and in other large cities in Kosovo, in order to discuss implementation of the previous Strategy.

The assessment report of the previous strategy for cooperation drafted by the OPM/OGG provides that 78% of activities foreseen in the strategy were implemented. On the other hand, CSOs condemn this figure because the methodology employed is not result-oriented. Its objectives were met minimally, with actual results evidenced only at the end of its implementation period after the Regulation on Minimum Standards for the Public Consultations Process, and the Regulation on Procedures and Criteria for Public Financing of CSOs entered into force. Drafting of both Regulations was based on society contributions, either via public consultations or bilateral meetings with public officials. The objective of public service provision by CSOs and on volunteering has not made any progress. The previous strategy for CSO-Government cooperation has had only its final evaluation, concluded at the end of the implementation period. For the current Strategy, there is commitment for mid-term evaluation. In Kosovo, besides data on a few specific issues, the civil society sector is not part of the official statistics generated by public institutions. Yet, working groups of each strategy’s objectives include experienced organizations in a given field to ensure CSOs’ needs are properly addressed.

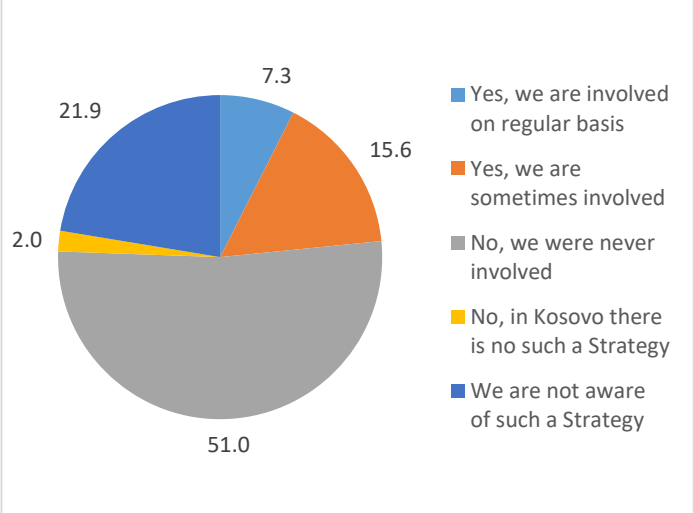


Figure 5 CSOs involvement in the Strategy implementation

The assessment report of the previous strategy for cooperation drafted by the OPM/OGG provides that 78% of activities foreseen in the strategy were implemented. On the other hand, CSOs condemn this figure because the methodology employed is not result-oriented. Its objectives were met minimally, with actual results evidenced only at the end of its implementation period after the Regulation on Minimum Standards for the Public Consultations Process, and the Regulation on Procedures and Criteria for Public Financing of CSOs entered into force. Drafting of both Regulations was based on society contributions, either via public consultations or bilateral meetings with public officials. The objective of public service provision by CSOs and on volunteering has not made any progress. The previous strategy for CSO-Government cooperation has had only its final evaluation, concluded at the end of the implementation period. For the current Strategy, there is commitment for mid-term evaluation. In Kosovo, besides data on a few specific issues, the civil society sector is not part of the official statistics generated by public institutions. Yet, working groups of each strategy’s objectives include experienced organizations in a given field to ensure CSOs’ needs are properly addressed.

3.1.2. Institutions and Mechanisms for Development of and Cooperation with Civil Society

Enabling environment is the category assigned indicated by this standard’s findings.

The Council for Implementing the Government Strategy for Civil Society Cooperation is the joint body mandated to monitor and report on the implementation of the strategy’s activities. The Office for Good Governance within the Office of Prime Minister (OGG/OPM), which is the Secretariat of the Council, also serves as the focal unit of the Government for civil society cooperation. Regarding other mechanisms in place, the Kosovo Assembly used

⁸⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁸¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁸² Organizational Survey with CSOs in Kosovo, conducted in September 2019

to have its Office for Donors Coordination and Civil Society relations. Nevertheless, a recent interview with the officials of Kosovo Assembly yielded the information that the office has been made part of the department for Media and Mass Communication. The declaration of partnership with civil society has been mentioned as the only mechanism in place for cooperation with CS. Activities in which civil society is regarded as the main contributor entail: event management and promotional events organizing. These are all indicators of shallow inclusion and cooperation with CSOs from the Kosovo Assembly.

The Council for Strategy Implementation enumerates 29 members, 15 of whom are civil society representatives and 14 are public officials. This is a standard number of members since the Council's foundation. The members are part of working groups organized around the four strategic objectives. The rules of procedure of the council and its working groups ensure that all initiatives coming from CSOs are taken into consideration. When asked about the frequency of communication with relevant public institutions, the Ministry of Public Administration's department for CSO registration is mentioned by 48 per cent⁸³ of respondents. The Office of Prime Minister / Office of Good Governance is contacted by 31 per cent⁸⁴ of organizations while 24 per cent⁸⁵ of interviewees said they communicated with the Parliament's office for donor coordination and communication with civil society. There is a slight increase in the budgetary allocations for the current Strategy compared to the previous one. Data obtained from the OPM/OGG show that €235,500 was budgeted to facilitate the implementation of the Strategy, whereas for the first year of implementation the budget planned is around €60,000.

Box 6: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 3. Result 3.1.b There are several mechanisms that facilitate cooperation between the Government and the CS sector. The new 2019-2023 Strategy for Government-CSO cooperation entered into force in February 2019. It is built on challenges and gaps identified during the implementation of the previous Strategy. OGG/OPM is the Secretariat of the Council for implementation of the cooperation Strategy. It also serves as the government's focal unit for civil society cooperation. Kosovo's Assembly shrunk its Office for Donors Coordination and Civil Society Relations into another department.

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

3.2.1. Standards for CSO Involvement

Partially enabling environment is the category assigned indicated by this standard's findings.

The entry into force of the Regulation no. 05/2016 on Minimum Standards for Public Consultation in January 2017 marks an important step towards the inclusion of CSOs and the general public in decision-making processes. In the past, public consultations did not follow a set of standards or a systemic procedure, whereas now specific requirements and

⁸³ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁸⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁸⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

deadlines apply. The Regulation stipulates that the participation of CSOs and the general public is mandatory for central level institutions except the Assembly. The Government is obligated to conduct participatory decision-making processes starting from legislative agenda drafting. One mechanism derived from the Regulation is the [online platform for written public consultation](#), launched in February 2017. A standard deadline for submitting written feedback is 15 working days, while for more complex acts the Regulation allows extension of this deadline to 60 days. The proposing body is obligated to publish the final report of public consultation, which contains the comments received and their response, on their website. If public consultations are not organized accordingly, the Regulation requires restoring the process to the stage where participatory decision-making is mandatory.

In previous years, civil society organizations advocated for similar legal provisions at the municipal level as well. As a result, in December 2018, the Ministry of Local Governance Administration adopted Administrative Instruction no.04/2018 on Minimum Standards on Public Consultation in municipalities. The initiative itself is a positive sign. Nevertheless, its legal provisions lack many of the necessary steps for effective implementation, such as a lack of specific standards, deadlines or implementation mechanisms. The Rules of Procedure of the Assembly, which took a long time to draft, are still in the amending process. In this regard, civil society organizations are advocating to address the non-mandatory provisions of CSO inclusion to policy making. The Ministry of European Integration has published the Guidelines on involvement of civil society in SAA structures in February 2018. Civil society organizations were part of the drafting process of the document. However, the Ministry did not proactively inform CSOs about Guideline's implementation level.

As of 2017 the Government has started training its officials on the implementation of the on minimum standards for public consultation. The Kosovar Institute for Public Administration is the body mandated to increase capacities of civil servants. By the end of 2019, data obtained from the Office of Prime Minister / Office of Good Governance show that in cooperation with the KIPA, 56 public officials were trained. Thirty local government civil servants benefitted from the same training. The seminars cover the whole cycle of civil society inclusion, from agenda setting, to expert involvement, to general public consultations, with specific requirements for each step. Within 30 days after the Regulation entered into force, the appointment of responsible officials for public consultation coordination began.

Official data from line ministries shows the presence of such officials in each of them. Their responsibilities include coordinating the public consultation process by providing information in preparation for mid-term and annual reports by the office of OPM/OGG. In particular, they gather information on numbers of comments received, figures of participation to public consultation from members of the general public and CSOs and information on accepted comments. As stipulated by the rejected comments should be backed up with arguments.

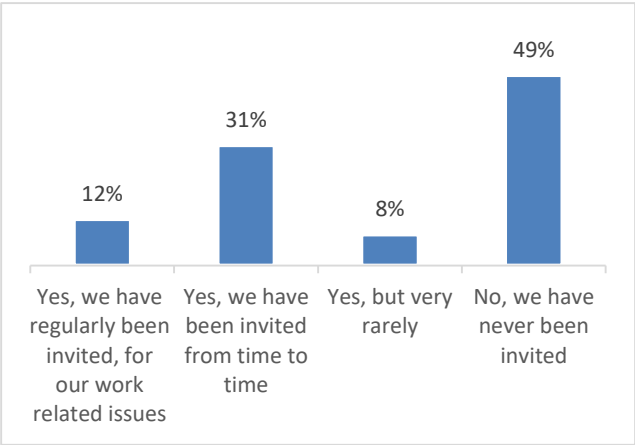


Figure 6 CSOs invitation to public consultation

According to the OPM/OGG’s annual report⁸⁶ on public consultations at the central level of governance, in 2018, 221 of 245 policy documents adopted completed the written consultation process through the Online Platform. Yet, it is unclear if all compulsory elements that make a written public consultation process complete and effective are taken into consideration. Additionally, the report does not provide information about whether other methods besides written consultations have been used in order to ensure a wider outreach of CSOs and citizens. KCSF’s monitoring report of the public consultation process states that in only half of monitored cases (50%), governmental institutions decided to apply methods besides the Online Platform to gather public input.

Seventy-four percent⁸⁷ of civil society organizations reported to have not been involved in the drafting process of policies/legislation during last year, neither via invitation from a public institution nor initiated participation on their own. Survey shows that public institutions have been reluctant to include CSOs in decision-making processes. Half of the interviewed organizations⁸⁸ said they were never invited to participate in public consultations. Only 12%⁸⁹ of surveyed CSOs said they are regularly invited to participate in public consultations, while 40%⁹⁰ said they are invited from time to time or once in a while. Out of those invited to participate in decision-making processes, 60% of organizations said they received invitations in the early phases of the consultation process, whereas only 12 CSOs said they had been provided with sufficient information on the content of the draft policies. Eight per cent of CSOs said they were given enough time (15-20 days as stipulated by law) to comment.⁹¹

Around 25%⁹² of CSOs interviewed said they had enough information about the content of a draft document. Instead, KCSF data from the monitoring of the implementation of the standards on public consultation processes, say that the consultation document has been timely published in 83% of cases. Only 60% of them included all necessary parts as ascribed by the Regulation: a brief description of the contents of the document, a brief description of the problem which the policy treats, the purpose of the consultation process, and a list of main issues that are part of the document. Eighty percent⁹³ of organizations stated that local level of governance publishes draft policies and draft laws on time. Central level government institutions scored slightly lower, with around 66%⁹⁴ of organizations saying that draft policies and regulations are published on time. Only 44% of respondents said the Kosovo Assembly was evaluated as publishing its draft policies and laws on time.⁹⁵

KCSF monitoring results show that the Final Public Consultation Reports are rarely published on time. These reports, which are meant to be compiled

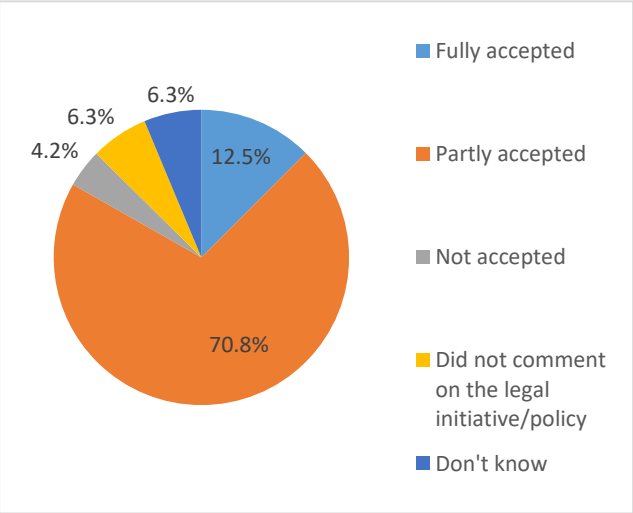


Figure 7 Acceptance rate of comments submitted by CSOs

⁸⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁸⁷ <https://konsultimet.rks-gov.net/Storage/Docs/Doc-5d1f2441afb2a.pdf>
⁸⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁸⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁹⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁹¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁹² Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁹³ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁹⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019
⁹⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

and published at the end of

each public consultation process, have been published on time in only 37% of monitored cases. Furthermore, the vast majority (90 per cent) of published Final Consultation Reports missed one or more parts such as: a list of consulted stakeholders, methods of consultations used, number of contributions received, number of contributions that were accepted or refused, reasons for refusal of comments, and an overall assessment of the process. About 13%⁹⁶ of CSOs that participated in public consultations reported that their comments were fully accepted, while 71%⁹⁷ stated that their comments were partly taken into consideration. Civil society organizations whose comments were refused received written feedback only in 17%⁹⁸ of cases. Although 157 public officials were trained on the implementation of the regulation on public consultation by 2018 according to OPM/OGG, their capacities were evaluated as satisfactory only by 8%⁹⁹ of organizations.

3.2.2. Public Access to Draft Policies and Laws

Partially enabling environment is the category assigned indicated by this standard's findings.

The right to access public information is a guaranteed constitutional right according to Article 41. The Law on Access to Public Documents, which was in a long amendment process beginning in 2017, was completed in 2019. The new law further advanced the forms and procedures to access public documents while requiring from each institution to publish a lists of available documents. Each institution is required to update its archives and to proactively publish new documents. However, the current law does not require publishing of draft documents in procedure. Procedures and mechanisms for access to publish documents/information remain clear as well as monetary sanctions for civil servants and institutions breaching the legal requirements for access to publish information. An Administrative Instruction on the content of websites of public institutions, adopted in May 2015, obliges publication of the Annual Work Plans and draft normative acts for the purpose of public consultations. By the end of 2018, the Government launched the [open data portal](#). Public officials have been assigned and trained, while the platform is considered a step forward to increase the access of CSOs and the general to official data. Public institutions should answer a request for access to public information/documents within seven days. Denied requests should be accompanied by detailed reasoning. If the information/document required entails information that might endanger life or personal freedom, an answer must be provided within 48 hours. In cases when information/documents required have to be collected from more than one source, then the institution is allowed to have 15 extra days to provide an answer. When a public institution does not have the information but has the knowledge of the institution who has it, a representative should inform the applicant within five days from the day of receiving a request. If neither has the information nor the knowledge of the institution, the law provides seven days to inform the requester. Grounds for refusing access to public documents are related to national security, private and personal information, commercial confidentiality, etc. The Information and Privacy Agency has the executive power to issue fines in cases of breaching requirements set by the law. Monetary fines range from €3,000 – €10,000 if a request has been denied in different grounds than those stipulated by the law. Public institutions that do not provide an answer at all may be subjected to fines ranging from €1,000 – €3,000.

⁹⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁹⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁹⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

⁹⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

The online platform for public consultation launched in February 2017 enables participation for both CSOs and the general public. Government units can publish draft annual plans, strategic documents, public policies, laws and other secondary legislation. All of the above-mentioned documents need to go through consultation with CSOs and the general public from early stages of development. In addition, the Kosovo Assembly has launched its [Electronic Legislation Monitoring System](#), which enables access and information to documents during each phase of the policy drafting process. The [official gazette](#) provides CSOs and the public with the opportunity to have access to adopted legislation free of charge. KCSF's monitoring shows a wide discrepancy between the publication of draft proposals on the Online Platform and the Institutions' respective official web-sites. Even though they are obligated to publish draft proposals that are up for consultations on their websites, that has been the case in only 13%¹⁰⁰ of monitored draft-proposals as

opposed to 97%,¹⁰¹ which have been published on the Online Platform. Thirty-three¹⁰² of surveyed CSOs asked for access to public information/documents during the last year. Of the total, 12 organizations received information/documents within the stipulated legal

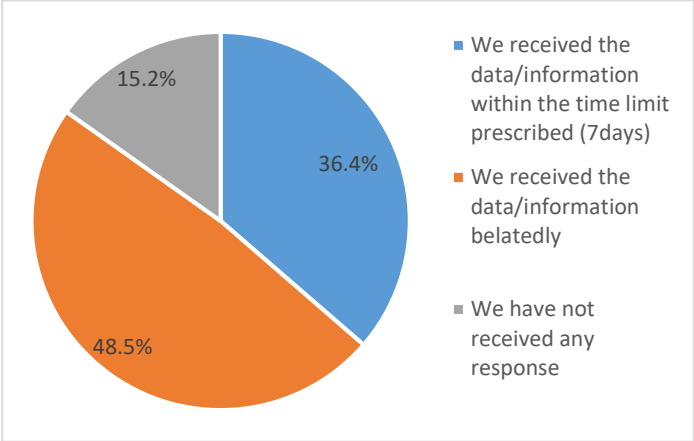


Figure 8 CSOs access to public information

deadlines, whereas 16¹⁰³ of them received information after the prescribed time-limit. Five¹⁰⁴ CSOs did not receive an answer to their requests to gain access to public information/documents.

Requests for access to public information were utilized for the purposes of this report. A comparison between the central and local levels of government shows that in both levels public information is not provided within the legal time frame. Two out of six public institutions at the central level provided information on time, meanwhile only the Office of the Prime Minister provided a decision allowing access to public information/documents. Only one third of the municipalities replied within the prescribed time limit, one of them provided the decision that grants access to public information.

However, requests for access to public information coincided with the lockdown restrictions due to the COVID-19 pandemic, which might be the cause of the slow replies.

According to the Government's Annual Report¹⁰⁵ civil society makes 46% of requests for access to public information to the local level of governance. BIRN, GAP Institute and FOL Movement are three non-governmental organizations that have filed lawsuits for not being granted access to public information/documents. All three organizations have won their cases but the court decisions have not yet been implemented.

¹⁰⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019
¹⁰¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019
¹⁰² Organizational Survey with CSOs in Kosovo, conducted in September 2019
¹⁰³ Organizational Survey with CSOs in Kosovo, conducted in September 2019
¹⁰⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019
¹⁰⁵ <https://kryeministri-ks.net/wp-content/uploads/2019/04/RAPORT-GJITH%C3%8BP%C3%8BRFSHIR%C3%8BS-14-03-2019-2.....pdf>

3.2.3. CSOs' Representation in Cross-Sector Bodies

Partially enabling environment is the category assigned indicated by this standard's findings.

In 2019, no changes have been made to the legislation on participation of civil society in decision-making and/or advisory bodies created by public institutions. The legislation at the government level allows, but does not oblige the government to invite CSO representatives in these bodies. As an exception, sectorial consultative committees on municipal level should be established and comprised of citizens and civil society, but there are only few municipalities that have fulfilled this obligation. A number of independent or advisory bodies have specific rules of procedure which envisage participation of civil society representatives, including selection procedures. Besides these bodies, there are no other guidelines and standards for selection mechanisms that would ensure appropriate participation of civil society.

Survey results show that the vast majority of CSOs in Kosovo are not part of consultative bodies. Around 70%¹⁰⁶ of respondents said they did not participate in a consultative body in the central government. At the municipal level, around 20%¹⁰⁷ of CSOs participated. At the central level of governance, 9%¹⁰⁸ of CSOs were selected through an open call, whereas 8%¹⁰⁹ were invited directly by public institutions to participate. At the municipal level, 16%¹¹⁰ of CSOs applied through an open call – the same percentage of CSOs that were invited to participate by a public institution. At the Assembly level, 90%¹¹¹ of CSOs were not part of any advisory bodies. Those who participated reported to have applied through an open call (4 per cent),¹¹² whereas 19%¹¹³ were directly invited to participate. CSOs did not report facing difficulties in expressing their opinions or participating in policy-making because of their participation in cross-sector bodies.

Box 7: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective 3. Result 3.1.a. According to the Government's report on public consultation, in 2018 221 of 245 policy documents adopted went through written public consultations. Yet, the report does not provide information on whether or not all compulsory elements that make a written public consultation process effective were taken into account. Seventy-four per cent of CSOs reported to have not been involved in drafting of policies/legislation. Of those who participated, 60 per cent said they had been invited in the early phase of consultation, whereas eight per cent of CSOs said they had been provided with enough time to comment.

¹⁰⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁰⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁰⁸ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹⁰⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹¹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹² Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹³ Organizational Survey with CSOs in Kosovo, conducted in September 2019

Sub-area 3.3. Collaboration in social provision

3.3.1. CSO Engagement in Service Provision and Competition for State Contracts

Enabling environment is the category assigned indicated by this standard's findings.

The Legal framework on public service provision is in the process of being amended. The concept document of the Law on family and social services was approved on the first quarter of 2019. Its objectives include improving quality and increasing the transparency of social services, as well as building a sustainable financing system. Moreover, this law through its specific provisions takes into account the nature of civil society sector, and also recognizes social service provision in specific areas. In order to address peculiarities of service provision on areas of education and healthcare, respective ministries have adopted their own sub legal acts. Legal requirements are equal for CSOs and other of legal entities, whereas there are no additional requirements for CSOs to engage in public service provision. The Regulation no.02/2015 on the criteria and procedures of financial support for subsidies and grants, lists areas within social services that an CSO can engage. Additionally, the Ministry of Education Science and Technology's Administrative Instruction lists the types of services that can be provided within the field of education. None of them contain provisions that encourage introduction of new services or practices to deliver services. The aforementioned bylaws define the eligible criteria for social and educational services provided by CSOs. To provide social services, CSOs should obtain licenses based on defined standards. The licenses are a prerequisite to apply for providing services, and this applies to other service providers as well, except state service providers. The provision of education services is not subjected to licensing, while an Evaluation Committee established by the Ministry selects CSO service providers. The same applies also to other service providers beside CSOs.

CSOs in Kosovo usually provide services in the area of social care, education, and health care. Survey data show that a small number of CSOs have applied to obtain contracts for public service provision. Only 3 out of 16 CSOs¹¹⁴ that have applied have been selected to provide public services. Data obtained by the Ministry of Labor and Social Welfare provide a slightly higher number of CSOs engaged in social service provision. According to this data in 2019, 26 CSOs¹¹⁵ were provided with contracts for service provision. CSOs providing social services are required to apply for licenses according to a set of standards determined by the Ministry of Work and Social Welfare. The latter stated that in 2019, 12 CSOs obtained a licence, whereas there are a total of 44 organizations licensed to provide social services. Five of the organizations that said they applied for state contracts in the last year evaluated licensing procedures as complicated. CSO inclusion in the entire cycle of developing services is still lagging behind as the number of CSOs included is a mere handful.

3.3.2. State Funding for CSO-Provided Services

Disabling environment is the category assigned indicated by this standard's findings.

An ongoing problem is the lack of specific budget lines planned for funding service provision by CSOs. Only the Law on Social and Family Services and the Administrative Instruction on allocation of budgetary funds from the category of subsidies and transfers foresee budget allocation for service provision by CSOs and other service providers. Funding is provided only based on public calls for services that are not provided by state

¹¹⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹⁵ Request for access to public information to Ministry of Labor and Social Welfare, 14th of May 2020

authorities, usually for a four to twelve month period. In 2009, due to poor budgetary planning, the financing of social services was decentralized, shifting financing from the central level to the municipalities. This move did not prove successful in creating sustainability. Therefore, the new draft of a concept document for the law on local government finances foresees the creation of a specific grant for social service providers. Its details remain undefined as the drafting of the document proceeds.

An amendment to the Law on Public Procurement in 2015, has made it more attuned to characteristics of civil society sector. The new law removed legal barriers for CSOs receiving public funding for service provision through public procurement. CSOs are recognized as economic operators while the requirement that a CSO be registered in a commercial database was removed. However, any funding can be awarded only on an annual basis, while longer term agreements are not supported.

In 2019, the budget allocation for contracting social services as well as trainings provided by CSOs is €510,000. Five surveyed organizations¹¹⁶ said they had been prohibited to apply for public service provision, without specific explanations provided. Seventy percent¹¹⁷ of CSOs that received funds from state contracts say that they are not sufficient to cover basic costs of a service. Funding for social services is especially insufficient due to improper planning by public institutions. One CSO interviewed¹¹⁸ explains “the problem arises when the Ministry plans the budget for funding social services. The budget calculates the costs of delivering a service as a whole, and not per the number of people being served. As a result, the funding provided is not enough to cover the whole cycle of providing a service. That is why most shelters have to suspend their activities at the end of the year.” Out of 13 organizations who received state contracts, seven¹¹⁹ of them claimed to have not received funds on time and to have had problems when delivering services. Three organizations said they received the funds on time, while three others stated they faced delays but the losses were covered by public institutions.¹²⁰

3.3.3. Procedures for Contracting Services

Partially enabling environment is the category assigned indicated by this standard’s findings.

The Law on Public Procurement, and the Law of Social and Family Services remain unclear, particularly regarding the selection procedures of service providers. The administrative instruction adopted in 2015 lays out general criteria and procedures for grants to CSOs providing social services, same as the administrative instruction on the services for repatriated persons. The law on public procurement contains specific criteria to ensure open and transparent procedures in public procurement, while rules and procedures to select CSOs for service provision are yet to be defined through secondary legislation. Starting from 2016, the entire process of public procurement is carried out through the [online platform for public procurement](#). It aims increasing transparency and competition, while giving the general public full access to tender documents. After the entry into force of the Regulation on public funds distribution, there is a growing trend of service providers being selected through it. Meanwhile, the Regulation covers public financing of projects and programs of CSOs but not services. Since funding of social and other services is addressed through grants and subsidies and subjected to broad criteria, it is difficult to assess whether the price is not the lead criteria for funding decisions.

The legal basis provides general provisions addressing the conflict of interest for social

¹¹⁶ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹⁷ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹¹⁸ Interview with the Coalition of NGOs for Child Protection Kosovo, 1st of November 2019

¹¹⁹ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹²⁰ Organizational Survey with CSOs in Kosovo, conducted in September 2019

service provision by CSOs. For service provision in the field of education the legal framework does not require any prevention of conflict of interest. The sub-legal acts on social service provision require open and transparent procedures, while this is not the case with service provision in the field of education. The law provides the right to appeal against competition results. Public Procurement Regulatory Commission and the Anti – Corruption Agency are the two mechanisms for detection and sanction of misconduct in the public procurement. In 2019, 26 CSOs¹²¹ were contracted for social service provision. The most common areas are: social services, vocational trainings, soft skills training and human rights promotion activities. Around 48 per cent¹²² of CSOs surveyed think that allocation of state contracts is neither transparent nor fair. An interview¹²³ with one organization that monitors public procurement at the local level revealed that in practice, price is the lead criterion. Other criteria, like number of beneficiaries, CSOs, and staff certification are rarely taken into account. Regarding the efficacy of monitoring mechanisms in place, the organization said that “even though they have been notified about breaches encountered in practice, we have received no information about whether or not the necessary measures have been initiated.” Three public officials from the Ministry of Labor and Social Welfare have received trainings on contracting social service providers.

3.3.4. Accountability, Monitoring and Evaluation of Service Provision

Disabling environment is the category assigned indicated by this standard’s findings.

Aside from social services, other services do not have a specific legal basis for monitoring both spending and the quality of service provision. Service provision by CSOs is subject to the general legal requirements on public spending. The secondary legislation adopted in 2015 includes some general provisions on monitoring of services funded by the Ministry of Labor and Social Welfare. Most of the monitoring is focused on spending verification and technical aspects of service provision, with little qualitative monitoring and assessment. There are no identified cases of regular evaluation of quality and effects/impact of services provided. In general, the system of accountability, monitoring and evaluation of services provided by CSOs lags behind. The Monitoring Committee is the body mandated to monitor grants and subventions to legal entities including CSOs. Monitoring can be conducted by central or local level institutions, depending on where a service is based. The Administrative Instruction on monitoring providers of social and family services defines competences of monitoring officers/committees, including a broad reference to qualitative monitoring of services. On the other hand, the administrative instruction on provision of educational services requires only submitting a narrative report at the end of the financing report. Eighty-three percent¹²⁴ of CSOs that have obtained state contracts claimed that the monitoring of expenses and service quality is regular and not excessive. When asked to compare monitoring of expenses and quality of public services provided by CSOs to other sector’s service providers, around 64 per cent¹²⁵ of respondents stated that state institutions applied the same criteria. Desk research has shown that none of the primary providers of state contracts to CSOs have published their monitoring and evaluation reports online. Yet, access to public information has revealed that there has been monitoring of social service providers while such reports remain to be shared with the public.

¹²¹ Request for access to public information to Ministry of Labor and Social Welfare, 14th of May 2020

¹²² Request for access to public information to Ministry of Labor and Social Welfare, 14th of May 2020

¹²³ Interview with the Initiative for Progress, 2nd of June 2020

¹²⁴ Organizational Survey with CSOs in Kosovo, conducted in September 2019

¹²⁵ Organizational Survey with CSOs in Kosovo, conducted in September 2019

Box 8: The EU Guidelines for EU support to civil society in enlargement countries assessment

Objective no. Result no. The legal framework on public service provision is in the amending process. It aims to improve quality and increase transparency as well as build a sustainable financing system. Legal requirements to engage in public service provision are equal for CSO and other legal entities. Practice shows that only three out of 16 CSOs that have applied have been selected to provide public services.

Conclusions and recommendations

Lately, the topic of civil society development has gradually become part of the Kosovo Government's efforts to improve the legal framework. This is due in part to long-term pressure and advocacy from the civil society. The Law on Freedom of Association in NGOs, the Regulation on Public Funding for NGOs, the Regulation on Minimum Standards for Public Consultation, the second consecutive Governmental Strategy for Cooperation with Civil Society are all foundations of an enabling environment for civil society development. Understandably, public institutions have more to do to create the necessary mechanism for proper implementation of these policies and to increase capacities of civil servants.

Much room for improvement remains regarding the AML/CFT legal framework, which without any sectoral assessment or prior analysis considers the civil society sector vulnerable to terrorism financing.

The exercise of freedom of expression remains within the international standards, yet civil society organizations should be cautious towards attempts to endanger or combat it.

Recommendation 1

The Department for NGOs should increase its capacities for proper implementation of its mandate. In particular, its staff should be trained about the international principles of freedom of association and new provisions introduced by the recently adopted law on NGOs.

Recommendation 2

The Ministry of Finance and Tax Administration of Kosovo should address the specificities of CSOs in the primary legislation as well as reporting forms. These should be harmonized with the NGO Law to provide with specific benefits for CSOs. Civil servants' capacities should be increased in order to effectively run the administrative procedures regarding tax exemption for CSOs. Businesses should be notified about such procedures.

Recommendation 3

The Ministry of Finance and Tax Administration of Kosovo should address the specificities of CSOs in the primary legislation as well as reporting forms. This should be harmonized with the NGO Law so as to provide specific benefits for CSOs. Civil servants' capacities should be increased in order to effectively run the administrative procedures regarding tax exemption for CSOs. Businesses should be notified about such procedures.

Recommendation 4

The Ministry of Finance, together with the other budgetary organizations at both the central and local levels should work on increasing transparency of public funds distributed to NGOs, with a focus on monitoring and evaluation. The system of data maintenance in terms of beneficiaries and amounts distributed to NGOs should be improved. The

capacities of public officials to fully implement the requirements derived from the Regulation on public funds should be increased further.

Recommendation 5

The Office for Good Governance in the Office of Prime Minister (OGG OPM) should start allocating the budget as promised, together with increasing its human capacities for proper implementation of the Strategy for cooperation with civil society. Additionally, the evaluation methodology of the Strategy should be updated in accordance with civil society demands.

Recommendation 6

Central level institutions should ensure that public consultation processes are organized entirely in accordance with the standards specified by the Regulation on public consultation. The percentage of draft policies and laws, and the presence of all elements comprising an effective public consultation should be increased. Besides the online platform for public consultation, other means of consultation should be utilized in order to allow wider access for CSOs and the general public. Additionally, the Ministry of Local Government Administration (MLGA) and municipalities should work on fully operationalizing the implementation of minimum standards for public consultation at the local level, while also undertaking a public information campaign promoting available opportunities for citizens and CSOs.

Annexes

1. Monitoring matrix methodology

This study combines both qualitative and quantitative research methods in order to generate the needed data to understand the state of play of civil society development in Kosovo. KCSF, as part of its daily activities, throughout the year constantly monitors developments in each of the standards of the Monitoring Matrix. Moreover, as the lead organization in the area of CSDev in Kosovo, KCSF directly participates in most of the initiatives to advance the legislation and practice of creating an enabling environment for civil society. This has been the case also during 2019.

Desk research played an important role in identifying the legal framework covering all 24 standards of the Monitoring Matrix report. Afterwards, the legal framework's content was analyzed and benchmarked against the Monitoring Matrix on Enabling Environment's indicators in order to assess the degree to which enabling conditions are present. The legal framework review enabled us to create a general glimpse of the policies and laws that affect and regulate the civil society sector in Kosovo. The next step consisted of analyzing the degrees of implementation of such policies and laws.

For this purpose, a total of 101 civil society organizations in Kosovo were surveyed. The CSO Survey sample was built based on the electronic registry of NGOs created by the NGO Department within the Ministry of Public Administration. The list includes a total of 10,125 domestic and 545 foreign and international organizations. This is a standardized questionnaire utilized from all regional partners, while in Kosovo it is incorporated in the larger Organizational Survey questionnaire used also for the Kosovar Civil Society Index. In order to collect comprehensive and representative information on the sector in terms of size, field of activity, years of engagement with the sector and geographical distribution of the CSOs, a stratified random sampling methodology was used. The survey sample was selected following two steps:

1) Setting targets for the strata/target categories: 10 large and well-established CSOs, five international CSOs, five CSOs from the Serb community and five CSOs of other ethnic communities (non-Albanian and non-Serb). In order to ensure geographical representation of the organizations, the survey takers were also divided across regions as follows: minimum 15 CSOs in Prishtina and minimum 10 CSOs in other main regions of Kosovo. Additionally, in each of the regional sub-samples, at least one CSO from smaller municipalities or rural areas was sampled to gain insight on differences they face in their daily operations. The CSOs from the Serbian community were sampled across Serbian majority municipalities: North Mitrovica, Zveçan, Leposaviq, Graçanicë and Shterpçë.

2) Random selection of CSOs across each of the strata/categories, based on the list of registered NGOs. Due to the high rate of inactive CSOs from the NGO Public Register, the same sampling methodology was repeated multiple times, until the intended total of sampling was reached.

The legal framework and survey were complemented by a total of eight interviews with civil society sector representatives and civil servants. Each interview entailed specific set of questions depending on the interviewees' field of expertise and experience. Upon preference, interviews were conducted in written or through direct meetings. In addition

to that, requests for access to public information were utilized. Twenty-one replies were obtained, three from the central level of governance and the rest came from the municipalities in Kosovo. However, both interviews and requests for access to public information coincided with the COVID-19 pandemic-induced lockdown, which imposed the need to run the process of contacting the relevant stakeholders twice in order to maximize data collection. Third parties' reports were also consulted. The importance of interviews and requests to access public information enabled us to triangulate data from different sources in order to complement one another.

2. Notes on methodology and country challenges

The 2019 Monitoring Matrix report is prepared based on an upgraded methodology, which was developed in cooperation with BCSDN's partners. The required information gathering procedures were practical and convenient. However, the first scheduled interviews coincided with the emergence of the first coronavirus infections in Kosovo, which sent the whole country into lockdown. KCSF proceeded in contacting stakeholders as planned immediately as the lockdown was being lifted.

Any analysis of civil society based on empirical data is a challenging undertaking in Kosovo, due to the lack of data availability from the Statistical Agency or other relevant institutions. As a consequence, computing the necessary data, mostly for the economic value of the sector, entails combining different sources of information from several public institutions. Although this is a time consuming process, public officials are committed to providing information on time. Some data exists. For instance, DNGO keeps track of the numbers of registered and active CSOs in Kosovo, and the finance ministry keeps a list of beneficiaries. However, often the data are not kept in a systematic way. Therefore, KCSF had to do additional work to rearrange and analyze them. 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 in this complex system of legislation and their proper connection required excessive work in desk research and analysis. To conclude, KCSF continuously monitors the main developments in each of the standards as a part of its daily operation throughout the year. This enables the research team to focus the primary research only on those issues which needed further information and analyses. Moreover, being the lead organization in the area of CSDev in Kosovo, KCSF directly participates in most initiatives to advance the legislation and practice of improving the enabling environment for civil society.

3. Used resources/Bibliography

1. The Constitution of Kosovo
2. 04/L-082 Penal Code of the Republic of Kosovo
3. Civil Law 02/L-65 against defamation and insult
4. Law 06/L-043 on Freedom of Association in NGOs
5. Law 03/L-222 on Tax Administration and Procedures (including Law 04/L-102 on amending the Law 03/L-222)
6. Law 05/L-096 for Preventing Money Laundering and Fighting the Financing of Terrorism
7. 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)
8. Law 03/L-162 on Corporate Income Tax (including Law 04/L-103 on amending the Law 03/L-162)
9. Law 05/L-029 on Corporate Income Tax
10. Law 03/L-161 on Personal Income Tax (including Law 04/L-104 on amending the law 03/L-161)
11. Law 05/L-028 on Personal Income Tax
12. Law 03/L-118 on Public Gatherings
13. Law 03/L-212 on Labor
14. Law 03/L-145 on Youth Empowerment and Participation
15. Law on Budget 2016
16. Law 04/L-051 on Prevention of the Conflict of Interest in Exercising the Public Function
17. Law 03-L/040 on Local Self-government
18. Law 03/L-215 on Access to Public Documents
19. Law 02/L-17 for Social and Family Services
20. Tax Administration Public Explanatory Decision 06/2016 on tax treatments of donations
21. Regulation 05/2016 on Minimum Standards for public consultation process
22. Regulation MF-NR – 04/2017 on criteria, standards and procedures on public funding of NGOs
23. Administrative Instruction GRK – No: 02/2014 on registration and operation of NGOs
24. Declaration for Partnership between the Kosovo Republic Assembly and Civil Society
25. Government Strategy for Cooperation with Civil Society 2019 - 2023
26. Government Model on Public Funding
27. Government Report on Public Funding 2019
28. Annual Plan for 2016 of the Governmental Strategy for Cooperation with Civil Society 2013-2017
29. Annual Report on Public Consultations for 2018
30. Kosovar Civil Society Foundation's monitoring report on implementation of minimum standards for public consultations 2018
31. Kosovar Civil Society Index 2016, KCSF 2018
32. Kosovo Pension Savings Trust (data upon request)

4. List of interviewees

According to alphabetical order:

1. Albulena Nrecaj, Initiative for Progress
2. Donjetë Kelmendi, Coalition of NGOs for Child Protection Kosovo
3. Feride Rushiti, Kosova Rehabilitation Centre for Torture Victims
4. Kastriot Miftaraj, Ministry of Culture, Youth and Sports
5. Kushtrim Kaloshi, Advocacy Training and Resource Center
6. Liron Kafexholli, Association of Journalists of Kosovo
7. Musli Krasniqi, Kosovo Assembly