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Civil Dialogue in Kosovo

Country profile for the year 2012

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I Background

What is the current political constellation and attitude of state officials towards CSO development and civil dialogue?

A turning point in the development of civil society in Kosovo was the period immediately after the end of the war in 1999 and establishment of international administration. The enormous after-war needs for emergency actions and reconstruction, as well as interethnic reconciliation, exposed civil society to large scale financial and technical support from international donors. Although this resulted in a massive growth in the number of CSOs, it was not necessarily followed by the increased quality of their work. UN administration in Kosovo and overall political and decision-making system was not designed in a way to enable genuine civil movements which would represent citizens and respective constituencies.

Only a couple of years before the declaration of independence of Kosovo in 2008, CSO development and civil dialogue started to be present in the discourse of the entire political constellation of the country.

During the last four years, the attitude of state officials towards CSO development and civil dialogue is shifting from a large indifference and ad-hoc and non-transparent cooperation towards a gradually increasing interest and need to structure the cooperation with the entire sector. The internal pressure from Kosovar CSOs and the continuous emphasis that European Union puts on the need for a developed civil sector resulted in an increased interest of public institutions to involve civil society through formal mechanisms and instruments. However, it was only in 2011 that concrete improvements were made, both in legislation and practice.

In concrete terms, an advancement of legislative framework at governmental level introduced the requirement to consult CSOs in drafting public policies, while the Governmental Strategy for Cooperation with Civil Society was initiated for the first time, building on the MoU between civil society platform and previous government signed in 2007. Following this progress, in 2012 an increased involvement of civil society in drafting public policies is noted.

However, the number of civil servants which understand the need and benefit to cooperate with civil society is still limited, mostly at the central level and coordination units. In this regard, majority of line ministries as well as local level still lag behind to understand and practice the current requirements. Similar attitude can be noted also at the National Parliament level, where only a small number of MPs are open to civil society contributions and advocacy.

II Civil Dialogue

Structures in place for civil dialogue: both in the government and among the CSO community;

So far the **Office for Good Governance (OGG)** remains the only body of the Government at the central level responsible for civic participation and civil society involvement in government work. It was established officially with the Regulation 2001/19 on the Executive Branch, and then the mandate and duties of this office were reconfirmed with other relevant regulations. This office is based within the Office of the Prime Minister (OPM), and is operational since 2002 and currently has 7 employees.

OGG mandate includes supervision of and advice to the Government's work in areas of good governance, human rights and equal opportunities. More specifically OGG task is to establish policies and issue guidelines, examine draft government regulations, advise and make recommendations to the Prime Minister and Ministers, consult with the public and advisory bodies; create, promote and raise awareness on the international standards on human rights, transparent governance, gender equality, equal opportunities, fight against fraud and corruption and other principles of good governance, democracy, transparency and encourage civic participation in governance.

However, although this office has been relatively active in the field of human rights and equal opportunities, the field of fostering civic participation has remained virtually untreated. This because of the fact that the mandate of this office is currently very broad and it has not enough staff to cover all of these areas. So far OGG has played more the role of the reporter and has been focused mainly on reporting of events/activities performed by units/ministries rather than engaged in monitoring and implementation of designed strategies, or in advising ministries in the respective areas or developing concrete cooperation with civil society.

Regarding the cooperation with civil society, OGG currently has no comprehensive document, strategy or mechanism on cooperation with civil society, although there was some cooperation with a number of local and international organizations, mainly in the field of human rights, gender equality, persons with special needs, etc.

According to its mandate, OGG is also responsible for 'encouraging civic participation in governance'. However, so far OGG has mainly focused on human rights, minorities and gender issues, while civic participation in general seems not to have been treated at all.

The recent initiative related to OGG deals with the Governmental Strategy on cooperation with Civil Society, while in September 2011 this office has been mandated to initiate the process of drafting this document.

In addition to OGG, Kosovo Government also has the **Department for NGO Registration and Liaison**. Although its name indicates for a proactive role in liaison with civil society, its concrete work is limited only to NGO registration and Public Benefit Organizations reporting. Positioned within the Ministry of Public Administration, currently the Department employs 11 staff, who are distributed in two divisions: NGO Registration Division and Reporting and Monitoring Division.

The inexistence of its liaison role is due to the fact that there is still no clear concept in the Department and Ministry about the responsibilities and activities to be involved in liaison process. As of now, the meaning of liaison within the department is limited primarily to providing information about the process of NGO registration and provision of official information about the number of NGOs and the Public Benefit Organization to other public institutions, such as the Tax Administration of Kosovo and Kosovo Customs.

In specific sectors, during 2011 two “National Councils” have been established with the aim to foster a broad consensus on the issues of national priority, while civil society is represented in both of these councils. **“The National Council against corruption”** and **“The National Council on European Integration”** are both national bodies under the auspices of the President and include a broad range of stakeholders, such as President, Government, Parliament, political parties, academia, civil society, business, media, etc. Prominent CSOs on respective fields actively participate in the work of these councils, although the influence of civil society representatives within these councils and the overall influence of these councils are rather limited.

CSO platforms, be they sector based or working on horizontal issues, and their effectiveness;

While the bodies established by the state institutions responsible for facilitating civic participation in decision-making can be considered far from being functional, similar situation currently prevails also on the side of civil society. There is a small number of platforms, while only some of them are functional and do play their role as representatives of their members.

Among the many sectors which are covered by civil society organizations in Kosovo, only few managed to gather in various networks. Kosovo Women’s Network is among the rare examples that despite difficulties, has managed to maintain functional the platform which represents over 60 women organizations in Kosovo. “Democracy in Action” is another example of formal cooperation of a number of organizations that monitor the election process and aims at

contributing to electoral reform in Kosovo. It is worth mentioning some other sectors within which various organizations have been organized in various networks, in particular sectors of social services provision or shelters for victims of human trafficking.

As far as general platforms of civil society, some non-formal or formal initiatives have managed to survive for a while, but did not achieve any long-term sustainability. A typical example is the Advocacy Advisory Group, an informal group of a number of civil society organizations in Kosovo, which met regularly to discuss and jointly advocate over issues of general interest. At the beginning focusing mainly on the Assembly, later the Advocacy Advisory Group had expanded its interest on other issues which directly affect civil society organizations and citizen groups that those organizations represent. Despite some major successes that the group had achieved as a result of joint work, after about 3 years of operation, the group has ceased its activity during 2011.

Out of general formal initiatives, the only one that remains active is the **CiviKos Platform**. This initiative of civil society organizations in Kosovo, established to create a suitable environment for formal cooperation of civil society and the Government, in 2007 signed a Memorandum of Cooperation with the Government, which represents the first formal document showing mutual commitment for institutional cooperation and true partnership between the Government and civil society. After a period of inactivity and failure of mutual commitments foreseen in the Memorandum, CiviKos Platform in 2010 has resumed its activity towards structuring the cooperation between public institutions and civil society. With a membership of more than 100 CSOs, CiviKos Platform has achieved to become a leading partner in the process of drafting the Governmental Strategy for cooperation with Civil Society, which is expected to be finalized by the end of 2012. However, few months before the adoption of this strategy, the CiviKos Platform still lacks the necessary internal mechanisms and procedures in place to fully represent the sector and its members.

Structures put in place by the EC and other international actors (TACSO LAGs for e.g.)

Although not an official condition, lack of institutionalized civil dialogue was noted in different EC Progress Reports for Kosovo, as well as different communications and declarations of the European Commission on Kosovo. In this regard, European Commission Liaison Office in Kosovo (ECLO) provided with a unique example of extending the regular Stabilization Association Process dialogue (SAPd) to civil society. Concretely, in parallel to the regular political dialogue between EC and Kosovo Government, since 2010 EC invites the wide spectrum of CSOs to present and dialogue on main issues of Copenhagen Criteria, prior to the meetings with government. While in 2010 this was done only through the annual plenary meeting, since 2011 SAPd with civil society is extended also in sectorial meetings.

In parallel to providing alternative information for different EU documents and instruments, this example has directly influenced Kosovo Government to consider changing its approach, from an ad-hoc and non-transparent interaction with civil society to formal and structured cooperation.

III Legal environment

Legal breakthroughs and/or failures – Have there been any laws adopted/rejected recently which are directly linked to the organization of the civil society sector and/or assuring regular and transparent funding of the sector?

The current legal framework which directly influences the organization and operation of civil society sector includes mostly the basic NGO law, the procedures for CSO participation in decision-making and basic fiscal provisions for the activity of CSOs.

Specifically, **the basic NGO Law** has been amended in August 2011, after a difficult and controversial process in which civil society achieved to stop a number of restrictive proposals from the government. In general, this law can be considered in compliance with most of the international standards of the non-for-profit law, although the entire chapter on Public Benefit Status is lacking to provide the necessary balance between reporting obligations and concrete benefits.

The registration procedure is simple and the NGO Registration and Liaison Office performs this task relatively well. However, due to lack of capacities and knowledge of this office, the problematic issues of registration have been difficult to be solved properly.

The basic internal governance structures are provided in the Law, although the capacities and understanding for proper implementation of these principles are still very limited, both at government and civil society.

The public benefit status (PBS) is included in this law, mostly through general criteria on the scope of CSOs eligible for this status, as well as specific reporting procedures. However, a number of important issues on this status are either not covered or partial, such as:

- The substantive criteria and conditions for obtaining and maintaining the PBS;
- Clear provisions on the qualifying activities and purposes for PBS (organization and operation of CSOs), as well as limitations to specific activities and purposes (in particular clear provisions on limitations to economic activities);
- Clear provisions on the governance requirements for CSOs with PBS;

- Assessing and decision-making institution (given that the NGO Registration and Liaison Department is the ultimate authority for assessing and deciding on all issues related to PBS, although its capacities are very limited);
- Lack of coordination mechanisms and guidelines for different authorities/units/institutions in implementing various aspects of PBS (NGO Registration and Liaison Department; Tax Authorities; Customs; Financial Police; etc.);
- Consistent and comprehensive follow-up system on reporting of CSOs with public benefit status;

The policy and law making process in Kosovo is regulated by two fundamental documents: Rules of Procedure of the Assembly (2010) and Rules of Procedure of the Government of Kosovo (2011). Also, the Constitution of the Republic of Kosovo in its Article 79 provides that the initiative to propose laws may come from: the President of the Republic of Kosovo from his/her scope, Government, Members of Parliament, parliamentary groups or at least ten thousand citizens in the manner provided by law. Although under the Rules of Procedure of the Assembly of Kosovo (Article 53) as well as the Republic of Kosovo Constitution citizens may initiate laws, the recently adopted Law on Legislative Initiatives still lacks the secondary legislation which would make the entire procedure functional.

Assembly consultations with civil society can undergo according to rules 65 and 66 of the Rules of Procedure of the Assembly. These rules allow the participation of CSOs in parliamentary committee meetings and public hearings that may be organized by such committees. However, this regulation uses the formulation 'may', without going further in the method of use of this possibility. Consequently, although the possibility exists, it is still up to the committee to decide if they want to use these instruments as part of the legislative process, while in the activities of CSOs, these opportunities should be utilized to exert pressure. From the recent practice, statistics show that not more than 1/3 of the laws previously approved by the Assembly go through public discussions organized by various parliamentary committees.

At governmental level, unlike the old Rules of Procedure of the Government (2007) which contained statements such as 'may-if they want', and through which the possibility of involvement of civil society depended on the personal willingness of senior members of government (Article 6, old Rules of Procedure of the Government), the new Rules of Procedure of the Government is much more specific and provides a good basis of inclusion.

In the context of the new rules, there are four articles which determine the ways and timing of involvement of civil society. They are: Article 32-Public Consultation: Article 39-Drafting procedures in the ministry, Article 69-Government Cooperation with civil society, and Article 70-Answers to questions, initiatives and proposals addressed to the Government.

Under Article 32, the proposing body publishes the contents of the proposal for public comment and specifically by NGOs. Proposing body under Article 39, inter alia undertakes public consultation. Government cooperation and debate with civil society is envisaged by Article 69 of these rules. While under Article 70, the Government must answer questions, initiatives, proposals and petitions addressed to the Office of the Prime Minister, to the Prime Minister himself or Deputy Prime Ministers. It is worth noting that at the end of September 2011, the Office of the Prime Minister has signed the Guidelines for Public Consultation Process, a document prepared in cooperation with Kosovar Civil Society Foundation and the Office for Legal Support Services (OLSS) within the Office of Prime Minister, as prescribed in Article 32, paragraph 4 of the Rules of Procedure of the Government. These guidelines provide the necessary information, skills and techniques for all civil servants that are responsible for drafting policies and legislation.

Although some positive initiatives of public consultations from some ministries have been noted after the adoption of the Guidelines, no implementation, monitoring and evaluation mechanisms have been established yet. However, laws and policies where major political and economic interests are at stake are still kept out of the public debate and influence. Such an example is the Law on Banks, Microfinance Institutions and Non-bank Financial Institutions, which was proposed by the Government and adopted by the Assembly of Kosovo on April 2012 and enabled transformation of Microfinance NGOs into private entities, thus enabling the transfer of around 200 million EUR (*estimations from civil society Bank Monitor project*) of civil society assets to private capital. Despite the fact that civil society and many other stakeholders used all legal opportunities to prevent the breach of Constitution, applicable legislation and international standards, the decision-makers avoided any open debate and prevented concrete contribution from interested stakeholders on this law.

With regards to the **local level**, the basic documents governing the process of citizen participation include the Law on Local Self-Government and municipal regulations that derive from this law, such as the Municipal Statute, Regulation on Transparency, and Regulation on Organizing and Functioning of Consultative Committees in the municipalities. These documents specify the method of informing and consulting the public.

Law on Local Self-Government recognizes the right of citizens of a municipality to participate in the activities of the municipality (Article 4.5). The law requires open meetings of the Municipal Assembly, moreover, requires the public to be notified about the date of the meetings and adoption of rules to allow public participation in such meetings (Article 45). Access to information at local level is also regulated by this law (Article 68.5).

This law also provides a regular mechanism for information and public consultation: at least twice a year, every municipality should organize public meetings (Article 68.1-2). In addition, the municipality must notify citizens about

'important plans or programs for public interest' (Article 68.3); and the Municipal Assembly should adopt local regulations to ensure effective implementation of this law (Article 68.4).

Besides these provisions, the Law on Local Self-Government stipulates the right of petition (Article 69), citizens' initiative (Article 70), as well as local referendum (Article 71), providing a good basis for civic participation in general. Moreover, the law specifically refers to CSOs in Article 73, obliging municipalities to establish consultative committees within sectors, where representatives of CSOs should be invited. Regulation on Transparency and Regulation on Organizing and Functioning of Consultative Committees in municipalities contain provisions and concrete mechanisms for implementation of legal obligations vis-a-vis the participation of citizens in their work.

Unfortunately, most of the practices that should be deriving from the legal framework are so far insufficiently consolidated and properly functionalized. While the mayoral system has concentrated most of the local competences to the mayor, the institutions responsible for public information and involvement of citizens at local level are largely non-functional, either in terms of equipping them with concrete tools to work, or in terms of their staffing with required trained staff. Many of these offices mainly serve the structures of political party in power that run with respective municipalities. Often there is no political willingness and municipalities are closed to the public and civil society, particularly CSOs that monitor their work.

In most cases, meetings with civil society are pro forma, without further proceeding issues/suggestions that arise from such meetings, information to citizens is prolonged and there is a lack of the necessary materials on topics to be discussed in the meetings; their websites are not updated and full of outdated information. In most cases, municipalities are regarded as very closed and negligent towards civil society and the general public.

Legal breakthroughs and/or failures – Have there been any laws adopted/rejected recently which are important for the establishment of a better working environment for civil society?

Civil society development is still not part of any concrete governmental document, law or policy. However, civil society has achieved to pressure the government to initiate drafting of the **Strategy for cooperation between government and civil society**. This process has officially started in autumn 2011 and is expected to be finalized by the end of 2012. CiviKos Platform has gathered more than 100 CSOs which are actively contributing in defining major strategic objectives and measures to be included within this strategy. Up to date, this document intends to strategically address the issues of citizen participation in decision-making and implementation of public policies; provision of public services from CSOs; public funding for CSOs; as well as volunteerism. While the

strategic document is likely to be adopted in consensus with civil society, a major concern remains ensuring that the adopted strategy will be duly implemented, monitored and evaluated. Lack of functional responsible institutions and insufficient human and financial resources for implementation of numerous measures of this strategy are the main challenges to be addressed.

IV Funding

The state of Government funding - an evaluation;

Kosovo institutions have no **state or public funding for civil society**. However, the recent studies show that around 8% of civil society funds come from governmental sources. Until now, no criteria and procedures on delivering and using these funds existed. The new NGO Law has introduced a requirement for all public institutions that cooperate and financially support civil society to have pre-determined and transparent criteria on this support. However, this requirement still did not produce any effect in practice, neither in developing legal instruments nor in developing administrative and human capacities.

Local Philanthropy, CSR, Social Entrepreneurship - any progress, any good examples?

The **fiscal regime for CSOs** is almost identical to private business, with very limited benefits for public benefit organizations. The benefits for CSOs with public benefit status are not specified in the basic NGO Law in order to be covered with other specific laws, mostly tax-related laws. While the basic NGO Law provides with the possibility for all kind of tax exemptions, concrete exemptions have to be clearly provided in respective tax and custom laws.

In the respective laws, among the few existing benefits there are the exemptions provided through the Corporate Income Tax Law and Personal Income Tax Law for the companies and individuals donating for public benefit purposes. However, most of the formulations are quite ambiguous and may be interpreted in different ways, while the implementation of these opportunities happens very rarely.

The draft-law on Sponsorship has been initiated since many years, but only this year been put in Legislative Agenda of the Government and Assembly. However, since this draft-law covers only sponsorships and donations for culture, youth and sports, all other fields related to civil society are not covered.

In general, local resources for civil society are limited, while the existing philanthropy is mainly focused on humanitarian aid for the poorest which – in most of the cases - is not channeled through civil society.

International and EU funding – an evaluation;

International donor involvement in Kosovo began more than a decade ago, first trying to prevent the violent escalation of the political situation in Kosovo and then in response to the after-war needs for emergency aid, reconstruction and reconciliation. Large scale financial and technical support from international donors immediately after the end of the war in 1999 resulted in a massive growth in the number of CSOs, which was not necessarily followed by the increased quality of their work. 'Easy to get' funds combined with the dependence on foreign donations, created many donor-driven NGOs, as well as 'hibernating' ones which become active only upon available funds. From more than 7,000 registered NGOs in 2012, less than 10% are estimated to be still active or partially active. With most of the donor activities gradually directed to other parts of the world, Kosovo civil society is experiencing a reduction of resources for its work and a change of focus of donor funding – from emergency and reconstruction to assisting the gradual development of democratic political and economic system.

However, CSOs in Kosovo are still predominantly dependent on foreign donor funding. Data from CIVICUS Civil Society Index for Kosovo 2011 indicate that 70.17 % of CSOs funding sources come from international donors, while another 5 % of the funding comes from private donors, mostly international ones.

Although no comprehensive studies have been made on this issue, a regional study conducted by BCSDN shows that unlike other countries, the major civil society donor in Kosovo is Swedish SIDA, followed by USAID, while EU is in the third place. Similarly, SIDA allocation for civil society is 44 % of the overall SIDA funds allocated for Kosovo, while USAID stand at 7 % and EU at 3,8 %. Other important donors for the sector include Swiss International Development Agency (SDC), Embassy of Netherlands, Embassy of Norway, Soros Foundation, etc. Similarly to other countries in the region, competitive calls for proposals cover project periods 12-24 months, while long term grants based on a strategic partnership are rare. Multilateral donors (including EU) do not provide core funding, while private foundations and some bilateral donors provide more of the latter.

During the last couple of years, there have been attempts to co-ordinate the activities of international donor agencies and Kosovo government, including civil society support. However, as in other sectors, there is a gap in the substantive participation of local stakeholders, i.e. CSOs and other actors in shaping priorities for civil society development. The donor-driven agenda for civil society weakened the connection between CSOs and their constituencies, while because of the lack of coordination between donors and CSOs, the cost-benefit of the funds donated and the impact achieved on the ground was not as strong as it could have been.

Although in a the continuous increase, the European Union proportion in civil society funds involves with bureaucratic application procedures and fairly high minimum grant amounts, which exclude most organizations from benefiting from these funds, as they are too small to apply or absorb such figures.

V Next Steps

What are the priorities for future work?

KCSF analysis on civil society and citizen participation in Kosovo identified a number of major challenges on increasing the involvement of civil society in policy making and implementation. First, **a large civic apathy and lack of trust** on institutions in charge of public life in Kosovo hampers the basic preconditions for proper inclusion of citizens in decision-making system. The flaws of the political institutions to address the general needs of citizens are among the main reasons for this. In April 2012, UNDP Public Pulse shows that only 21 % of citizens were satisfied with the work of the government and only 32 % with the work of the Parliament. Similar situation is also in regards to civil society sector, which enjoys low levels of trust from the citizens. **Civil society responsiveness** against the main problems of the citizens remain at a low level, making the sector often perceived as dealing with secondary issues, which are away from society priorities in general. Responding on their attitudes, only 20.2 % of CSOs declared to KCSF CIVICUS Civil Society Index that they select the issues to be treated by them based in analysis of the concerns of their constituencies. Analysis, however show that there are also other reasons behind this problem, such as non-proper communication between the two sectors, unstructured collaboration resulting to misunderstandings and unrealistic expectations from each-other, unsatisfactory level of internal management of CSOs, and lack of understanding of the concept and the role of civil society in a democratic society. In addition, **creating functional and viable mechanisms** for civic participation is another challenge to be addressed by public institutions and civil society sector. The latest advancements of legal framework on public consultation should be supplemented by a general system of rules and concrete mechanisms for all levels, ensuring that public authorities approach to citizen involvement is stable and efficient. Last but not least, a challenge is **the capacities of CSOs and civil servants** to promote civic participation in decision-making. No legal mechanism can be implemented successfully if the actors responsible for implementation don't hold the necessary skills to undertake and contribute to the processes of consultation and dialogue.

What are the prerequisites for progress?

The following are some of the necessary prerequisites for a strategic development of civil society in Kosovo:

- continuous and structured dialogue based on the mutually agreed priorities and strategic measures;
- binding minimum standards for CSO involvement in policy making, with accompanying reporting and monitoring mechanisms;
- coordination and complementarity from civil society donors, aiming at long-term support based on partnership with civil society
- increase of capacities of CSOs in their field of work, as well as general issues of participation in policy making
- better understanding of the role of civil society and increased capacities of civil servants for cooperation with and involvement of CSOs in their work

What can the EC do to back the process?

The European Union has increasingly acknowledged the importance of civil society and civil dialogue in the democratization of the region. As noted above in this document, EC has continuously stressed out the need for institutionalized civil dialogue, as well as extended the regular SAP dialogue to civil society. In addition, through EIDHR and IPA instruments, EC has provided financial support to a number of civil society initiatives in different areas of work. However, in parallel to pressuring for a strengthened role of civil society in the entire EU integration process, EC should provide more financial and technical support to enable CSOs to play the requested role. Increased professional competences of CSOs both in the EU integration process and their specific areas of work are basic preconditions for expecting them to significantly contribute to the process.

In addition, substantial involvement of CSOs in the full cycle of IPA programming would enable CSOs to contribute to directing the EU assistance for Kosovo as well as timely prepare for addressing the pressing issues in an adequate manner. Last but not least, the entire programming cycle, minimum and maximum amounts and bureaucratic application procedures have excluded most organizations from benefiting from these funds, as they are too small to apply or absorb such figures. In parallel to endeavor to change EC application procedures, one alternative way to reach out to smaller and remote CSOs is utilizing the already well-established CSOs as an intermediary channel, both for funding and increasing capacities of smaller and remote CSOs in contributing to EU agenda.