



# Needs Assessment Report

Kosovo under UNSCR 1244/99

Updated 2011

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Civil Society Organisations  
Kosovo under UNSCR 1244/99 Office



# **Technical Assistance for Civil Society Organisations TACSO**

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**October 2011**

The views expressed in this publication do not  
necessarily reflect the views of the EU.

## Introduction

The civil society needs assessment report for Kosovo under UNSCR 1244/99<sup>1</sup> is one of the eight country needs assessments of civil society capacities conducted as a preliminary activity within the second phase of the regional EU funded project, Technical Assistance for Civil Society Organisations (TACSO), implemented by SIPU International during the period of August 2011-2013 in the Western Balkan countries and Turkey.

The objective of this report is to provide a comprehensive overview of the legal and institutional environment for development of civil society, general capacities of the civil society in Kosovo and support for this sector. The report provides conclusions and recommendations for EU assistance and in particular for the activities of TACSO in the second phase (2011-2013).

Findings and recommendations in this report are prepared by consulting civil society study reports, including: CIVIKUS INDEX (2011), prepared by the Kosovar Foundation for Civil Society (KCSF); TACSO project publications, "Growing Together", analysing civil society involvement in the legislative drafting process and "Beyond Zero", analysing the institutional arrangements for co-operation with civil society in Kosovo; and the KCSF publication, "We and Them", analysing the public consultations process in Kosovo and outcomes from interviews and workshops were held during the summer of 2011.

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<sup>1</sup> hereinafter referred to as Kosovo

## 1. General Overview of the Civil Society in Kosovo

Civil society in Kosovo is comprised mainly of registered non-governmental organisations (NGOs), while others forms of civil society are not common. Only a few examples of non-registered initiatives may be found, and most of them arise on an ad-hoc basis and do not continue being active after the concrete issue/problem is resolved. In addition, even though formally within the scope of civil society definition, trade unions are rarely seen as such, and co-operation between different trade unions and the other parts of civil society is limited, with trade unions rarely part of civil society initiatives and forums<sup>2</sup>.

The media remains both in and outside civil society. Since most of the media are officially registered as private businesses, they can be seen as part of that sector. However, their role in society in general and in advancing the public interest in particular often places the media in the same arena. Exceptions to this are a number of media (mostly local), which are registered as NGOs. Religious communities are organised according to their traditional system of norms and values, and are not considered a part of civil society. However, a number of their initiatives, in particular charity and humanitarian aid, may be considered as a contribution to active citizenship, and these organisations are registered as non-governmental organisations<sup>3</sup>. From more than 6,300 registered NGOs in 2011<sup>4</sup>, approximately 10% are estimated to be active or partially active. From the total number of the registered NGOs, 245 have Public Benefit Status. When it comes to reporting, during the year 2009, 212 NGOs submitted their financial reports. Out of this number, 132 of them were NGOs with Public Benefit Status, whereas the rest of them acted so voluntarily. Since 1999, the number of registered NGOs has been in constant increase due to the non-existence of any legal obligation to deregister the non-functional NGOs. This has changed with the newly adopted NGO Law, which has provisions that require an automatic removal from the NGO registry of NGOs who have a prolonged period of inactivity.

Large-scale financial and technical support from international donors in the last 10 years resulted in a massive growth in the number of Civil Society Organisations (CSOs), which was not necessarily followed by an increase in the quality of their work. 'Easy to get' funds combined with dependence on foreign donations created many donor-driven NGOs as well as 'hibernating' ones which become active only upon available funds<sup>5</sup>. However, a number of CSOs have constantly moved ahead in shaping and profiling themselves. Several successful initiatives and campaigns influenced specific policies and developments and thus positioned civil society as an important sector in the state-building and democratisation process.

Following the declaration of independence on 17 February 2008, Kosovo entered into a very dynamic period of development. Civil society had to follow this societal development and adapt into its new role within the overall state-building framework. This development can be successful only if based on up to date information on the current situation of the sector, as well as concrete actions drawn from this information.

Civil society again is adapting to the new situation, in particular by increasing its activities and capacities to influence public policy and decision-making, advocate for the benefits of its constituencies, keep the government accountable and contribute to the European Union Accession process.

## 2. Legal and functioning environment of the civil society in Kosovo

A positive situation affects associational and organisational rights and the legal framework for civil society. The *Freedom of Assembly and Association* is largely respected. The right to association was secured with the

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<sup>2</sup> Civil Society Index Analytical Country Report for Kosovo, march 2011, pg. 20

<sup>3</sup> Ibid

<sup>4</sup> Statement of Bajram Kosumi, head of Department for Registration and Liasion with NGOs, Ministry of Public Administration during TACSO workshop on the 02.09 2011

<sup>5</sup> UNDP Human Development Report, pg. 42.

adoption of the amendments to the Law on Freedom of Association in NGOs in September 2011, which followed the United Nations Mission in Kosovo (UNMIK) Regulation on NGOs (1999) and Law on Freedom of Association in NGOs (2009). The functioning environment in which *civil society* operates needs to be significantly improved. The government needs to use civil society expertise better<sup>6</sup>. With basic standards on the registration and operation of NGOs, the enabling environment for civil society needs substantial legal and political reform. There is a need for a comprehensive system of laws and other mechanisms that promote creation of an enabling environment for civil society. Laws on value added tax (VAT), customs, corporate income tax and personal income tax are needed to specify the fiscal benefits for NGOs with Public Benefit Status. Further, there is a great need for an enabling environment for financial sustainability for NGOs – enabling public funds for NGOs through Law on Sponsorship, Law on Corporate Income Tax, and Law on Personal Income Tax. Kosovo lacks functional partnerships between civil society and public authorities, a strategy for co-operation between the two sectors, and official recognition of the voluntary work in general.

Civil society is aware of its weaknesses and this is a very positive starting point if aiming to address this in the future. Some of the most important weaknesses identified include lack of motivation and information on civic engagement, problems in responding to the priority needs of citizens, an unconsolidated public image of the sector, and a low level of functioning of rule of law. On the other hand, the main strengths include the existence of standards of good governance on paper, a high level of solidarity among people, international presence in Kosovo and a solid level of awareness for values, which are to be respected and promoted. The main recommendations are focused on increasing the connection between civil society and citizens; establishing internal structures for better governance; and **creating formal co-operation mechanisms with public authorities**<sup>7</sup>.

## Law on Freedom of Association in Non-Governmental Organisations

Although the process of adoption of the new NGO Law was followed with contradictions and difficulties both in regards to the process and content<sup>8</sup>, the final version approved by the Kosovo Assembly in August 2011 can be considered, in general, as a step further in advancing the basic legal framework for NGOs. The general assessment of the new law is that, in comparison to the previous one, it has clearer provisions of the most important issues of the registration, functioning and termination of NGOs. The rationale of the law is more consistent and follows a simpler logical approach in its provisions. This is important to ensure a smoother implementation of the law, which will be ensured only if its specific provisions are clearly understandable to those influenced.

In its content, the most important changes of the law are:

- The provisions on the Register of NGOs have been adjusted in accordance with other applicable laws in Kosovo, such as The Law on Protection of Personal Data, while it obligates the Competent Body (NGO Registration and Liaison Department) to continuously update it.
- In order to ensure a regular updated Register of NGOs, all registered NGOs have to inform the Competent Body, on an annual basis, if their basic information, which was provided upon registration, is still the same. This information includes the name, address, organisational form and purpose, as well as name and other contact information of the authorised representatives of the NGO. The failure to submit this statement for two (2) consecutive years obligates the Competent Body to remove the NGO from the Register of NGOs.
- The provisions of the Public Benefit Status have been modified and adjusted, both in its eligibility and reporting requirements. Specifically, the disproportionate measures against the Public Benefit Organisations, which didn't fulfil the reporting requirements, have been removed. In addition, a voluntary withdrawal from the Public Benefit Status has been introduced.

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<sup>6</sup> EC progress report 2010

<sup>7</sup> Civil Society Index Analytical Country Report for Kosovo, march 2011, pg. 22

<sup>8</sup> See TACSO Publication "Growing Together" page 15, June 2011

- The termination and removal from the Register of NGOs has been modified in accordance with the international standards on this issue.
- The relations of the state institutions with NGOs have been specified, through adding the requirement for the state institutions to make public all forms of co-operation and support and establishing public criteria for all funds provided to NGOs by state institutions.

### **3. Civil participation and civil society involvement in the decision-making process**

Civil society involvement in the decision making process in Kosovo is regulated by two basic documents: the Rules of Procedure of the Assembly (2010) and the Rules of Procedure of the Government of Kosovo (2011)<sup>9</sup>. The Constitution of the Republic of Kosovo through Article 79 enables the initiative to propose laws: The President of Kosovo from the scope of his/her work, the Government, Members of Parliament (MPs), parliamentary groups or at least ten thousand citizens, as provided by the law<sup>10</sup>.

Although the Rules of Procedure of the Assembly of Kosovo (Article 53) as well as the Constitution of the Republic of Kosovo provide citizens with the opportunity to initiate laws, this opportunity still cannot be used, due to the absence of the specific law.

#### **3.1 Consultations with Assembly**

CSO consultations with the Assembly may be conducted based on Articles 65 and 66 of the Rules of Procedure of the Assembly. These rules allow the participation of NGOs in parliamentary committee meetings and public hearings that are organised by these committees<sup>11</sup>. However, different from the Rules of Procedure of the Government, the Rules of Procedures of the Assembly uses the term MAY instead of MUST, without going into further detail of the possible ways of using this opportunity. Consequently, despite the existence of this legal opportunity, it still remains on the will of the committees if they want to use these instruments as part of the legislative process, whereas it is through CSO activities that pressure can be made to have these opportunities to be fully utilised.

#### **Rules of Procedure of the Assembly (2010)**

##### **Article 65**

##### **Supplementary Provisions for committees**

1. Meetings of committees of the Assembly, in principle, are open, unless a committee:

- a) Discusses confidential matters of security in Kosovo,
- b) Discusses the details of commercial contracts, in which the institutions of Kosovo enter with a third party, discussing confidential commercial matters,
- c) Prepares project drafts or final recommendations, including drafting reports on the Assembly,
- d) Evaluates the issue differently.

2. In reviewing the draft, the Committee invites the minister of the ministry in question, and the bill proposing party. The minister or his representative is obligated to attend the committee meeting. He has the right of amendment proposals in the draft. In case of absence of representatives of the ministry, the Committee may withdraw consideration of the draft from the agenda.

3. The Committee may engage consultants - experts in accordance with procedural and financial guidelines of the Presidency.

4. The Committee may invite to meetings the representatives of institutions and civil society to submit evidence or provide relevant documents.

5. The Committee may hold joint meetings with other committees. A committee provides information or documents to other committees, if they require so from them.

6. The provisions apply to the chairman of the committee in accordance with the provisions for the authority of the President of the Assembly. The chairman of the committee determines the meeting at another date, if so: the President of the Assembly, the Presidency, one or more parliamentary groups, or one third of the members.

<sup>9</sup> <http://www.assembly-kosova.org>;

<sup>10</sup> The Constitution of the Republic of Kosovo, Article 79, <http://www.assembly-kosova.org>

<sup>11</sup> Rules of Procedures of the Assembly of Kosovo, <http://www.assembly-kosova.org>, viewed on 31.05.2011

7. Committee may invite a member of the government (minister) to participate in the committee meeting to review the issues in the area of its responsibilities.

**Article 66**

**Public hearings**

1. The Committee may hold public hearings to receive information on issues that are pending, with experts of public organisations, representatives of interest groups and others.
2. To clarify the facts the committee could discuss extensively with people who provide information.

### **3.2 Consultations with Government**

In contrast to the previous (old) version of Rules of Procedure of the Government (2007) which contained formulations such as “may, if they want to”, leaving the inclusion of civil society to the good will of the members of the Government (Article 6, old version of Rules of Procedure), the new version is more specific and provides a good basis for inclusion of civil society. There are four articles in the new version of Rules of Procedure which determine (set out) the manner and timing of civil society involvement: Article 32 Public Consultations; Article 39 Drafting Procedures in the Ministry Level; Article 69 Collaboration of the Government with Civil Society; and Article 70 Answer to the Questions, Initiatives and Suggestions Addressed to the Government<sup>12</sup>.

According to Article 32, the proposing body publishes the content of suggestions regarding comments from the public and specifically from NGOs. According to Article 39, the proposing body, among other activities, holds public consultations. Article 69 of the present Rules of Procedure foresees collaborations and debates between Government and civil society, whereas article 70 points out that the Government should answer to the questions, initiatives, suggestions and petitions that are addressed to the Office of Prime Minister, Prime Minister and Deputy Prime Minister<sup>13</sup>.

#### **Rules of Procedure of the Government (Nr. 09.2011)**

**Article 32**

**Public Consultation**

1. In relation to any proposal for which a concept document is required, in addition to consulting other ministries and public administration bodies as required by Article 7 of this regulation, the originating ministry shall publish the substance of its proposal for public comment and shall specifically seek the comments of any non-governmental organisation that would be substantially affected by the proposal.
2. In conducting this consultation, the originating body shall provide sufficient information in a publicly understandable form to permit the public to understand the nature and consequences of the proposal. The originating body shall also publicly announce the beginning of the consultation exercise and shall permit sufficient time for the public and non-governmental organisations to consider the recommendations and offer a considered response.
3. The results of such consultations shall be reported to the Government meeting or Ministerial Committee as part of the concept document or explanatory memorandum required by Articles 29 and 30.
4. The consultation process shall be conducted in accordance with an instruction to be issued by the Secretary proposed by the Legal Office.
5. In addition to the requirements of paragraph 1, the Prime Minister, a Government meeting or a Ministerial Committee may require a Minister to undertake public consultation on any other issue.

**Article 39**

**Drafting Procedures in the Ministry**

1. The originating body is responsible for the procedures of drafting the first draft in conformity with the principles and standards on legislative drafting specified by the Government and the OPM:
  - 1.1. Coordinates the work with other ministries and seeks assistance from the Legal Office and the MEI, as appropriate;
  - 1.2. Conducts consultation with the public;

<sup>12</sup> [www.kryeministri-ks.net/respitory/docs/RregulloreePunesswQeveriswnr092111pdf](http://www.kryeministri-ks.net/respitory/docs/RregulloreePunesswQeveriswnr092111pdf).

<sup>13</sup> KCSF publication “We and Them – Citizen Participation in Kosovo”, page 11, October 2011

- 1.3. Carries out the initial compatibility with the Acquis Communautaire;
- 1.4. Submits the package of the standard documents according to this regulation and the applicable regulation on the principles and standards of legislative drafting.
2. The Legal Department of the relevant ministry shall serve as the secretariat of the originating body.

#### **Article 69**

##### **Government Co-operation with the civil society**

1. The Government shall cooperate with the Chamber of Commerce and other chambers, associations, professional associations, NGOs, unions, communities and other entities through the Office of the Prime Minister or the relevant ministries.
2. The Government shall, in particular, debate their opinions and initiatives, take a position on them, inform them of its positions and measures and, where necessary, invite their representatives to attend the meetings of the working bodies of the Government, and organise other forms of cooperation.

### ***3.3 Consultations at the local level***

Regarding the local level, the basic documents governing the public consultation process are the Law on Local Self-Government and municipal regulations deriving from this law, such as: The Municipal Statute, Regulation on Transparency and Regulation on Organisation and Functioning of Consultative Committees in Municipalities. These are the documents that specify public information and consultation.<sup>14</sup>

The Law on Local Self-Government recognises the right of citizens of a municipality to participate in the activities of that municipality (Article 4.5). The law requires open meetings of the Municipal Assembly; moreover, it requires the public to be notified on the date of a meeting and adoption of regulations to allow public participation in meetings (Article 45). This law (Article 68.5) also regulates access to information at the local level. This law also provides a regular mechanism for information and public consultation: at least twice a year every municipality should organise public meetings (Article 68.1-2). In addition, the municipality must notify citizens about the 'plans and programmes relevant to public interest' (Article 68.3) and the Municipal Assembly must approve local regulations to ensure an effective implementation of this law (Article 68.4). Besides these provisions, the Law on Local Self-Government stipulates the right to petition (Article 69), Civic Initiative (Article 70), as well as local referendum (Article 71), providing a good basis for citizen participation in general. Moreover, the law specifically refers to CSOs in Article 73, obligating municipalities to establish consultative committees within sectors, in which it is essential to invite representatives of CSOs.

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<sup>14</sup> <http://www.gazetazyrtare.com>, viewed on 05.02.2010

## **Law Nr. 03/L-040 ON LOCAL SELF GOVERNMENT**

### **Article 45**

#### **Open Meetings**

45.1. Meetings of the Municipal Assembly and all its committees are open to the public. Members of the public are permitted to follow and participate in meetings of the Municipal Assembly in the manner specified in the Rules of Procedure.

45.2. A notice of the meeting of the Municipal Assembly shall be made public.

### **Article 68**

#### **Public Information and Consultation**

68.1. Each municipality shall hold periodically, at least twice a year, a public meeting at which any person or organisation with an interest in the municipality may participate. The date and place of the meeting shall be publicised at least two weeks in advance. One of the meetings shall be held during the first six months of the year.

68.2. At the meeting municipal representatives shall inform participants about the activities of the municipality and participants may ask questions and make proposals to the elected representatives of the municipality.

68.3. In addition to the public meetings noted above, municipalities are obliged to inform the citizens of the municipality of any important plans or programmes of public interest, which shall be regulated by the Municipal Statute.

68.4. The Municipal Assembly shall adopt municipal regulation promoting the transparency of the legislative, executive and administrative bodies of the municipalities. While enhancing the public participation in the decision making at the local level and facilitating the public access to official documents of the municipalities. The ministry responsible for local government may issue administrative instructions on municipal transparency.

### **Article 73**

#### **Consultative Committees**

73.1. The Municipal Assembly shall establish consultative committees within sectors for the purpose of enabling citizen participation in the decision making process.

73.2. The membership of the committees shall include citizens and representatives of non-governmental organisations.

73.3. The consultative committees may submit proposals, conduct research and provide opinions on Municipal Assembly initiatives in accordance with the Municipal Statute.

#### 4. Institutional environment for civil society

The Kosovo Constitution encourages the involvement of citizens (and civil society) in the work of public authorities, while the current legal framework contains a number of provisions that provide this fundamental right. The public institutions, as the ultimate bodies responsible for ensuring that constitutional and legal rights are respected, are obliged to ensure that adequate bodies are in place and mandated to facilitate the process. The central and local government cooperate with civil society organisations in different moments and levels. The Kosovo Government and Municipal Assemblies have established various bodies which are mandated to facilitate exercising this right by citizens, namely to enable a more structured co-operation of public authorities with civil society. Sometimes this co-operation is estimated positively by both parties, other times it is regarded as inadequate, ad-hoc or entirely missing.

Since 1999 and onwards, the co-operation of public authorities and civil society organisations has been quite complex, given the large international presence which has greatly influenced the development of relations between these two parties, as well as the lack of tradition of both sectors in regards to co-operating with each other. However, three years after independence, the co-operation between these sectors is taking a different dimension.<sup>15</sup> Each of the parties is still at the stage of mutual recognition, growth, and development and in the process of finding appropriate ways of co-operation.

Nevertheless, still all co-operation and communication is developed and built on a good will basis. Meetings with civil society, more of an ad-hoc nature, are often held formally just to say that co-operation exists and to meet the continuing demands from the international community. So far, there is still no strategy or institutional form of co-operation with public authorities and CSOs. In 2007, there was an initiative to establish a formal partnership between CiviKos Platform (a platform of Kosovar NGOs) and the Kosovo Government, but it could not be functional to date, although the platform has recently revitalised itself and is in the process of restarting the entire cycle. The members of this platform are developing a strategy for co-operation, which will then be submitted to the Government for discussion and approval.<sup>16</sup>

There are instances of collaboration with individual organisations in certain areas (mainly in social services), and in other specific cases there are also memoranda of co-operation between ministries and NGOs, as it is the case of the Ministry of Environment and Spatial Planning regarding environmental NGOs or the Ministry of Internal Affairs with NGOs offering social services. However, this does not reflect the overall situation of co-operation between the two parties.

##### **4.1 Institutional arrangements for co-operation with civil society**

Currently, at the central level, there are two institutions, which should encourage citizen participation and co-operation with civil society. These institutions are: the Department for Registration and Liaison with NGOs and the Office of Good Governance, which will be elaborated on further.

**The Office for Good Governance (OGG)** was established with the Regulation 2001/19 on the Executive Branch, while the mandate and tasks of this office were re-confirmed with other relevant regulations.<sup>17</sup> The office is placed within the Office of the Prime Minister (OPM) and has been operational since 2002, with a total of seven employees.

OGG has a mandate to monitor and advise the Government's work in areas of good governance, human rights and equal opportunities. More specifically, under this mandate OGG creates policies and issues

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<sup>15</sup> Kosovo declared its independence on February 17, 2008

<sup>16</sup> Interview with Dren Puka from CiviKos Platform Secretariat, 20.07.2011

<sup>17</sup> UNMIK Regulation no. 2005/15 Amending UNMIK Regulation No. 2001/19 on the Executive Branch of Provisional Institutions of Self-Government of Kosovo

guidelines, reviews government draft regulations, advises and makes recommendations to the Prime Minister and Ministers, consults with public and advisory bodies, promotes and raises awareness on international standards of human rights, transparent governance, gender equality, equal opportunities, anti-fraud and corruption and other principles of good governance, democracy as well as encourages citizen participation in governance.<sup>18</sup> Under this mandate, OGG remains the sole authority of the Government at the central level responsible for citizen participation in governance namely civil society involvement in government issues. Even in the published documents from this office the need to encourage co-operation with civil society is continually stressed, as well as using the existing expertise of these organisations.

For example, the Report on the Implementation of the Strategy and Action Plan for Human Rights in the Republic of Kosovo (January 2010 - December 2010), prepared by OGG, says *'The government should encourage and support co-operation with non-governmental organisations, considering the benefits from the expertise that civil society has developed and to ensure that their projects comply with the objectives of the Strategy for Human Rights'*.

This is also stated by the General Secretary of the Office of Prime Minister, who is also the senior supervisor of OGG, saying that *'We are open and ready for co-operation, but also civil society should be more proactive and constructive. They should also offer alternatives, not only critique'*.<sup>19</sup>

However, not much is being done in this direction. Various representatives of civil society so far indicate that OGG has not fulfilled its mandate appropriately, and has been focused mainly on reporting the events/activities that are carried out by units/ministries, rather than committing to monitor the implementation of strategies designed, to advise the relevant ministries, or to develop concrete co-operation with civil society through drafting the necessary documents to promote such co-operation. *'Often the reports drafted by OGG do not correspond with the objectives set out in the strategy documents'*, says a representative of the organisation 'Handikos'.<sup>20</sup>

Similar is the situation with the information published by OGG, which is not on a satisfactory level. One report of OGG states that, *'The central and local institutions should publish on their websites the Strategy and Action Plan for Human Rights in Republic of Kosovo (2009-2011), and additionally prepare an information programme for all civil servants on the objectives of the strategy and their role in implementing it'*. However, it is enough to look at the official website of this office, to ascertain that almost no new information has been posted on this site since 2009.<sup>21</sup>

### Co-operation with civil society

Although so far OGG does not have any comprehensive document/strategy for co-operation with civil society, the office records indicate various cases of sectoral co-operation. According to official data from this office<sup>22</sup>, so far OGG co-operated with civil society in drafting the various strategies and action plans such as: Strategy and Action Plan for Human Rights in the Republic of Kosovo 2009-2011; Strategy and National Plan of Action for the Rights of Children 2009-2013; Strategy for Integration of Roma, Ashkali and Egyptian 2009-2015; Strategy and Action Plan on Integration of Roma, Ashkali and 2009-2015, the National Action Plan for persons with Disabilities 2009-2011; Strategy and Action plan against Corruption 2009-2011: Strategy and Action Plan for Public Administration Reform 2007-2012 etc.<sup>23</sup>

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<sup>18</sup> Trendelinë Dreshaj, ZQM, 20.07.2011

<sup>19</sup> Interview with Fitim Krasniqi, General Secretary in the ZKM, 18.04.2011

<sup>20</sup> Interview with Afrim Maliqi, Handikos, 21.07.2011

<sup>21</sup> [Republic of Kosovo Government Office of the Prime Minister Office on Good Governance](#), 25.07.2011

<sup>22</sup> Various reports, strategies/action plans, six-month reports, etc. which were analysed by the authors of this report

<sup>23</sup> Reports received online by Trendeline Dreshaj, ZQM, 21.06.2011

This co-operation and involvement is done largely by organisations with missions directly linked to the OGG areas of work, such as human rights, gender equality, disabilities, etc. Among the organisations which have co-operated with OGG are: Down Syndrome Kosovo, Handicap Kosovo, Kosovo Rehabilitation Centre for Torture Victims, Kosovo Association of the Deaf, Association of the Blind, Together Foundation, Handikos, etc. It is important to add that OGG has also cooperated with many international organisations such as the Organization for Security and Co-operation (OSCE), United Nations Children's Fund (UNICEF), the Italian Embassy - Italian Co-operation, the European Commission, Office of the High Commissioner for Human Rights, Council of Europe, Police and Security Mission (EULEX), United Nations Development fund for Women (UNIFEM), as well as with the Ombudsperson. These organisations provide financial and technical support for this office. The above mentioned organisations are also working on several inter-ministerial mechanisms, steering committees, commissions and working groups, such as the National Council for Persons with Disabilities, Committee for the Rights of the Child, the Inter-institutional Steering Committee for the Implementation of the Kosovo Action Plan for the Integration of Roma, Ashkali, and Egyptian 2009-2015 etc.

An example of this co-operation is the inclusion of representatives from civil society in the Inter-institutional Steering Committee, which is a co-ordinating and monitoring mechanism for the implementation of the Action Plan of the Strategy for Integration of RAE Communities. This committee has 11 members in total, eight of whom are representatives from governmental bodies and ministries, and three representing civil society from the RAE community.

Their selection was made through an open competition, where interested organisations have applied in accordance with the criteria set by the OGG. The selection was made by an evaluation commission, which also had a civil society representative.<sup>24</sup> It is important to add that the Kosovo Foundation for Open Society, representing civil society in this commission, has been involved in this commission because they have been the leading supporter throughout the entire process of drafting the strategy and action plan. Just as they have been in a partnership with the Government on drafting a number of other strategies and documents.

Although official reports present a very positive co-operation, civil society argues that these mechanisms often do not have continuity in their activities. *'The National Council for Persons with Disabilities, which was established in 2006, is currently not functioning. This is a result of the insufficient work and non-consistence of OGG activities'*, declared one of the NGOs involved in this process.<sup>25</sup>

When it comes to the issue of civil society representation, no selection procedures could be identified from the authors of this report, raising concerns on the lack of specific rules on how and with which CSOs the office should co-operate with in the specific process which they are responsible for. The duplication of areas/issues that are treated from OGG and other institutions are also quite worrisome.

There are many civil society activists who emphasise the need for a re-structuring and re-definition of the mandate of this office. This is especially noted when considering that new public bodies have been established exactly in the areas covered by the OGG mandate, such as the Agency for Gender Equality; Human Rights Unit within the Ministries, Anti-Corruption Agency and the Office of Community Affairs.

This is confirmed also by the OPM General Secretary, who states that, *'the current mandate of OGG lasts till 2013... After this, a re-structure or a full change of the mandate might be needed, depending on the circumstances'*, adding that, *'more support to the promotion of co-operation with civil society should be given'*.<sup>26</sup>

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<sup>24</sup> OPM-OGG, Annual report on the Action Plan for Implementation of the Strategy on Integration of RAE Communities in the Republic of Kosovo, Jan-Dec 2009-2015, p.12

<sup>25</sup> Interview with Afrim Maliqi, Handikos, 21.07.2011

<sup>26</sup> Interview with Fitim Krasniqi, OPM General Secretary, 18.04.2011

OGG is also responsible to *'encourage citizen participation in governance'*<sup>27</sup>, meaning that this office is obligated to be proactive in regards to citizen participation in general, and not limited only to human rights, minorities and gender issues. In these sectors the OGG has been active to a certain extent, citizen participation in general does not appear to have been addressed at all. Placed in the Office of the Prime Minister and responsible at the horizontal level of the Government, not implementing this part of its mandate causes a total vacuum of governmental policy towards citizen participation in the work of the government in general.

The last initiative by the Kosovo Government, which mandated the OGG and the Legal Office of the Government start the process of drafting the Strategy of Co-operation between the Government and Civil Society, might serve as positive step towards addressing most of the issues mentioned above. If the process will be designed and conducted in an open and inclusive way, the OGG can contribute significantly to starting a genuine dialogue with civil society, which will later result in concrete benefits and obligations both for the Government and civil sector.

**The Department for Registration and Liaison with NGOs** (NGO Department), within the Ministry of Public Administration, administers policies related to registration and co-operation with NGOs. This department was originally established as an NGO Office of the UNIMK Administration<sup>28</sup>, to be converted into a Department in March 2005. Currently, the NGO Department is organised into two divisions: Division for NGO Registration and Division of Reporting and Monitoring.

The Division for the Registration of NGOs is officially mandated to deal with applications for the registration of NGOs, examines the requirements for registration and requests of NGOs for Public Benefit Status, whereas the Division of Reporting and Monitoring of NGOs with reviews of NGO annual reports and financial statements, monitors whether NGOs are respecting their statutes, and co-operating with important institutions.

More specifically, the NGO Department receives and analyses the requirements for the registration of NGOs, considers requests for Public Benefit Status, receives and analyses the annual reports with financial statements of NGOs, monitors the activities of NGOs to determine how much their statutes and other laws are respected and makes recommendations for improving them, co-operates with relevant institutions and takes decisions on the registration of NGOs, suspension of Public Benefit Status and deregistration of NGOs<sup>29</sup>.

#### Functionality and co-operation with other public institutions

Currently, the NGO Department has 11 employees, all of them with a higher educational background and long experience within this department. Officially, one of them is engaged to liaise with NGOs, although according to the NGO Department director, *'each of the staff, in a way, liaises with NGOs on a daily basis, through informative meetings'*.<sup>30</sup> On the other hand, civil society representatives say the opposite, due to the NGO Departments' staff lack of previous experience in working in or with NGOs, they do not have the necessary knowledge on how to co-operate with NGOs or other relevant public institutions.

Findings show that the NGO Department does not seem to have dedicated staff to be in charge of the liaison aspect of its work profile. There is clearly a need to liaise with other governmental offices, particularly the Tax Administration, or the Customs Authority, and share information on the number of NGOs registered,

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<sup>27</sup> From the official mandate of the OGG

<sup>28</sup> UNMIK Regulation 1999/22, [http://www.unmikonline.org/regulations/1999/re1999\\_22.htm](http://www.unmikonline.org/regulations/1999/re1999_22.htm), viewed on 8.07.2011

<sup>29</sup> [Republic of Kosovo Ministry of Public Administration](#)

<sup>30</sup> Interview with Bajram Kosumi, NGO Department-MPA, 8.07.2011

updates on the Public Benefit Status, etc. However, these links are maintained on a more ad-hoc basis, since there is no staff dedicated to work in this regard<sup>31</sup>.

For instance, there is co-operation with the Tax Administration, although not necessarily regular and institutionalised. The NGO Department tends to contact the latter usually in matters related to finding out about procedures to do with obtaining the fiscal number, updates on the Public Benefit Status, or to check if NGOs have satisfactorily completed their tax obligations. It should be noted that the Tax Administration communicates more frequently with the NGO Department in regards to specific organisations that are registered as NGOs, such as micro-finance institutions, or private education institutions. This is largely due to the comparatively larger revenues of these organisations<sup>32</sup>.

On the other hand, co-operation with the Customs Authority seems to come alive on an as-needed basis. This is true particularly when the NGO Department needs to ascertain the validity and applicability of the Public Benefit Status of NGOs. Apart from that, there does not seem to be an ongoing and institutionalised relation between the two offices<sup>33</sup>. When it comes to co-operation with other offices within the Ministry of Public Administration, the NGO Department consults primarily with the Legal Department. We have seen an increase of this co-operation, for example, with the 2010 process of the amendment of the NGO Law, where the Legal Department took a lead role in the governmental working group.

The Functional Review and Institutional Design of Ministries (FRIDOM), sanctioned by the Government of Kosovo in 2009, found many gaps in the performance of the NGO Department. Their findings show that the department is clearly biased towards its role of registration or deregistration. However, liaison and monitoring functions are either neglected or in fact could be performed by other government departments or institutions. The recommendation of the FRIDOM Report is that this department should be dissolved, and its functions be dispersed to other ministries<sup>34</sup>.

There is certainly logic to these recommendations, and its implementation would most likely improve the efficiency for NGO services. However, such drastic recommendations can make sense and be successfully implemented if there is a comprehensive review in all ministries affected and based on a comprehensive governmental policy on co-operation with civil society. The fact that the Ministry of Public Administration has not taken on board FRIDOM's recommendation on the dissolution of the NGO Department proves there is no will for such overall changes as yet.

In addition, another challenging issue for the NGO Department remains the appropriate co-operation with the rule of law institutions, in particular when this department finds illegal actions from NGOs, which mostly could be noted in NGO financial reports to this department. At many conferences the representatives of the NGO Department have indicated that abusive cases from certain NGOs and information pertaining to those cases has only been passed along to the responsible body which in this case has been the Tax Administration and Customs.

### Co-operation with civil society

The NGO Department serves as the main point of contact for NGOs to register and, at least in theory, to liaise with government authorities. The Law on Freedom of Association in NGOs (also referred to as the NGO Law), which was passed and came into force in February 2009, regulates the function of this sector and serves as the legal basis for the functioning of this body. Although this law is on the process of amendment,

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<sup>31</sup> Survey with staff of the Department for Registration and Liaison of NGOs, Pristina, 12 May 2010 (conducted for CIVICUS Civil Society Index in Kosovo)

<sup>32</sup> Survey with staff at the Tax Administration, Pristina, 23 April 2010 (conducted for CIVICUS Civil Society Index in Kosovo)

<sup>33</sup> Survey with staff of Customs Authority, Pristina, 11 May 2010 (conducted for CIVICUS Civil Society Index in Kosovo)

<sup>34</sup> <http://www.fridomks.org/media/101e%20MPS.pdf>

no major change of role and competences of the NGO Department are foreseen in the draft adopted by the Government in July 2011.

According to a Population Survey of the CIVICUS Civil Society Index for Kosovo, only 16.5 percent of the NGOs have regular contacts with this department, while 49.5 percent of NGOs have only occasional contacts. When asked for the reason for these contacts, 81.8 percent of the NGOs have declared that these contacts are for official purposes only (registration and submitting annual reports), while only 5.7 percent of the contacts between this department and NGOs have been initiated by the NGO Department.<sup>35</sup> These figures reconfirm that the NGO Department is mostly concentrated on the NGO registration and has very limited activity in liaising with NGOs.

Currently, more than 6,300 NGOs are registered at this department. In response to our query about the level of interaction with NGOs, the NGO Department confirmed that every month there are 20-25 new NGOs registered, while only during June 2011 60 new NGOs were registered. From the total number of the registered NGOs, 245 have the Public Benefit Status. When it comes to reporting, during the year 2009, 212 NGOs submitted their financial reports. Out of this number, 132 of them were NGOs with Public Benefit Status, whereas the rest of them acted so voluntarily.

Due to not regularly submitting their financial reports, 60-70 NGOs have been suspended from their Public Benefit Status during 2010, while the same may apply for 40 other NGOs during 2011.<sup>36</sup> Organisations, such as FOL Movement<sup>37</sup>, although not in possession of the Public Benefit Status certificate, have voluntarily decided to submit their financial reports to the Kosovo Tax Administration. Organisations with Public Benefit Status, such as Kosovo Foundation for Open Society (KFOS<sup>38</sup>), or the Advocacy Training and Resource Centre (ATRC<sup>39</sup>), submit their financial and narrative reports and audit reports to the NGO Department as required by law<sup>40</sup>.

Despite the large number of registered NGOs, this number does not show the true number of active NGOs. Part of the reason is that the NGO Department has not yet set up a mechanism in place that would enable it to categorise NGOs according to their status, i.e. active vs. passive ones, or registered vs. deregistered ones. Moreover, the Tax Administration has recently completed giving fiscal numbers to each NGO that is active and hence pays taxes. This is an added incentive for the NGO Department to intensify its co-operation with the Tax Administration, as this would enable it to have a clearer idea on the level of activity of NGOs in Kosovo. The need for more reliable data on NGOs that are active was also raised as a concern by several interviewed respondents, which say that without exact data on the volume of civil society, no policies on this sector can be designed and implemented.

Registration procedures continue to be done mechanically, which creates delays and frustration on both sides<sup>41</sup>. Furthermore, an emphasis is given to training the staff at the NGO Department on IT and online registration systems. It has been almost two years since USAID's civil society programmes, implemented by the Institute for Sustainable Communities (ISC), has financed and launched an online registration system for the NGO Department, which would help its staff to provide more efficient and electronic-based services to their clients. However, the department is still apprehensive about using it, although this database was finally launched officially in September 2011. It remains to be seen if this instrument will be sufficiently utilised by this Department, as well as NGOs themselves.

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<sup>35</sup> CIVICUS Civil Society Index for Kosovo, March 2011, KCSF

<sup>36</sup> Interview with Bajram Kosumi, DRNOJQ, 8.07.2011

<sup>37</sup> [www.levizjafol.org](http://www.levizjafol.org)

<sup>38</sup> [www.kfos.org](http://www.kfos.org)

<sup>39</sup> [www.advocacy-center.org](http://www.advocacy-center.org)

<sup>40</sup> CIVICUS Civil Society Index for Kosovo, March 2011, KCSF – Case Studies

<sup>41</sup> CIVICUS Civil Society Index for Kosovo, March 2011, KCSF – Case Studies

It is clear that the liaison aspect of the NGO Department's work is not functioning as its mission stipulates. In fact, for a lot of NGOs, this department is viewed as the office where registration occurs and financial reports are submitted, following which there is nearly no bilateral contact.<sup>42</sup> Some others think that the NGO Department has no clear concept of civil society and has a very limited approach towards this sector.<sup>43</sup>

Almost all civil society activists interviewed agree that outreach does not just mean updating registration methods. It also means going on the ground and getting better acquainted with NGOs in all regions of Kosovo. In this way, the role of the NGO Department would be to get more specific so that its work and activities will become more visible to civil society. Liaison and outreach are basic methods of increasing interaction, but more essentially reducing the lack of mutual knowledge and scepticism about each other's work. However, one should be cautious that such visits do not become monitoring of programmatic activities; the idea is to forge a true partnership, whereby the NGO Department would even take on the role of promoting NGOs' rights and interests.

This need becomes even more prevalent when one discusses minority NGOs. A Serb NGO, interviewed for this purpose, had not had a visit from the department in the nine years of their existence. Although visits in themselves might not be essential, the liaison and outreach role of the NGO Department should be promoted, so as to help NGOs to become more familiar with its work. Minority NGOs particularly need support and information on the legal environment in Kosovo, and this support can come in the form of outreach from the department<sup>44</sup>. Other studies on Serb and other minority NGOs in Kosovo have also come up with similar conclusions; namely, the main concerns identified are: lack of co-operation with governmental institutions; difficulties in registration procedures and access to the NGO Department; lack of knowledge and access to legislature that regulates the work of NGOs.<sup>45</sup>

## 5. General Capacities of Civil Society in Kosovo

From a situation where, "civil society was considered weak"<sup>46</sup>, and with no substantial progress achieved, reports on civil society, such as EC Progress Reports, are now putting emphasis on the, "environment in which NGOs operate, which needs to be significantly improved."<sup>47</sup> Conclusions of the EC progress report for Kosovo in 2011 say that the *freedom of assembly and association* is largely respected; the right to association is secured with the adoption of the amendments to the Law on Freedom of association in NGOs. The environment in which *civil society* operates needs to be significantly improved. Further the report repeats that the government needs to use civil society expertise better.

While accepting these statements as true, currently civil society in Kosovo is experiencing a number of developments but still facing huge challenges. Although a few CSOs are advancing their human and financial capacities, most of the sector remains highly dependent on international funding. Adding to this the continuous increase of the European Union proportion in civil society funds, bureaucratic application procedures and fairly high minimum grant amounts exclude most organisations from benefiting from these funds, as they are too small to apply or absorb such figures<sup>48</sup>, thus increasing the division between 'large' and 'small' CSOs. Trying to survive in this situation, the priorities of civil society in most cases have reflected the priorities of the donors<sup>49</sup>, meaning that many civil society initiatives were not driven by the interest of the community. This has weakened the connection between CSOs and their constituencies, calling into question the legitimacy of their actions. In addition, because of the lack of co-ordination between donors

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<sup>42</sup> Interview with Association 'Norma', 04.04.2011

<sup>43</sup> Interview with Shqipe Pantina, QPA, 19.05.2011

<sup>44</sup> CIVICUS Civil Society Index for Kosovo, March 2011, KCSF – Case Studies

<sup>45</sup> Institute for Sustainable Communities (ISC) *Overview of Kosovo Serb Civil Society*, May 2009

<sup>46</sup> EC progress report 2008, pg.19

<sup>47</sup> EC progress report 2010, pg.17

<sup>48</sup> Looking for Civil Society across the Balkans pg.19- Euclid network 2009.

<sup>49</sup> UNDP human development Report 2008-Table 5.2

and NGOs, the cost-benefit of the funds donated and the impact achieved on the ground was not as strong as it could have been<sup>50</sup>.

This gap between CSOs (in particular the membership organisations) and their constituencies reduced opportunities to internally strengthen their sustainability and makes them vulnerable to any future decrease of international funds for civil society. Finally, the “public understanding of the role of civil society remains low,”<sup>51</sup> making this challenge even harder to overcome.

Kosovo’s CSOs cover a wide range of fields in their activity. A number of fields are continuously attracting more CSOs and some other fields are experiencing decreases in the quality and numbers of CSOs involved. Previously ‘donor attractive’ fields of activity, such as minority and youth issues are fields where the number of CSOs has constantly decreased in reflection of changing funding patterns. In contrast, due to independent institutions taking over the main responsibility of statehood, CSOs working on the rule of law in general and those seen as playing a ‘watchdog’ role on the state in particular are increasing their presence, either in numbers or in quality of work. In between, other CSOs are working in some other areas: the think tank sector is aiming to contribute to public policy-making and influence the main developments in decision-making. The civil society development CSOs are striving to increase the understanding of civil society’s role in a democratic society amongst the public and the public authorities and to facilitate co-ordination and networks within the sector, as well as regulate co-operation between civil society and public authorities, including promoting participatory mechanisms for civil society. Women’s NGOs remain active in fighting for a gender-balanced society and their network is still one of the most active ones. Human rights is still a necessary field where a number of CSOs are contributing. While CSOs working with people from marginalised communities are active in ensuring minimal standards for their members. Other fields where civil society is active include environment, the European integration process, reconstruction, social issues and foreign policy<sup>52</sup>.

In regards to networking, only few formal networks have existed over time and continue to play their original role. The Kosovo Women Network and the coalition of CSOs monitoring the elections, Democracy in Action, are two examples, with both of them going through their ups and downs. It is general perceived that donor-driven networks were the ones which did not survive, while competition between CSOs for resources and lack of joint bodies to co-ordinate a network may be other reasons. However, ad-hoc coalitions and non-formal groups of CSOs have very successfully undertaken a number of initiatives. Civil society reaction over the amendment of the NGO Law and their active contribution to this process is one of the success stories, offering an example that when there is a concrete issue of joint interest and an ability to clearly divide responsibilities between them, CSOs can impact on important processes of society<sup>53</sup>.

In general, Kosovar civil society is characterised by a solid degree of institutionalisation. Formal governance and management systems are in place, however, with a lot of need for their better implementation in practice. Similarly, high levels of sectoral communication show great potential for networking, which is again more formal than functional. With active CSOs that have reached a solid scale of financial sustainability, there is a general perception that the total amount of funds for civil society are decreasing and civil society has to gradually find alternative ways of financing in order to minimise dependency on international donors. Human resources within civil society indicate huge difficulties in mobilising professional and competent staff. Around half of CSOs declare to have different written regulations in place, but their implementation is considered unsatisfactory. Finally, CSI confirms the long-standing perception that Kosovar civil society is highly tolerant, peaceful and non-violent. However, the same does not stand for promoting democratic

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<sup>50</sup> Civil Society Index Analytical Country Report for Kosovo, March 2011, pg. 21

<sup>51</sup> EC progress Report 2010, page 17

<sup>52</sup> Civil Society Index Analytical Country Report for Kosovo, March 2011, pg. 21

<sup>53</sup> Ibid

decision-making within its own organisations and groups<sup>54</sup>. The report indicates that civil society is still only halfway along, and with occasional or frequent perceptions of corruption cases in civil society the result is not surprising. According to CSI, the perception of impact resulted as the lowest scoring dimension, although with significant differences between social impact and policy impact, with the latter being lower. The impact of civil society in priority issues of Kosovo society is significantly low, confirming that civil society is not sufficiently responsive to the real needs of society and its constituencies.

## 6. Public image of civil society in Kosovo

The level of trust that citizens have in civil society varies depending on civil society sectors, with humanitarian and charitable organisations enjoying the highest level of trust among citizens and advocacy and democratisation organisations at the bottom<sup>55</sup>.

Acknowledging the role of media in creating a public opinion for the work and role of civil society organisations TACSO has conducted a survey to find out the presence of the CSOs in the media. The preliminary results of the TACSO survey that was conducted in September 2011 show the existence of a relatively positive climate especially within the daily print media<sup>56</sup> in Kosovo. On a quarterly basis<sup>57</sup> NGOs were present with their work in a total of 92 press articles in daily newspaper “Koha Ditore”, 57 press articles in “Kosova Sot”, 53 articles in “Zëri” and 35 articles were published in “Express”. Relatively good attention was given provided that the majority of articles were published in the first 15 pages of the newspapers. The articles mainly described the activities of NGOs and were written in a news format<sup>58</sup>. Urban CSOs were much more often represented in the media in comparison with grass roots organisations. Civil Society organisations in Kosovo lack capacities to better attract the media and inform the public about their role and activities that are closely linked with the interests of the citizens.

## 7. CIVIKOS Platform

CiviKos Platform is an initiative of civil society organisations in Kosovo which started in early 2007 and was officially registered on September 2, 2007. It aims at creating an able formal environment for co-operation of the civil society sector and state institutions of Kosovo. Among other things, CiviKos Platform after a long consultation process with the participation of some 100 civil society organisations, on November 9, 2007 signed a Memorandum of Co-operation between the Government of Kosovo and civil society (represented by CiviKos Platform). This memorandum represents the first formal document that sets out mutual commitment to institutional co-operation and genuine partnership between the Government of Kosovo and civil society. After a period of limited activity in May 2010 the Board of CiviKos Platform decided to increase the concrete commitments to strengthen the platform in order to advance the ‘Memorandum of Co-operation on a Strategy of Co-operation between the Kosovo Government and Civil Society, which would represent a binding document for turning the commitments taken in the activities and concrete results.

Starting from July 2010, Kosovar Civil Society Foundation is serving as secretariat of CiviKos Platform providing the platform offices and covering operating expenses, as well as financial support. During this time, CiviKos has gone through an entire process of reconfirming its member organisations and their commitment towards an increased activity of the Platform. In addition, it had provided up-to-date information and studies on the best European practices on the structured dialogue between civil society and state institutions. Finally, during 2011, the Platform organised its members in different working groups and workshops in order to prepare basic framework of the Strategy of Co-operation with the government, which

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<sup>54</sup> Ibid

<sup>55</sup> Ibid

<sup>56</sup> The daily newspapers “Koha Ditore”, “Zëri”, “Kosova Sot” and “Express” were part of the survey.

<sup>57</sup> During the months February, March and April 2011.

<sup>58</sup> Examples: XX NGO published a report, or organised a conference.

would serve as Civikos' starting position when the official process of drafting the strategy is initiated by the Government.

In September 2011, Civikos Platform organised its yearly assembly and elected its new Board. The new Board expressed its commitment to immediately engage in the process of structuring the co-operation with the state institutions, through co-ordinating the contribution of all member organisations and more for this process.

### **8. Milestone of civil society in Kosovo**

The best example of the success of civil society to engage in the legislative process is a draft law amending the Law on Freedom of Association in Non-Governmental Organisations<sup>59</sup>. Indeed, the current Law on Freedom of Association in Non-Governmental Organisations was adopted in 2009 with civil society participating in the drafting process at the Assembly level but not at the governmental level. However, only a year after its adoption, in March 2010 (based on the Legislative Strategy 2010), the law was officially opened for amendments, due to technical problems.

After drafting the initial draft-law from the sponsoring Ministry of Public Administration, the Department of Registration and Liaison with NGOs organised a public debate in order to present and discuss this draft. Representatives from different civil society organisations were invited to the debate, such as: ATRC, KFOS, FOL, CBM, IPOL, KCSF, KIPRED, BIRN, GAP, QPA etc.<sup>60</sup> This debate marks the intensive involvement of civil society in the drafting process of this law, initially not agreeing to the initial changes proposed by the ministry, which were related to: exclusion of students and sports associations; universities registered as NGOs and microfinance institutions from the scope of the work of this law; limitations of the scope of work of NGOs; limitations on property and resources of NGOs through exclusion of real estate and personal estate from the list of possible incomes of NGOs; and non-proportional measures for CSOs with Public Benefit Status which fail to report within the legal deadline, etc<sup>61</sup>.

Following the disagreements and concerns expressed by civil society on the proposals of the Ministry, OLSS publicly invited the NGOs to become part of the process. Based on the agreement from this debate, the Civil Society Advisory Group selects civil society representatives to take part in the process of drafting the law. Selected representatives came from various sectors of civil society such as: national and local associations, foundations, donor organisations, and the Women's Network, as the largest sectoral network. In addition to this, a "political group" was established, in order to officially advocate to main decision-makers for civil society concerns on the law.<sup>62</sup>

After the process of internal selection, through the decision nr.102/2010 the Government appoints the civil society representative as members of the Governmental Working Group. There were 27 members that participated in this group (10 from civil society, others from government, tax administration, customs, other institutions etc.), of whom 18 were regular members and others as experts and observers.<sup>63</sup> This may be seen as a positive exception from the Rules of Procedure of the Government, which defines the size of a Governmental Working group at 10 or only in exceptional cases at 15 members.<sup>64</sup>

After two months of intensive work, the Government Working Group completed its work and adopted the Final Version of the draft-law, a version that addressed most of the recommendations and concerns of civil society. However, on the 21<sup>st</sup> of June 2010, the Ministry that initiated the process and was responsible for

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<sup>59</sup> [http://www.gazetazyrtare.com/e-gov/index.php?option=com\\_content&task=view&id=333&Itemid=28&lang=sq](http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=333&Itemid=28&lang=sq), viewed on 07.06.2011

<sup>60</sup> Ministry of Public Administration, Public debate on the amendment process of the Law on Freedom of Association in NGOs, 15.04.2010

<sup>61</sup> See Annex 2 for comparing different versions of the Draft-Law on Freedom of Association in NGOs

<sup>62</sup> From the minutes of the Civil Society Advisory Group, viewed on 07.06.2011

<sup>63</sup> Interview with Sulejman Gashi, Legal Office of the Ministry of Public Administration, 26.04.2011

<sup>64</sup> Rules of Procedures of the Government (2007), Art. 32, point 2

the further proceeding of the draft law to the Office of the Prime Minister, presented to OLSS a different draft-law, which was entirely different from the Final Version approved by the Governmental Working Group. This draft-law contained specific provisions that would allow transformation of microfinance institutions, which was against the provisions already agreed by the Governmental Working Group. OLSS, which participated actively in the work of the Governmental Working Group, following the official complaints from civil society, reacted and did not accept the draft-law presented by the Ministry of Public Administration.

Finding themselves in an unpredicted situation, these organisations mobilise and conduct additional activities (research, TV debates, interviews, international expertise, specific written recommendations, etc.) in order to exert pressure on all stakeholders that could influence the process. Different communications and meetings were held with high-level officials from the Kosovo Government and Assembly, international missions in Kosovo etc. After all this pressure, The Ministry of Public Administration withdrew its version and the Governmental Working Group continued its work and in September 2010 finalised the draft that contained most of recommendations made by representatives of civil society.

In addition to the major importance of the law, as a basic law regulating the civil sector in Kosovo, there were a couple of other reasons that made civil society put extra efforts from ordinary forms of its involvement. Although presented as technical, if approved the proposed changes would impact, to a great extent, the functioning of the sector. A number of side processes, which related to this law, increased the level of concern within civil society. Civil society understood for another parallel process, which by different governmental institutions was carried out beside the official process in which the CSOs were already involved. In November 2009, an inter-ministerial group established by the Ministry of Public Administration, the Ministry of Economy and Finance and the Central Bank of Kosovo proposed an Administrative Instruction which would allow transformation of microfinance institutions registered as NGOs, a transformation which was opposed by civil society as being against the main principles of the not-for-profit sector.<sup>65</sup> Moreover, the establishment of this group did not follow the proper legal procedures, while the work of the group was officially confidential<sup>66</sup>. In addition, the Kosovo Assembly, in February 2010, put this draft-law as one of the priority laws, which should be submitted to the Assembly before 15<sup>th</sup> of June 2010.<sup>67</sup> Finally the law was approved in September 2011.

There are three main aspects that made the whole process successful: timely reaction based on expertise; combination of various forms of pressure, lobbying and advocacy; as well as joint efforts by the parties involved, based on mutual interest and respect on the role of each organisation involved. All of these three connected and well coordinated with each other, undoubtedly resulted in success and can serve as a good example to be adopted by civil society in Kosovo and wider.

## **9. Donor Support to Civil Society in Kosovo**

Civil society development, dialogue and involvement in policy and social life is defined as a major cross-cutting issue according to the Multi Indicative Programming Documents for Kosovo (MIPD). The MIPD Kosovo 2007-2009 stipulates that civil society in general has yet to find a way of more meaningfully contributing to the questions and issues important for the wider public. The role and contribution of wider civil society still needs to be enhanced in Kosovo. Contributing to the consolidation of civil society and public media sector through mainstreaming civil society issues in all programmes and complementing support from other EC assistance instruments (i.e. EIDHR). Increased civil society involvement in policy and social

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<sup>65</sup> All income generated from the NGO activities shall be used for fulfilling its mission, and in no circumstances can be used for personal/private benefit. See Article 4 of the Law on Freedom of Association in NGOs, as well as different European documents on the not-for-profit sector.

<sup>66</sup> See Article 7 of the Decision on Establishing the Working Group for facilitating the transformation of microfinance institutions registered as NGOs

<sup>67</sup> See the Decision of Kosovo Assembly, no:448, 01.03.2010

questions and a functioning public broadcaster servicing all communities in Kosovo is needed. The MIPD Kosovo 2008-2010 calls for contributing to the consolidation of civil society and public media sectors through mainstreaming civil society issues in all programmes and complementing support from other EC assistance instruments (i.e. EIDHR) with a clear message that solid social dialogue constitutes a condition for an effective partnership and good governance. (Political Criteria 27-40 million, of which Civil Society 2-5 million. Political Criteria 27%-40%, of which Civil Society 2%-5%.)<sup>68</sup>

### **European Instrument for Democracy and Human Rights (EIDHR)**

The general objectives of the EIDHR instrument, set out formally in Article 1 of Regulation (EC) No 1889/2006, are to contribute to the development and consolidation of democracy and the rule of law, and respect for all human rights and fundamental freedoms, within the framework of the Union's policy on development co-operation, and economic, financial and technical co-operation with third countries, and consistent with the EU's foreign policy as a whole. The response strategy under the EIDHR builds on the work being done with and through civil society organisations aimed at defending the fundamental freedoms, which form the basis for all democratic processes and help civil society to become an effective force for political reform and defence of human rights. In this way, it will complement the new generation of geographical programmes, which will increasingly mainstream democracy and human rights, though focusing primarily on public institution building.

A total of 7 projects are being implemented by Kosovar CSOs that benefited from the EIDHR 2009 & 2010 country based grant scheme with the available funds of €1.7 million. In September 2011 European Commission Liaison office advertised the call for applications for EIDHR 2011 country based scheme. Funds available: € 873,000.00.

### **Civil Society Facility (CSF)**

'Civil Society' is identified as a sector in its own right in the IPA Multi-beneficiary Multi-annual Indicative Planning Document (MIPD) 2011-13. It highlights that, *"although IPA countries are gradually adopting legislation and strategies more favourable to civil society development, engagement of governments with civil society remains generally weak. Local NGOs require training to adapt to present conditions, strengthen their capacities and to participate in the European integration process. It is also necessary to encourage freedom of association, to put in place regulatory frameworks and public incentives for the development of CSOs, and to guarantee a supportive legal framework for civil society activities."*<sup>69</sup>

As part of the IPA instrument, the CSF programme builds on previous support to civil society delivered through the PHARE and CARDS programmes (activities now either concluded or near conclusion). The programme for the next three years responds to the sector objectives set out in the IPA Multi-beneficiary MIPD 2011-2013 of 'strengthening CSOs and their role in the political process'. It will build on experiences from the initial phase of the CSF and complement the achievement of sectoral targets under National MIPDs 2011-13. It is also closely aligned with other EC instruments for civil society support, including the European Instrument for Democracy and Human Rights (EIDHR)<sup>70</sup> and the 'Civil Society Dialogue' programmes between the EU and Turkey<sup>71</sup>.

### CSF background

The CSF is a single facility, which supports the strengthening of civil society in the IPA region. The activities outlined in this Civil Society Facility Multi-annual IPA programme encompass all support foreseen at National and Multi-beneficiary levels as well as 'People-2-People' actions over the period 2011-2013. The CSF was established in 2008 following consultation with stakeholders to define how EC support to civil society could

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<sup>68</sup> MIPD Kosovo 2008-2010

<sup>69</sup> IPA Multi-beneficiary Multi-Annual Indicative Planning Document (MIPD) 2011-13, pg. 20

<sup>70</sup> The 2009 EIDHR calls for proposals resulted in an allocation of €6,588,000 for civil society projects in support of human rights defenders under a total of 79 contracts.

<sup>71</sup> Established based on COM (2005) 290: "Civil Society Dialogue between the EU and Candidate Countries". €9,600,000 was allocated to the programme, Civil Society Dialogue III which will promote dialogue of political criteria and media.

be improved in the western Balkans and Turkey. Implemented through the IPA programming mechanism, it was set up as a tool to support the development of civil society financially. It comprises of both National and Multi-beneficiary initiatives which are programmed in a co-ordinated manner. The CSF is therefore a single facility for the western Balkans and Turkey.

The objectives of the CSF are to:

- Strengthen civil society bodies and their role in the political process, to enable CSOs to develop cross-border projects and networks, and to familiarise civil society representatives and opinion leaders with EU affairs;
- Enhance the capacity of local CSOs for civic mobilisation, advocacy, project development and management to encourage networking, and to support their dialogue with corresponding bodies in the EU;
- Promote co-operation and transfer of know-how between business, trade union, and professional organisations in partner countries and corresponding EU level organisations.

In order to meet these aims, the CSF consists of three strands which together aim to strengthen civil society's role in decision-making and EU integration:

- (1) Support to civic and capacity-building initiatives to enforce the role of civil society at a national level;
- (2) A "People-2-People" Programme supporting visits to EU institutions and bodies to exchange experience, know-how and good practices between beneficiaries, EU and Member State CSOs; and
- (3) 'Partnership Actions' to build partnerships and develop networks between CSOs in beneficiaries and their counterparts in the EU to promote the transfer of knowledge and experience.

The multi-beneficiary IPA programme covers all three stands of the CSF whereas national programmes focus on the first area of activity, 'civic initiatives and capacity building'.

The 'People-2-People Programme' was launched in 2008, and 'Support to civic and capacity-building initiatives' and 'Partnership Actions' became fully operational in 2009. Considering the limited time that the CSF has been operational it is premature to measure actual impact but some activities have begun to deliver tangible results:

- **TACSO:** SIPU International was contracted in 2009 to establish technical assistance desks in each country (with two in Turkey). Its purpose is to strengthen local CSOs by organising a range of services including capacity building, information and networking events. TACSO also supports EU Delegations and EC Headquarters in their monitoring and guidance of civil society projects.
- TACSO has established **Local Advisory Groups** (LAGs) in all beneficiaries. They consist of representatives from EU Delegations, governments, civil society, other donors, etc. Their purpose is to advise the EC on the best use of IPA funds for civil society support.
- At European and multi-country levels, a **European Advisory Committee** has been set up with representatives from several major European-level CSOs. The aim of this group is to advise on the strategic development of TACSO.
- TACSO and the LAGs support the '**civic and capacity building activities**' programmed and implemented at national level. Activities are in the form of grants made to local CSOs based on calls for proposals addressing specific issues linked to EU integration and/or CSO capacity building.
- Using the TAIEX mechanism, the '**People-2-People**' programme organises events every year to give participants the opportunity to visit EU institutions, deepen their knowledge about EU policies and programmes and to make useful contacts.

- In 2009 and 2010, about 55 grants (**Partnership Actions**) came into operation covering the themes of 'environment, energy efficiency and health and safety at work', 'fight against corruption, organised crime and trafficking', 'cultural organisations', 'socio-economic partners' and 'protection of minorities'. About ten grants will be contracted in 2011 dealing with the 'empowerment of women'.

To date, the CSF has received approximately €146 million: €71.5 million from the multi-beneficiary IPA programmes and €74.5 million from the national IPA programmes.

**Kosovar Civil Society Foundation (KCSF) – support for civil society** - KCSF is implementing a programme called Grants Fund for Civil society. General purpose of this programme is to support civil society initiative aimed at developing democratic change and contribution to the process of European integration. Key areas to be affected by this fund include the capacity of civil society and its internal governance, sustainable and strategic partnerships within civil society and with other sectors as well as a favourable environment for the functioning of civil society. Within the programme of development of civil society through its Fund Grants, KCSF is committed to support civil society initiatives for innovative and creative projects, which focus on the development of civil society. Specifically the Civil Society Fund Grant of KCSF in the framework of civil society development has supported the following projects, which reached a total of €222,461.00 and were implemented during 2010.

**Swiss Co-operation Office in Kosovo (SCO-K)**, through Democratic Society Promotion project, implemented by Kosovar Civil Society Foundation (KCSF) – offer financial support for initiatives that are in line with the programmatic fields of this project. The overall goal of the Democratic Society Promotion project is to support the development of democratic society in Kosovo. The project aims to support initiatives, projects or activities arising from civil society, but also from academic institutions and professional organisations with a potential to contribute to significant changes in society at national, regional and local level.

Main programmatic fields to be supported by DSP are: Increase citizen participation and improve transparency and accountability of Kosovar institutions; improve inter-ethnic coexistence and the integration of non-majority communities in a multi-ethnic Kosovo; advance gender equality in Kosovo. Main instruments of support are: Project Grants; Institutional Grants and Awards. Democratic Support Project will cover the whole territory of Kosovo, while the total amount of the project is €1,195,086.21.

#### Donor Co-ordination

With many international donors phasing out of the Western Balkans and Turkey, the CSF is operating in a context of reduced donor funds for civil society. As a result, the EU is increasingly becoming the main 'driver of change' for civil society development in the region. To ensure efficiency, effectiveness and value for money, it is paramount that the Commission learns from best practice developed by other donors while also ensuring co-ordination with those who remain in the region.

In consultations with the Commission, the authorities of the region have highlighted to the Commission the need for improved co-ordination and coherence as a continuing concern<sup>72</sup>. The Commission seeks to ensure good co-ordination in programming and implementation by organising regular meetings throughout the year with Beneficiaries, Delegations, EU Member States, International Financial Institutions (IFIs), the Regional Co-operation Council (RCC) and other stakeholders. These efforts are aimed at ensuring complementarities, avoiding overlaps and enhancing, as far as possible, local ownership of the content and design of the programmes.

<sup>72</sup>

## Conclusions and recommendations

For the legal and functioning environment:

In general, during the last two years, the legal environment for functioning of civil society has been slightly improved, although it can still be considered insufficient. The improvements are largely due to the adoption of the new NGO Law; the adoption of the Law on Legislative Initiatives; the advancement of specific provisions on public consultations through new Rules of Procedures of the Government; as well as the adoption of the Manual on Public Consultations Process, which can help in standardising the process at all governmental units at the central level.

The Government of Kosovo has so far established neither institutional mechanisms nor a policy framework for developing relations with civil society in order to facilitate the inclusion of CSOs in the policy and legislative process, as well as promote the development of the civil sector. Although there are no restrictions in law on CSOs participating in the decision-making process, there is no comprehensive legal provision defining and regulating government-civil society co-operation and the institutional forms this might take. This directly reflects into a non-standardised process of involvement and different expectations from both sides, which results in many misunderstandings and unproductive co-operation, even when there is good will from both sides.

A Memorandum of Co-operation between the Government of Kosovo and Representatives of CiviKos was signed on November 9th 2007. The Memorandum addressed itself broadly to four issues: the general position of civil society, the responsibilities of Government towards civil society, the responsibilities of CSOs to implementing their organisational missions, and co-operation between Government and civil society. After a period of silence from both parties, following the revitalisation of CiviKos Platform, in September 2011 the government has officially started the process of advancing this Memorandum into a Governmental Strategy for co-operation with civil society. TACSO is asked to support both, the process of drafting the Strategy and its implementation, in particular through ensuring the technical expertise and space for an inclusive process.

However, a wide range of other laws, regulations and mechanisms need to be either drafted or functionalised, in order to create an enabling legal environment for civil society. In general terms, the major issues to be addressed are:

- **Structuring of civil dialogue and co-operation between government and civil society, through drafting and implementing a comprehensive governmental strategy on co-operation with civil society;**
- **Adjusting the mandate and increasing the capacities of central institutions responsible for co-operation with civil society<sup>73</sup>;**
- **Advancing the legal framework on Public Benefit Organisations, which would allow the NGOs with this status to enjoy concrete benefits from the state and public;**
- **Creating the legal framework and mechanisms for encouraging volunteering in civil society.**

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<sup>73</sup> Recommendation from TACSO study "Beyond Zero"

## For capacities of civil society:

Conclusions and recommendations of CIVICUS<sup>74</sup> show that the Level of Organisation resulted as the highest dimension in CSI, showing that Kosovar civil society is characterised by a solid degree of institutionalisation. Human resources are one of the weakest points of the entire sector. Project-based support and inability to raise institutional funds from alternative sources make CSOs vulnerable to a high staff turnover, as well as causing them to encounter difficulties in mobilising professional and competent staff.

- 1) Civil society should establish internal mechanisms for ensuring good governance and accountability towards its constituencies – through building platforms and networks and adopting a Code of Ethics and other mechanisms which will monitor and assist CSOs in putting into practice the main principles of the not-for-profit sector;
- 2) Public authorities should increase state support for the development and sustainability of civil society - through creating a governmental comprehensive policy towards civil society, including legal, financial and institutional arrangements on supporting civic initiatives aiming at positive change of society;
- 3) Donors should consider switching their assistance from short project-based support to long institutional-based support for civil society – through designing clear and long-term strategic priorities of support aiming at a sustainable and accountable sector<sup>75</sup>.

The capacities of civil society have been slightly improved during the last two years, in particular in regards to absorption capacities of EU funds<sup>76</sup>. However, the human resources of the sector remain weak, and the recent “exodus” of a number of civil society leaders into politics only worsened this problem.

In addition, the sector lacks sufficient information on the main principles of civil society, particularly in regards to good governance, transparency and accountability of CSOs. In this regard, providing the necessary information on the current legal framework on CSOs in Kosovo, as well as the main international principles and standards of good governance, transparency and accountability are crucial for improving the public image of civil society in Kosovo.

Last but not least, civil society in Kosovo must go beyond borders and expose itself in the region and at the EU level. Information on similar organisations of the region must be further provided, accompanied with concrete information and skills on regional funds and EU networking.

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<sup>74</sup> Civicus report for Kosovo, page 60

<sup>75</sup> Ibid, page 53

<sup>76</sup> “EC Liaison Office has witnessed an increase in terms of number of applications received as a result of the different call for proposals. It is evident that the information sessions and additional trainings provided by Technical Assistance for Civil Society Organisations (TACSO) office in Kosovo has resulted in increased awareness of the organisations on the requirements of the EU procedures related to the grant application” – information received from ECLC in Kosovo.

## Annex 1- List of the Interviews

	<b>Interview</b>	<b>Organisation/Institution</b>
1	Valbona Salihu	Norma Association
2	Ferki Fejza	Foundation for Protection of Environment
3	Naime Sherifi	SHMGF
4	Shehrije Leci	Ministry of Public Administration
5	Sylejman Gashi	Ministry of Public Administration
6	Mehreme Llumnica	HANDIKOS
7	Shaqir Haxha	KAPAK
8	Fitim Krasniqi	Office of the Prime Minister
9	Muhamet Malesiu	Ministry of Environment and Spatial Planning
10	Bajram Kadriu	Ministry of Environment and Spatial Planning
11	Naser Balaj	Ministry of Environment and Spatial Planning
12	Nezakete Hakaj	Ministry of Environment and Spatial Planning
13	Lulzim Aliaj	Office of the Prime Minister
14	Shemsi Veseli	Municipal Assembly – Prishtina
15	Naser Lajqi	Syri i Vizionit
16	Vlora Latifi	Syri i Vizionit
17	Shqipe Pantina	Center for Policy and Advocacy
18	Agron Demi	GAP
19	Trendelina Dreshaj	Office of the Prime Minister
21	Afrim Maliqi	HANDIKOS Department for Registration and Liaison with NGOs-
22	Bajram Kosumi	Ministry of Public Administration
24	Veton Mujaj	Syri i Vizionit
25	Musa Kurhasku	Municipality of Gjakova
27	Naim Sahiti	Municipality of Peja
28	Shemsi Veseli	Municipal Assembly – Prishtina
29	Avni Bytyqi	INPO
30	Taulant Hoxha	KCSF
31	Besim Kajtazi	Office of the Prime Minister
32	Feride Rushiti	KRCT
33	Valdete Idrizi	Community Building Mitrovica- Strategic Advisor
34	Visare Gorani Gashi	Swiss Embassy
35	Edis Agani	European Commission Liaison Office to Kosovo
36	Momcilo Arlov	CCSD
37	Vuk Mitrovic	CCSD

## **Annex 2- Focus Group Meetings – Workshops**

1. Focus Group Workshop organized in Prishtina on the 12<sup>th</sup> of July 2011 discussing Institutional arrangements for cooperation with civil society. The participants included government officials from central and local level, civil society organizations, donor community and representatives of media.

1. Eko Trepca
2. Handicap Kosova
3. OPFAKKOS
4. BSPK
5. Elita
6. Qendra Rinore
7. KCSF
8. KDI
9. Levizja FOL
10. Developing Together
11. KCIC
12. Liria
13. DNGORL - Ministry of Public Administration
14. Handikos
15. KIPRED
16. CHwB
17. Refleksionet Moderne
18. AMMK
19. Celnaja
20. KMLDNJ
21. Association of Kosovo Municipalities
22. Liria G
23. Etika
24. Elita-H
25. FAK
26. Ekovizioni
27. ASTRA
28. CBM
29. Caritas Kosovo
30. Prime Minister Office
31. UPTAK

2. Focus Group Workshop organized in Prishtina on the 13<sup>th</sup> of July 2011 discussing Institutional arrangements for cooperation with civil society. The participants included government officials from central and local level, civil society organizations, donor community and representatives of media.

1. Prosperiteti
2. TV Dukagjini
3. Vizioni 02
4. Elena Gjika
5. Qendra Rinore Ardhmeria
6. 7 shtatori
7. Handikos
8. CTI Kosovo
9. ATTA
10. Municipal Assembly -Prizren
11. KSCF
12. Syri i Vizionit
13. Municipal Assembly –Gjakove
14. Municipal Assembly -Peje
15. QRALM
16. Venera
17. ARNIKA
18. Alma
19. Solidar Swisse
20. Abstract
21. Bosnjacki Savet Kosova
22. Kalaja
23. OSCE
24. Radio Televizion of Kosova
25. News Agency Kosova Live
26. Radio Peja

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Partners Foundation for Local Development Romania