

Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:
Kosovo
2021





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Country Brief for Kosovo 2021

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April 2022



This material/production has been financed by the Swedish International Development Cooperation Agency, Sida. Responsibility for the content rests entirely with the creator. Sida does not necessarily share the expressed views and interpretations.

Executive summary

Civil Society Overview

| | 2021 |
|---|--|
| Number of registered organizations | <p>Associations: 172 Foundations: 13 Institutes: 17 Total: 202 Foreign or international NGOs: 1</p> |
| Main civil society laws | <ul style="list-style-type: none"> • Law on Freedom of Association in NGOs • Law on Access to Public Documents • Government Strategy for Cooperation with Civil Society 2019-2023 • Regulation on Minimum Standards for Public Consultation Process • Regulation on Criteria, Standards and Procedures on Public Financing of NGOs • Administrative Instruction no.06/2018 on Minimum Standards of Public Consultation in Municipalities • Guidelines on Involvement of Civil Society in SAA Structures |
| Relevant changes in legal framework | <p>Adopted secondary legislation: Regulation no. 03/2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing</p> <p>Draft laws/policies on:</p> <ul style="list-style-type: none"> • Public Gatherings • Youth Volunteering • Social and Family Services |
| State funding (for the previous year) | <p>Total (in mil.): €18 vs. €4 By government (in mil.): €12 vs. €2 By municipalities (in mil.): €6 vs. €2 (Government's report vs. KCSF's analysis of the government's report, 2020)</p> |
| Human resources (employees and volunteers) | <p>5,120 employees have continuously paid contributions in the past 12 months 11,246 employees have more than one job, one of them being in the CSO sector</p> |
| CSO-Government Cooperation (body/ consultation mechanism) | <ul style="list-style-type: none"> • The Online Platform for Public Consultations • The Office of Good Governance • The Council for Government – Civil Society Cooperation • The Ministry of Local Government Administration's forum for cooperation with the civil society sector • Kosova's National Council for European Integration |
| Other key challenges | <p>Similarly, to the previous year, a lack of official data on the civil society sector is evident, especially related to the economic value of the sector.</p> |

Key findings

| Key findings of the report | |
|----------------------------|--|
| 1 | Freedom of association is guaranteed by the Constitution and Law No. 06/L-043 on Freedom of Association in NGOs, while the pandemic has not had a negative impact on its implementation. However, there is almost three years delay from the legal deadline set by the law on drafting of secondary legislation for the implementation of the NGO law. This process started in 2019, has not yet been concluded. |
| 2 | The Law on the Prevention of Money Laundering and Combating Terrorist Financing (AML/CFT) restricts CSO's work since it is not in line with the FATF recommendations nor EU Directive 2015/849. In 2020 the European Commission together with Kosovo's Financial Intelligence Unit started a sectorial risk assessment also the working group on amending the AML/CFT law continued its work trying to address the overall categorization of the sector as inclined to terrorist financing into a categorization of CSOs could be potentially at a high risk. |
| 3 | The Law on Public Gatherings has finished the written public consultation phase. As a process, especially the written consultation phase was characterized by a close cooperation of the Ministry of Internal Affairs and civil society representatives, resulting for most of the feedback being considered. However, the final consultations report as well as the updated version of the draft law are yet to be published. |
| 4 | The Regulation on the Public Funds Distribution to CSOs even though that has entered on its fifth year, its implementation is still at a very beginning stage. A positive development is appointment of public funds coordinators in central-level public institutions with the idea to improve the process. There is a considerable number of public institutions that publish open calls for application, yet these calls rarely include all the elements set out by the Regulation. Other reasons why the implementation is stalled are related to specific budget codes that have never been created; lists of public funding beneficiaries show that public institutions wrongfully categorize funds allocated to sports clubs, federations, religious institutions, private schools, art ensembles, and city theaters as support for CSOs. Also, much remains to be done in terms of increasing transparency and improving monitoring and reporting systems. |
| 5 | The Government Strategy for Cooperation with Civil Society 2019–2023 has entered its fourth year of implementation. The government has committed to allocate a specific budget to support Strategies' implementation, yet it is not clear if the same has been done. The Government has several mechanisms that utilizes to enhance its cooperation with the civil society, yet they are not delivering at the desired level. |
| 6 | The entry into force of Regulation No. 05/2016 on Minimum Standards for Public Consultation Process has established a set of standards and a systematic procedure for public consultation processes. Yet, in practice, criteria derived from this Regulation are respected minimally. Even though there is an increase of the final consultation documents published most of the cases they are not complete. The Administrative Instruction no.04/2018 on Minimum Standards on Public Consultation in Municipalities lacks clear and detailed provisions that make a public consultation process complete and effective. |

Key recommendations

| Key findings of the report | |
|----------------------------|---|
| 1 | The Department for NGOs should accelerate the process of finishing drafting of the secondary legislation of the NGO law, which is already three years behind the legal deadline specified by the law. |
| 2 | The recommendations of the working group on amending the AML/CFT law should be taken into account by the Financial Intelligence Unit, the Ministry of Finance and the Central Bank, in order for the law to be in line with the FATF recommendation 8, and the sectoral risk assessment. |
| 3 | The Ministry of Internal Affairs should ensure a participatory process when drafting the draft law of the Public Gathering in order to meet the needs of all parties involved. This implies that besides other recommendations, it should also explicitly allow counter and simultaneous assemblies in addition to extending the right of free assembly to Kosovo's citizens. |
| 4 | The Ministry of Finance should begin the process of creating specific budget codes, that is one of the main requirements of the Regulation. Additionally, the system to maintain data on beneficiaries and amounts distributed to NGOs should be improved, and the capacity of public officials to fully implement rules derived from the Regulation on public funds should be increased further so the Regulation's implementation can finally be fully implemented. |
| 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. Also, respective central level institutions should invest more to activate their mechanisms for cooperation with the civil society organizations. |
| 6 | Institutions at public central level must ensure that all public consultation processes are done accordingly to the requirements set by the Regulation on public consultation. Additionally, other means beside the Online Public Consultation Platform should be utilized. The Ministry of Local Government Administration (MLGA) should work more to promote the public consultation process in municipalities as well as ensure that the Administrative Instruction on public consultations in the municipality level is entirely being implemented in practice. |

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

1.1.1. Establishment of and Participation in CSOs

In 2021, there were no changes on the legal framework on establishment of and participation in civil society organizations. Freedom of Association is guaranteed by Article 44 of the Kosova's Constitution,¹ and further regulated by the Law no.06/L-043 on Freedom of Association in Non-Governmental Organizations.² Amended in 2019 to the best international standards and practices, this law stipulates the right to associate to all individual and legal entities, in three legal forms; associations, foundations and institutes. Drafting of bylaws has not been concluded yet, even though started in 2019. The law puts a deadline of two years for the drafting process to finish, yet the process has been prolonged mainly due to the COVID-19 pandemic.

Registration is not mandatory, but if decided to obtain the legal status certain criteria should be met. Networks are registered as associations therefore same rules regarding their registration and operation apply. Registration procedure lasts 30 days, it's free of charge while registration rules are considered easy to follow. The online platform for NGO registration³ further eases the process. The registration of organizations has continued a steady trend of around 500 organizations per year, until the last two years. In 2020 and 2021, respectively, 205 and 235 organizations registered annually. Until the end of December 2021, 11,285 organizations were registered according to the Public Registry of CSOs⁴.

The positive trend of citizens organizing in ad hoc initiatives to voice their concerns continues. Topics ranged from condemning construction of hydropower plants, demanding gender equality and LGBTI rights, to marginalized groups asking for more inclusion in the public life. The last couple of years lawsuits were filed against several individuals and civil society activists for having publicly criticized and condemned actions of private companies or the public broadcaster. These lawsuits known as SLAPP (Strategic Lawsuit Against Public Participation), were dismissed after public pressure exercised mostly by civil society organizations and media. However, they represent an attempt to restrict the public space and citizen's engagement.

¹ [Constitution of the Republic of Kosovo](#) (24 March 2021)

² [Law no.06/L-043 on Freedom of Association in Non-Governmental Organizations](#) (24 April 2021)

³ <https://ojq.rks-gov.net/Regjistrohu.aspx?l=1>

⁴ <https://ojq.rks-gov.net/KerkoOJQ.aspx> (24 April 2021)

1.1.2. State Interference

In 2021, there were no changes on the legal framework on state interference in civil society organizations. Article 13 of the Law no.06/L-043 on Freedom of Association in Non-Governmental Organizations protects against state's interference in internal matters of NGOs as well as from third parties' interference. Besides not interfering, state institutions should create an enabling environment for CSOs operation. Civil society organizations suffer from a number of restrictions under the law on Preventing Money Laundering and Combating Terrorist Financing (AML/CTF)⁵, as they are viewed as reporting entities and subjected to a range of burdensome reporting requirements. While the Concept Document on AML/CFT is being drafted, civil society representatives are trying to align it with the Financial Action Task Force (FATF) Recommendations⁶ and the EU Directive 2015/849.⁷

There were no changes on the legal provisions on the financial reporting and accounting rules, which does not consider CSO's specific nature of work. Reporting requirements are twofold: to Tax Administration of Kosova (TAK) and to the DNGO that is required only from CSOs with the Public Benefit Status (PBS). Besides reporting requirements also sanctions for failing to fulfill them are identical or proportionate to businesses. The law has foreseen that CSOs may be subjected to material sanctions if within 30 days they do not notify the DNGO for changes in their organization's name, address, mission and vision, or contact information. Fines range from EUR 250 to the organization and EUR 80 to the authorized person. Still, they are considered proportionate to the circumstances of Kosovar CSOs. A CSO can decide to terminate its operation when the highest governing body decides so in accordance with its statute; an NGO can turn insolvent when a deadline is set in the statute or funding act or based on the court decision.

1.1.3. Securing Financial Resources

In 2021, there were no changes on the legal framework on securing financial resources by civil society organizations. The legal framework supports CSO's engagement in economic activities, either directly or by owning assets or property, under the requirement that their activities are in line with the non-for-profit principle. Additionally, CSOs can apply for foreign and private sources of funding. Other sources of funding include individual and corporate giving as well as other sources without limitation.

Interviews with main foreign donor organizations yielded that for 90% of them funding priorities have not shifted as a result of the COVID-19. According to the Catalyst Balkans's Annual Report on the State of Philanthropy – Giving Kosovo⁸ in 2020 were recorded 7.7 million EUR in donations, which is almost two times higher than the donated amount in the year before. Between most distinguished givers were individuals with 37.2% who mainly donated to instances unrelated to COVID-19 pandemic, out of which the largest percentage was for education. The corporate sector incorporated more than a quarter of all donation instances, mainly from small and medium corporations. Most of the corporate sector's donations were directed for COVID-19 response.⁹

⁵ [Law no.05/L-096 on the Prevention of Money Laundering and Combating Terrorist Financing](#), (January 2021)

⁶ [FATF Recommendations](#) (February 2021)

⁷ [EU Directive 2015/849](#) (February 2020)

⁸ [Catalyst Balkans's Annual Report on the State of Philanthropy – Giving Kosovo](#) (March 2022)

⁹ Ibid.

Sub-area 1.2. Related Freedoms

1.2.1. Freedom of Peaceful Assembly

Freedom of assembly is a constitutional right, as per the Article 43 of the Constitution¹⁰. Freedom of assembly is regulated by the Law 03/L-118 on Public Gatherings¹¹, which 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. A notification 72 hours in advance is the only prerequisite for organizing a public assembly. Even though not explicitly the law does not recognize simultaneous and counter-assemblies to be held, since a request to organize an assembly can be denied if at the near or exact time and place has been granted another permission for another assembly.

Same as in the previous year the government implemented a series of preventive measures to stop the spread of the coronavirus. These measures mainly impacted implementation of the freedom of assembly, whereas the legal framework remained intact. Particularly, exercise of freedom of assembly and of freedom of movement were tightened or loosened depending on the cases of COVID-19's infections.

Initiated in 2019, the Law 03/L-118 on Public Gatherings is still in the amending process. In the second part of the year the draft law was made available for the public to provide their comments through the written public consultation phase, via the online platform. KCSF altogether with other civil society organizations provided their substantive input on the following matters: such as the freedom of assembly to apply also to stateless persons, refugees, foreign nations, asylum seekers, migrants and others. Other legislative gaps were related to requesting that simultaneous and counter assemblies to be recognized as a specific category. Moreover, the draft-law has removed the possibility of appeal first to the decision-making body, in this case to the Kosovo Police, as it is spelled out in the law in force.

Last year was noted a slight decrease in the number of public assemblies held for which a permission was issued. In 2020, there were held 152 public assemblies compared to 164 assemblies held in 2021. The most common forms of exercising freedom of assembly were protests (61) and marches (18). There were at least two reported cases of police brutality against organizers or attendees of public gatherings. Both cases happened against political activists, which were detained while staging actions and protests. According to data provided by the Kosovo Police out of sixteen restricted public assemblies; for eleven of them was has issued a written explanation.

¹⁰ [Constitution of the Republic of Kosova \(April 2020\) \(April 2021\)](#)

¹¹ [Law no.03/L-118 on Public Gatherings \(April 2021\)](#)

1.2.2. Freedom of Expression

In 2021, there were no changes on the legal framework on freedom of expression. Article 40 of the Constitution¹² guarantees freedom of expression to all and can be restricted only if necessary to prevent violence or racial ethnic or religious hate. This freedom is regulated by several laws such as: Civil Law Against Defamation¹³, Law on Protection of Informants¹⁴, Law on Access to Public Documents¹⁵, Law on Protection of Journalistic Sources¹⁶, Law on Protection of Personal Data¹⁷. They are all considered to be in line with best international standards and practices.

In 2021, the Law on Protection of Whistleblowers has been updated with the Regulation no. 03/2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing¹⁸. The Regulation established rules and procedures for dealing with whistleblowers and defines responsibilities of public officials that deal with such reporting. Limitations of hate speech are clearly prescribed through various legal documents. Besides Article 40, Article 141 *Inciting discord, and intolerance*¹⁹ condemns any form of public speak that spreads hate between national, racial, religious, ethnic and other groups or based on sexual orientation, gender identity and other personal characteristics. Yet, there have been a few reports of hate speech presence in media especially towards RAE and LGBTIQ communities²⁰. Also, during the local elections campaign threatening language was used from an MP towards citizens present in an electoral gathering. Libel is considered a misdemeanor rather than part of the penal code. Media experts have evaluated the legal framework on freedom of expression as supportive, even though its implementation lags mainly due to lack of supporting mechanisms. Attacks on journalists and attempts aimed at obstructing the performance of journalistic duties continued in 2021. The Association of Journalists of Kosova (AJK) through a public statement expressed their concern with the prolonged investigations related to such cases. For instance, the Court of Appeals took more than six years to proceed a case of assault against two journalists. Freedom's House Report 2021²¹ ranks Kosovo as partly free, whereas according to the Reporters Without Borders report²² Kosovo has fallen eight places in the Freedom Index. Among the reasons the report lists physical and verbal attacks against journalists, cyber-attacks and so on.

¹² [Constitution of the Republic of Kosova \(April 2020\) \(April 2021\)](#)

¹³ [Civil Law against Defamation and Insult \(February 2021\)](#)

¹⁴ [Law on Protection of Whistleblowers \(February 2021\)](#)

¹⁵ [Law on Access to Public Documents \(February 2021\)](#)

¹⁶ [Law on the Protection of Journalism Sources \(February 2021\)](#)

¹⁷ [Law on Protection of Personal Data \(February 2021\)](#)

¹⁸ [Regulation \(GRK\) - no.03/ 2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing \(January 2021\)](#)

¹⁹ [Constitution of the Republic of Kosova \(April 2020\) \(April 2021\)](#)

²⁰ <https://www.koha.net/arberi/276321/gjuha-e-urrejtjes-e-pranishme-ne-mediat-e-kosoves-kerkohet-parandalimi-i-saj/>

²¹ <https://freedomhouse.org/country/kosovo/freedom-world/2022> (March 2021)

²² <https://rsf.org/en/kosovo>

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

In 2021, there were no changes on the legal framework on tax/fiscal treatment of civil society organizations. Even though planned for this year, the Government decided to postpone for the following year the amendment of the Law on Personal Income and the Law on Value Added Tax. Through an Explanatory Decision released by the Tax Administration of Kosovo in 2016, grants, donations and subventions are tax exempted. Yet, legal provisions are not clear regarding economic activity of CSOs without PBS. On the other hand, according to Kosovo Tax Administration (KTA) the economic/commercial activities of PBOs are exempt from the corporate income tax if the income destination is solely for the public benefit purpose and up to a “reasonable level” of income. While the article of the tax exemption mentions only the PBOs, another article on commercial activities provides that all registered CSOs whose “commercial or other activity shall be exclusively related to its public purpose up to a reasonable level of income”. This incoherence causes difficulties in its interpretation and implementation. There was no policy initiation on passive investments neither on endowments.

Sub-area 2.2. State support

2.2.1. Public Funding Availability

In 2021, all ministries appointed public funds coordinator for cooperation with the Office of Prime Minister / Office of Good Governance aiming implementation improvement of the Regulation on public funds distribution to CSOs. State support to civil society organizations is regulated by the Regulation MF-NR-04/2017 on criteria, standards and procedures on public funds distribution to NGOs²³. The implementation of this Regulation is mandatory for all public institutions. Public funds are distributed according to a decentralized system, which means that each public institution is responsible for distribution of its own funds.

According to the Regulation public financial support for CSOs should be planned within the annual state’s budget, even though Ministry of Finance has never created the budgetary codes. Certain rules and criteria apply for creation of Evaluation Committee and of the Compliant Committee. The Government reports annually on the financial support allocated to CSOs. The report’s data²⁴, filtered and sorted out, shows that from the total 18 million EUR reported, only 4 million EUR were allocated to CSOs. The remaining amount was distributed to federations, sports clubs, economic operators, marketing services provided to public institutions, services provided by CSOs on behalf of state institutions, religious institutions, and public institutions mistakenly

²³ [Regulation MF-NR-04/2017 on Criteria, Standards and Procedures on Public Funding of NGOs](#) (May 2021)

²⁴ [Office of Prime Minister / Office of Good Governance, \(2020\). Report on Public Financial Support Allocated to Civil Society Organizations in Kosovo in 2019](#)

categorized as CSOs. Whereas, EUR 8,386.33 on average were delivered per CSO.

The government issued a couple of Economic Recovery packages for addressing the COVID-19 pandemic, from which CSOs were eligible to apply. However, since the start of the pandemic there was no specific funding designed for CSOs.

2.2.2. Public Funding Distribution

In 2021, there were no changes on the legal framework regarding public funds distribution to civil society organizations. According to the Regulation uniform procedures, criteria, guidelines and documents apply to each institution providing public financial support. All the documents should be published online at the moment of opening the call. Article 19 of the Regulation²⁵ has established clear procedures for addressing conflict of interest. Government's report provides data on the largest public funds distributors on both levels of government. A detailed analysis of the report shows that out of seven central public institutions with the highest proportion of funds allocated to CSOs only three of them have actually distributed public financial support to CSOs. All three institutions have published open calls for public financial support to CSOs. After sorting out the lists of beneficiaries, the rest results to have not distributed funds to CSOs but to sports clubs and federations or to have contracted CSOs for service provision. At the municipal level only one out of seven municipalities turns out to have not distributed public funds to CSOs. Whereas from six municipalities that have distributed funds to CSOs only two of them have published the call on their website.

Sub-area 2.3. Human resources

2.3.1. Employment in CSOs

In 2021, there were no changes on the legal framework on employment in civil society organizations. Even though the revision of the Labor Law²⁶ started in 2014 the process has not been concluded yet. A government's decision announced that in December 2020 the law will enter into force and that it will be merged with the Law on Maternity and Parental Leave, yet none of them happened. The draft law does not contain any specific provision same as the law in force, which applies the same requirements to CSOs as for the other sectors. For example, provisions on the maternity leave are difficult to be implemented by CSOs because of the dominance of project funding, which most of the cases does not cover such expenses. In a separate process, then the Ministry of Labor and Social Welfare started drafting of the law on Maternity and Paternal Leave which was never finished. Kosovo Pension Savings Trust (KPST) is the body that collects information over the number of employees in civil society sector. In 2021 5,120 CSO's employees²⁷ have paid tax contributions for a longer period than 12 months, a figure slightly higher compared

²⁵ Regulation MF-NR-04/2017 on Criteria, Standards and Procedures on Public Funding of NGOs (May 2021)

²⁶ Law on Labour (May 2021)

²⁷ Request to access public information to Kosova Pension Trust. (February 2022)

to 2020 (4,412)²⁸. There is also an increase in the number of employees with more than one occupation and one of occupations is in the civil society sector. In 2021 there were 11,246²⁹ such employees compared to 10,261 one year before.

2.3.2. Volunteering in CSOs

In 2021, there were no changes on the legal framework on volunteering in civil society organizations. Even though started in 2017 the drafting of the concept document on volunteering has never been finished and as a process has not seen any development throughout the years. In 2020 the Law on Youth Empowerment and Participation has passed the phase of written public consultation, the draft law has not been proceeded further. The legal framework on volunteering is comprised by the Law 03/L-145 on Youth Empowerment and Participation³⁰, that regulates volunteering of youth aged 15-24, and the Administrative Instruction no.01/2016 on youth voluntary work³¹ that establishes procedures of registration, verification and certification of volunteers. Even though legal provisions define contractual relationships, incentives and registration procedures, one general problem is that it regulates only volunteering of youth. The Ministry of Culture Youth and Sport's Youth Department, generates data on volunteering.

2.3.3. Non-Formal Education

In 2021, there were no changes on the legal framework on non-formal education. The draft law on Youth Empowerment and Participation went through the written public consultation phase during the second part of 2020. However, this draft law has not foreseen any new changes regarding the non-formal education besides stating that this area remains to be regulated via secondary legislation. Kosovar NGOs are allowed to provide educational activities, including non-formal ones, if such activities are in accordance to their statutes and fields of activities. The National Qualifications Authority is the body mandated to establish systems of accreditation and recognition of non-formal education and such systems are in place in different areas. The only piece of policy that regulates this matter, is the Administrative Instruction on Non-Formal Education for Youth, adopted in 2015 by the Ministry of Education Science and Technology. However its provisions set very broad criteria regarding informal education methodology, types of providers of informal education and types of certificates to be issued.

²⁸ Ibid.

²⁹ Ibid.

³⁰ [Law 03/L-145 on Empowerment and Participation of Youth](#) (May 2021)

³¹ [Administrative Instruction No. 01/2016 on Youth Voluntary Work](#) (May 2021)

Area 3: Government-CSO Relationship

Sub-area 3.1. Framework and practices for cooperation

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

In 2021, there were no changes regarding institutions and mechanisms for cooperation with civil society. The Governmental Strategy for Cooperation with Civil Society 2019-2021³² entered in its fourth year of implementation. Several public institutions have established mechanisms to facilitate cooperation with civil society organizations. The Council for implementation of 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), is the Secretariat of the Council also serves as the focal unit of the government for civil society cooperation. Ministry of Local Government is utilizing its mechanism for cooperation with civil society organizations focused to the local level of the government. Recently, the parliament shrunk the Office for Donors Coordination and Civil Society relations, into the department for Media and Mass Communication. Another mechanism is the Forum for Parliamentary Transparency, comprised of Members of the Parliament and civil society representatives. This forum aims to advance parliamentary openness leading to greater citizens engagement and increase public institution's responsiveness. Office of President's National Council for European Integration is a mechanism aiming formulation of concensual national policies on the european inegration topic. However, this council is not active and has not delivered activities since several years.

Another instrument it's Ministry of European Integration's³³ Guidelines on involvement of civil society in SAA structures. Even though in 2021 happened a few positive indications for its implementation, there were low rates for CSOs participation as they continue to be uninformed about such an instrument being in place.

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

3.2.1. Standards for CSO Involvement

In 2021, there were no changes on the legal framework on the involvement in policy and decision-making processes. The Regulation no.05/2016 on Minimum Standards for Public Consultation³⁴ inclusion of civil society in decision-making processes goes through a regulated process. There are standards and criteria that define that CSOs, and general public's participation is mandatory for the central level of government except the parliament. For instance, a standard deadline for submitting written feedback is 15 working days, while for more complex deadlines can be

³² [The Government Strategy for Cooperation with Civil Society 2019-2023](#) (May 2021)

³³ Since 2020, the Ministry of European Integration is merged with the Office of Prime Minister

³⁴ [Regulation no.05/2016 on Minimum Standards for Public Consultation](#) (March 2021)

extended up to 60 days. A mechanism derived from the Regulation is the online platform for written public consultation³⁵. Public consultation in the local level of governance is regulated by the Administrative Instruction no.04/2018 on Minimum Standards on Public Consultation in Municipalities³⁶. Contrary to the Regulation this Administrative Instruction lacks many of the necessary steps for effective implementation. According to the Annual Report on Public Consultations in the Central Level of Governance 2020³⁷ (published in 2021) out of 184 policy documents adopted, 181 have undergone the written consultation process through the Online Platform. Yet, the report does not provide detailed information if other methods besides written consultations were used to ensure a wider outreach to organizations and citizens. On the other hand, KCSF's monitoring report of the written public consultation process shows an increase in presence of the consultation documents, yet they rarely contain all the necessary parts specified by the Regulation. For instance, regarding project policies a consultation document is published in 95% of the cases, yet only in 12% of them had a brief description of the problem, whereas the list of the main issues part of the document is published in 64% of the cases.³⁸ Each public institution appointed public consultation's coordinators, while during the year 48³⁹ public officials were trained on the public consultation process. The OPM/OGG in cooperation with the Kosova Institute for Public Administration provides trainings to civil servants also on other topics.

3.2.2. Public Access to Draft Policies and Laws

In 2021, there were no changes on the legal framework on public access to draft policies and laws. However, after remaining vacant for a couple of years the Head Commissioner of the Information and Privacy Agency was appointed. Civil society and the opposition parties had asked several times to reverse the appointment process since the candidate ranked first by the Committee on Security and Defense Affairs had not submitted all required documents. This request was not taken into account by the governing parties, however, instead of the candidate proposed by the commission they decided for another one for the Head Commissioner's position. The Assembly has its Electronic Legislation Monitoring System⁴⁰, which provides information for each phase of the policy drafting process. The official gazette provides free access to all adopted legislation from all levels of government. Last year a case of public institutions not granting access to public documents was made public. The Kosova Prosecutorial Council (KPC) did not allow access to civil society representatives on the investigative panel's files on the murder of the 11 year old boy Kujtim Veseli. Even though public institutions are obligated to publish draft-proposals that are up for consultations on their web-sites in addition to the Online Platform, that has been the case in only 15.3%⁴¹ of monitored draft-laws as opposed to the 65%⁴² rate at which they have been published on the Online Platform. None of the concept documents were published on respective web-sites whereas half of them were published on the online platform for public consultation. Similar percentages apply also for the monitored concept documents.

³⁵ [Online Platform for Public Consultations \(March 2021\)](#)

³⁶ [Administrative Instruction No. 06/2018 on Minimum Standards on Public Consultation in Municipalities \(March 2021\)](#)

³⁷ [Administrative Instruction no.04/2018 on Minimum Standards on Public Consultation in Municipalities \(March 2021\)](#)

³⁸ KCSF. (2021). Analysis of public consultation process. Unpublished

³⁹ Request to access public information to OPM/OGG. (February 2022)

⁴⁰ [Electronic Legislation Monitoring System \(February 2021\)](#)

⁴¹ KCSF. (2021). Analysis of public consultation process. Unpublished

⁴² Ibid.

Sub-area 3.3. Collaboration in service provision

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

Legal framework on public service provision is still in the amending process. In 2021 the draft law on Social and Family Services has finished the phase of written public consultation whereas its objectives include improving quality and increasing transparency of social services, also building a sustainable financing system. The law in force takes into account the specific nature of civil society sector, 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 provide social services NGOs should obtain licences based on defined standards. The licenses are a prerequisite to apply for providing respective services, and this applies to other service providers as well, except state service providers. Usually, number of CSOs included in the entire cycle of planning and delivering services is very small. Data from the Ministry of Finance, Labor and Transfers tell that 48 CSOs and 189 professionals⁴³ of social service provision were licensed in 2021.

⁴³ Request to access public information to Ministry of Finance, Labor, and Transfers. (February 2022)

Annex 1

Background & methodology

This report is part of a series of country reports covering six countries in the Western Balkans: 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.

The Monitoring Matrix, developed in 2013 by BCSDN, with the support of its members and partners, sets the main principles and standards crucial for the legal environment to be considered supportive both for the operations and for development of CSOs. The Monitoring Matrix is organized around three main areas, each divided by sub-areas:

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

The areas are elaborated by standards, which are further specified through legal and practice indicators. The legal indicators are measured by coding the presence or absence of rules, costs, procedures, and obligations enshrined in legal regulation (primary and secondary) and policy frameworks enacted in the respective countries. To assure standardization and comparability of the data gathering process regarding the practice indicators, country researchers follow a methodology plan in which each of the 80 indicators are further operationalized in concrete mandatory and additional data types (i.e. operationalized dimensions of a practice indicator) to be reported across the countries.

The principles, standards, and indicators rely on internationally guaranteed freedoms and rights and best regulatory practices at the EU level and in European countries. The Matrix aims to define the optimum situation for effective operation and development of civil society, as well as set a realistic framework that can be implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators have been defined to monitor the situation by taking into consideration both the legal framework and its practical use.

The research undertaken aims to provide evidence on the enabling environment for civil society development and to influence the support of governments, the European Union and other donors towards more sustainable and strategic development of the sector.

To analyse and interpret the data, country researchers use a unified data collection template which provides the indicators description and five category descriptions ranging from fully enabling to fully disabling environment provided under each indicator. The five category descriptions are specified for each legal and practice indicator in the Monitoring Matrix Toolkit, to enable researchers – based on the reported data – to choose one code (score) which most accurately summarizes the state of enabling environment concerning the respective indicator. In a first step, the researcher reports the required data types collected through different sources in the template box. In a second step, they choose one of five category descriptions specified for the respective indicator which best illustrates the reported data. The categories enable unified comparison of findings on the level of indicators across all country reports.

This publication was made possible through the financial support of the Swedish International Development and Cooperation Agency (Sida), as part of the project “Protecting Civic Space: Regional Civil Society Development Hub” implemented by the Balkan Civil Society Development Network. The contents of this publication are the sole responsibility of the Kosovar Civil Society Foundation and do not necessarily reflect the views of Sida.

