

Kosovo*

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence.

Synthesis of the baseline brief

COMPONENT 1: CONDUCTIVE ENVIRONMENT

Objective 1: An enabling legal and policy environment for the exercise of the rights of freedom, expression, assembly and association

Result 1.1.: All individuals and legal entities can express themselves freely, assemble peacefully and establish, join and participate in non-formal and/or registered organisations

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| | The basic legislation for the establishment and operation of CSOs is in compliance with international standards, but its proper implementation is hampered by limited capacities of public institutions and lack of harmonisation with other laws and mechanisms relevant for the operation of CSOs. |
| | The legal framework meets international standards by: 1) allowing all individuals and legal persons, without discrimination, to establish associations, foundations, political parties, religious organisations, employee organisations and trade unions; 2) prohibiting public authorities from interfering in the work and activities of CSOs. No cases of state interference in internal matters of non-profit entities have been reported, though there are no explicit legal provision exists to protect CSOs from interference by third parties in the exercise of freedom of association.; 3) allowing dissolution and termination of CSOs are in line with the international law and based on objective criteria, with the exception of the provisions of the money laundering law. |
| | The legal framework does not regulate the establishment of non-for-profit companies or endowments, although the latter is neither prohibited nor allowed explicitly. |
| | Registration of CSOs is not mandatory; No one is sanctioned for not-registering their organisations, although proper operation of a non-registered organisation faces different administrative problems. |
| | Registration rules are clearly prescribed, no fee is required and response by the authorities is to be provided within 60 days. Few cases of subjective decisions, unlawful requirements or delays are reported. The legal framework allows for an appeal process, but no clear rules are prescribed and the same authority is mandated to establish an appeals commission. |
| | The legal framework does not prohibit networking among organisations in and outside of Kosovo without prior notification. |
| | An online registration system has become operational recently, but online registration is not common. |
| | Public benefit status exists, but does not produce any effects in practice. Its basic elements exist in the Law on Freedom of Association in NGOs, but there are no implementation mechanisms and harmonisation with tax and other laws resulting in very limited benefits for holders of the public benefit status. |
| | The money laundering regulations have lower, stricter reporting thresholds for CSOs in comparison to other entities. The sanctions on breaches of money laundering regulations are not proportionate to the extent of the breach and they are not in line with the provisions of the Law on Freedom of Association in NGOs on dissolution of NGOs. |
| | The legal framework allows CSOs to engage in economic activities. |

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| | The legal framework allows CSOs to receive foreign funding. No restrictions on receiving foreign funding have been reported. The legal framework allows CSOs to receive funding from individuals, corporations and other sources. |
| | The legal framework guarantees all citizens of the Republic of Kosovo the right to organise and participate in public gatherings, <u>but has no legal provision regarding the right of assembly of those who are not citizens of Republic of Kosovo. It indirectly implies that counter-assemblies are not allowed.</u> Prior notification for <u>public gatherings, except in those places where no additional security measures are required.</u> When authorities lack to provide response in due time, the public gathering can take place without any restriction. Any restriction following the notification of public gatherings can be appealed by organisers in court through a fast-track procedure. |
| | The legal framework provides freedom of expression to all. Restrictions are limited to hate speech and are in line with international law and standards. Libel is not in the Penal Code. CSO representatives enjoy the right to freedom of expression. <u>There are few reported cases of encroachment on the right of freedom of expression for CSOs by public institutions and there are few reported cases of threats to CSO representatives for critical speech,</u> but there are no reported cases of any sanctions for critical speech under the Penal Code. |
| | The legal framework provides the possibility to communicate via and access any source of information including the Internet and ICT. The legal framework prohibits unjustified monitoring of communication channels, with the exception of monitoring based on a court decision or in an extraordinary situation for reasons of national security. |
| | Internet penetration in Kosovo is 72.1 percent and the monthly price for an Internet connection is approximately 4.5 percent of the average monthly salary of the state budget. Most CSOs use social media to promote their work and civil society activists are free to receive and impart information through social media. |

Result: 1.2. The policies and legal environment stimulate and facilitate volunteering and employment in CSOs

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| | There are no statistics on the number of employees in the non-profit sector. 9% of CSOs stated that they do not have employees, 4% have one employee, 35% from 2-5 employees, and 51% over 6 employees. |
| | In 2013, only 3.1 percent of citizens volunteered for any civil society organisation or initiative, compared to 4.5 percent in 2011. This shows a decrease in the levels of voluntarism in Kosovo. |
| | 32.67 percent of CSOs have the perception that volunteering in civil society is decreasing, compared to 19.8 percent who have the opposite perception. |
| | 63% of CSOs were inclined to stating that legal solution in Kosovo are not stimulating at all for volunteers, while 32% inclined stating that it is stimulating. |
| | CSOs are treated in equal manner to other employers by law. CSOs have difficulties in implementing the provisions of the Labour Law on Maternity Leave, due to their specific nature of funding. CSOs are not treated in state incentive programmes for employment. |
| | Kosovo has no enabling volunteering policies and laws. |
| | There are almost no incentives and state supported programmes for youth for the development and promotion of volunteering. There are obligations for contractual relationships and protection for organised volunteering. Administrative procedures for host organisations of young volunteers are complicated and burdensome for CSOs. Thus volunteering takes place in other forms, mostly without |

any formal procedure.

Result 1.3. National and/or local authorities have enabling policies and rules for grassroots organisations* and/or civic initiatives.

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| | Registration of CSOs is not mandatory. Registration rules are clearly prescribed. No fee is required and responses by the authorities must be provided within 60 days. No one is sanctioned for not registering their organisations, although proper operation of non-registered organisations face different administrative problems. There are very few non-registered organisations present in society and public life. |
| | The legal framework indirectly implies that counter-assemblies are not allowed. The legal framework requires prior notification for public gatherings, except in those places where no additional security measures are required like stadiums, city halls, etc. and/or closed premises. |
| | The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT. There are no reported cases of police harassment of members of social groups. |

Objective: 2. An enabling financial environment, which supports the sustainability of CSOs.

Result: 2.1. Easy to meet financial rules for CSO, which are proportionate to their turnover and non-commercial activities

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| | 12% of CSOs assessed that prescribed financial rule, obligations of bookkeeping and accounting, referring to their organisations are not clear and understandable, while for 83% were clear and understandable. |
| | For 25% of CSOs it is not simple to implement prescribed financial rule, obligations of bookkeeping and accounting, while for 71% it is simple to implement. |
| | The legal framework for financial reporting of CSOs is identical to private companies and does not take into account the size and type and scope of activities of CSOs. More than half of CSOs consider the financial reporting requirements not in line with the specific nature of CSOs. |
| | The legal framework allows CSOs to engage in economic activities, but CSOs are not familiar with obligations and limitations on economic activities and no legal advice is available. |
| | The legal framework allows CSOs to receive foreign funding, as well as funding from individuals, corporations and other sources. No restrictions on receiving foreign funding have been reported. CSOs are free to receive funding from different private sources. |
| | VAT exemption is provided based on the type of donor and different procedures are applied. Some procedures for exemption are burdensome and difficult to implement. Custom tax exemption is provided mostly based on the type of donor, and most of the procedures for exemption are burdensome and difficult to implement. |

Result: 2.2. Donations are stimulated with adequate legislation and regulations

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| | The law provides tax deductions for individual and corporate donations to CSOs of up to five percent if the donations are for humanitarian, health, educational, religious, scientific, cultural, |
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| | environmental protection or sports purposes. |
| | This tax benefit is provided only for a selected number of publicly beneficial activities. Thus it is not coherent with the public benefit status, which is set in the basic NGO Law. |
| | The legal requirements and conditions for receiving deductible donations are clear, but they include only a few publicly beneficial activities. |
| | Few CSOs have received individual or corporate donations, and tax deductions are not the main motivation for those donations. Corporate social responsibility (CSR) is not a widespread concept among private companies in Kosovo and the rare cases of CSR are mostly initiated on an individual basis without any state policy. CSR is promoted neither by state nor by the business sector or by CSOs. |
| | There are no practices found of endowments established or operating in Kosovo. |

Result: 2.3. Financial (e.g. tax or in-kind) benefits are available

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| | The law provides tax-free treatment for all grants and donations supporting not-for-profit activity of CSOs. The law provides tax benefits for related economic activities of CSOs up to a “reasonable level of income”. |
| | There are no explicit legal provisions for the treatment of passive investments of CSOs. There are no legal provisions for establishment and operation of endowments. |
| | In general, tax benefits for economic activities of CSOs are effective, although there are difficulties in reporting due to reporting procedures, which are not specific to CSO work |
| | There are ambiguities in the legal framework, in particular in the economic activities of CSOs, which do not have the public benefit status. |
| | Passive investments of CSOs are not common. There are no endowments established or operating in Kosovo. |

Result 2.4.: Government support to CSOs is available and provided in a transparent, accountable, fair and non-discriminatory manner

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| | Public funds for Civil Society were raised from eight percent in 2011 to 20.5 percent in 2013. Out of 20.5 percent of public funds, 9.1 percent are provided by central institutions and 11.4 percent by local institutions. |
| | The Government does not have any clear data on funds available for the civil society. |
| | There is no law or national policy or document that regulates state support for CSOs. There is no national level mechanism for the distribution of public funds to CSOs. Public funds for CSOs are not clearly planned within the state budget. |
| | No government body has a mandate to distribute and monitor the distribution of state funding. |
| | The approach of public institutions does not contribute towards financial viability of CSOs. |
| | In Kosovo, there is no public funding for institutional development of CSOs and co-financing of EU and other grants |
| | As participatory budgeting is not common in Kosovo, CSOs are not part of the public funding cycle even for public funds for civil society. |
| | Project support is present in many cases, but mostly at local level. |

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| | There are legal provisions on the possibility for directing lottery funds to different social categories, human rights issues, culture and sports, but no procedure exists. No information for collection or disbursement of lottery funds exists. The funding is unpredictable and it is impossible to identify the amount of public funds committed or disbursed to CSOs. |
| | There is no specific procedure for distribution of public funding to CSOs. There are no standard selection criteria and different state institutions use different selection criteria. There are no standards or procedure for their programming, implementation, monitoring and evaluation. |
| | Information on procedures and funded projects are publicly available only in rare cases. State bodies have no harmonised procedure that they apply. There is no sufficient information to assess and report the application requirements. Most of the decisions on tenders are not transparent and no information on fairness and conflict of interest is available. |
| | There are no specific procedures and measures for ensuring accountability, monitoring and evaluation of public funds to CSOs, with the exception of the general provisions of the Public Procurement Law and Public Finances Management and Accountability. There are no specific sanctions for CSOs that misuse funds, with the exception of the general provisions of the Public Procurement Law and Public Finances Management and Accountability |
| | Monitoring visits from contracting authorities of public funding are not commonly reported and, when they happen, there are no standardised procedures for follow-up for such visits. As no specific legal provisions exist, the sanctions for misuse of public funds by CSOs are identical to all other legal entities, thus do not take into account the proportionality of the sanction with regard to size and type of CSO. Being disbursed in ad hoc and non-standardised manner, there is no information that any evaluation for public funds for CSOs has been carried out. |
| | The law allows municipalities to allocate immovable property to CSOs. There are very general criteria and no clearly prescribed process for non-financial support to CSOs. There are a number of CSOs that use non-financial support from municipalities |
| | There are no reports of unequal treatment of CSOs compared to other actors. |
| | General legislation allows CSOs to provide services in various areas, and specific legislation allows CSOs to provide social services and there are no legal barriers to CSOs that provide social services to receive public funding, |
| | With the exception of the social service provision, the rest of the environment for service provision is generally closed to CSOs and does not enable CSOs to become equal providers of services. There are hidden legal barriers in general legislation that, in some cases, prevents CSOs to be eligible for service provision contracts, for example, the requirement for business registration certificate |
| | There are few CSOs, which are able to obtain contracts, mostly in social services and areas where no other service providers exist. CSOs are included in some stages of developing and providing services. Registration and licensing is required for all social services, and the procedure for obtaining that is the same as other service providers. A new legal basis is in the drafting process. |
| | The law does not include a clear and transparent procedure through which the funding for social services is distributed. Legal provisions on funding criteria are determined on a yearly basis through specific administrative instructions. |
| | There is a legal basis for monitoring the spending of CSOs that provide social services. There are no quality standards or monitoring procedures for social service provision by CSOs, and drafting of a legal basis is on the process. In practice, there are field visits and inspections, which are notified in advance. Field visits and inspections are performed on a regular basis, mostly with regards to spending verification and technical aspects of service provision. The quality, effects and impacts of services |

provided are not evaluated.

Changing relations, CSOs and government

Objective 3: Civil society and public institutions work in partnership through dialogue and cooperation based on willingness, trust and mutual acknowledgment around common interests

Result: 3.1. Public institutions recognise the importance of CSOs in improving good governance through CSO inclusion in decision-making processes

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| | Out of surveyed, 26% of CSOs in Kosovo stated that were consulted in the process of preparation of drafts of local strategies, 28% of local action plans, 42% of specific laws, 25% of national strategies, 16% of national action plans, 12% of IPA programming of EU financial support, 12% of policy documents, 26% were not present in such consultations. |
| | The recently adopted Governmental Strategy for Cooperation with Civil Society provides a comprehensive framework for advancement of the environment on CSDev, however, the current institutional setup, and human and financial resources do not guarantee its proper implementation. |
| | . The Governmental Strategy for Cooperation with Civil Society includes strategic objectives and measures, as well as a specific action plan with allocation of responsibilities, but no specifically allocated funding for its implementation. |
| | The measures within the Governmental Strategy for Cooperation with Civil Society have been developed jointly with CSOs. There were many CSOs from different areas of interest that participated in the phase of development of the Governmental Strategy for Cooperation with Civil Society |
| | Existing legislation does not explicitly oblige public institutions to proactively publish draft laws and policies, while it obliges them to publish adopted laws and policies. |
| | There are clear legal procedures and mechanisms for access to public information and documents. The law contains clearly prescribes monetary sanctions for civil servants and institutions breaching the legal requirements on access to public information. There are no reports that cases of violations of the law have been sanctioned. |
| | Existing legislation allows, but does not oblige, public institutions to invite CSO representatives to decision-making or advisory bodies. There are no selection mechanisms or standard guidelines for representatives from civil society. |
| | Recent advancements in the legal framework at the governmental level have improved CSO involvement in policy-making, but proper implementation and clearly defined standards of consultation are still missing. |
| | The Office for Good Governance has the mandate to facilitate cooperation between government and civil society. A civil society liaison officer was recently appointed within the administration of the Assembly of Kosovo. A Joint Advisory Council for implementation of the governmental strategy will be established. The Office for Good Governance has insufficient resources for facilitating CSO/government dialogue, including serving as a fully functional secretariat to the Joint Advisory Council. The position of civil society liaison officer of the Assembly of Kosovo has still not produced any improvement in the relations of civil society and the assembly. CSOs are regularly involved in drafting and decision-making at the Office for Good Governance related to the implementation of the strategy, including drafting the ToR for the Joint Advisory Council. |
| | The Rules of Procedures of Government require public consultations for all draft policies and laws, |

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| | while no minimum requirements are in place. Public institutions, in particular ministries, invite CSOs to provide written comments on draft laws and policies in many cases, although not in the early stages. In most cases CSOs are not provided with adequate information on the content of draft documents, and the usual time to respond to Ministerial invitations within fifteen working days. There are few cases where written feedback on the results of consultations is provided or made publicly available. |
| | The Law on Local Self-Government provides instruments for citizen participation at the local, decision-making level. Most of the municipalities do not involve civil society on a regular basis and many of the existing legal instruments are not properly functionalised. |

CSOs Capacities

Objective 4.: Capable, transparent and accountable CSOs

Result 4.1.: CSOs' internal governance structures are transparent and accountable to members/constituents/beneficiaries

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| | 44% of CSOs believe that decision making in CSOs in their country is in compliance with prescribed rules and laws of the organisation, 28% believe that decisions are made by some individual or top management, 25% that decisions are made with prescribed rules including consultations with the employees and volunteers |
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Result 4.2.: CSOs are able to communicate the results of their activities to the public

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| | 45.6% of surveyed trust to NGOs in their country, general population trust the most to the police 69.9% of surveyed, and the least to Political parties 23.5% of surveyed |
| | 46.5% of the general population believes that NGOs support dealing with problems in their country, Police supports the most in dealing with problems 67%, and political parties support the least 26,8% |
| | 7.5% of surveyed believe that CSOs in their country are not active in protection of animals, 53% believe in the area of employment, and 51.9% in rural development |

Result 4.3.: CSOs are transparent about their programme activities and financial management

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| | 54% CSOs stated that they publish their statute on their web page, 14% stated that the statute is accessible to the public, 32% stated that the statute is not accessible to the public |
| | 41% of CSOs stated that they have a rulebook and it available on their web page, 11% stated that they have a rulebook, 15% stated that have a rulebook, but it is not accessible to the public, and 32% stated that they do not have a rulebook |

Result 4.4.: CSOs monitor and evaluate the results and impact of their work

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| | 30% of CSOs evaluate their projects pro forma, while 69% evaluate projects with the purpose of establishing efficiency and drawing a lesson for further projects |
| | 43% of CSOs use external evaluation for realisation of their projects |

Objective 5.: Effective CSOs

Result 5.1.: CSO activities are guided by strategic long-term organisational planning

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| | 66% of CSOs have developed strategic plan, 14% do not have a strategic plan. |
| | 78% use internal evaluation when employing staff in their organisation. |
| | 28% of CSOs neither have established system for assessment of efficiency of employees in their organisation, nor internal strategic plan dealing with these issues. |
| | 57% of CSOs stated that they have a human resources development plan aimed at attacking and keeping talented associates, while 23% stated that they are developing such plan |
| | 84% of CSO stated that they manage to keep talented associates, and 85% believe that they manage to attract quality new people |

Result 5.2.: CSOs use research and other forms of evidence to underpin their activities

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| | 75% of CSOs active in public advocacy, mainly/frequently uses research for their advocacy actions, while 24% of them mainly/very rarely use research |
| | 76% of CSOs believe that they have enough information at their disposal |
| | 43% of CSOs use official data of national statistical offices, ministries, 22% conduct their own studies, 16% use sources form international institutions such as the World Bank, UNESCO, EBRD, 10% use academic studies |

Result 5.3.: CSOs regularly network within and outside country borders and make use of coalition-building for increased impact in campaigning and advocacy

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| | 48% of CSOs indicated that they do not belong to any international network, 27% stated that belong to one international network, 9% stated that they belong to 2 international networks, 16% belong to |
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| | more than 3 international networks |
| | 35% of CSOs indicated that they do not belong to any national network, 28% stated that belong to one national network, 13% stated that they belong to 2 national networks, 22% belong to more than 3 national networks |
| | 34% of CSOs indicated that they do not belong to any local network, 35% stated that belong to one local network, 6% stated that they belong to 2 local networks, 24% belong to more than 3 local networks |
| | 37% of CSOs do not find CSO networks efficient, while 63% find them efficient |

Objective 6.: Financially sustainable CSOs

Result 6.1.: Fund-raising activities are rooted in CSOs' long-term strategic plans and the core mission of the organisation

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| | 58% of CSOs believe that CSOs in Kosovo mainly adopt to donors' priorities and collect funds also for other activities not in line with their organisational strategic plan, while 42% of CSOs believe that CSOs in Kosovo mainly stick with their strategic plan and collect funds for activities in line with their strategic plan |
| | 69% of CSOs stated that they mainly stick to their strategic plans and collect fund for activities in line with its strategic plan, while 31% stated that they adapt to donors' priorities and collect funds also for other activities not in line with its strategic plans |

Result 6.2.: CSO have a diversified funding base, including membership fees, corporate/individual giving and social entrepreneurship

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| | 19% of CSOs stated that they did not have any donors in the past year, 24% had one donor, 30% had between 2-3 donors, 11% had 4-5 donors, and 13% over 6 donors |
| | 22% of CSOs had income from membership fees, 14% had from citizens, 37% from local self-government and/or regional administration, 38% from other foreign private or state resources, 24% from the EU funds, 29% from governments/ministries/state administration bodies, 16% from private companies operating in the country, 8% from public companies. |