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By Venera Hajrullahu, Taulant Hoxha,
Dren Puka
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Kosovo: democratising democracy

Policy Recommendations

1. Ensure full implementation of the legal framework to enable the participation of citizens in public affairs.
2. Build the capacities of decision-makers at all levels to adhere to legal requirements for inclusive policy-making.
3. Develop public spaces and funding instruments for citizen participation in decision-making through civil society.

Abstract

Inclusive decision-making processes that prioritise citizens and their needs, allowing their voices to shape the decisions that affect them, are at the core of democratisation from below. Despite significant progress in democratic indicators, Kosovo still has a long way to go before realising its full potential for inclusive policy and decision-making. While Kosovo has established legal requirements for public participation, implementation remains limited, resulting in only a small number of well-established civil society groups and experts

being able to participate. Decision-makers at all levels must improve their capacities to adhere to legal requirements, while citizens should engage in policy-making processes through civil society organisations. Recent trends towards more inclusive civic practises improve the prospect of wider citizen engagement in public affairs. Developing public spaces and funding instruments that support inclusive civic practises is crucial for enabling citizen participation in decision-making through civil society.



Kosovo: democratising democracy

Introduction

A democracy from below requires democratic decision-making processes that are built around citizens and their needs and enable their voices to shape decisions about their lives and their future.

Democracy, as a system of governance, is much more than the holding of free, fair, and democratic elections. It should be built around citizens – their needs, their voices, and most importantly, their ability to effectively participate in the governance of their country and to hold those in power accountable. Such a participative democracy should ensure that power is not concentrated in the hands of a few but distributed among the people, regardless of their social, economic, or political background and status. In short, democracy should derive from and be exercised from the ground up.

Kosovo has experienced a unique challenge and opportunity: simultaneous EU accession reforms and national state building. It still remains last in its formal path to the EU, yet it tops charts in democracy related indicators.

When Kosovo was preparing to declare its independence in 2008, it was facing a unique challenge and opportunity: pursuing internal reforms for national state building while simultaneously putting itself on a path of Europeanisation.¹ With this ambitious endeavour in mind, Kosovo today, 15 years later, still remains a work in progress. Yet, the internal reforms aimed at transforming the country into a future member state of the European Union (EU) have paid some dividends. Kosovo is among the few Western Balkan countries where democratic maturity continues to be reaffirmed through exemplary elections and smooth transitions of power, even when the entire political spectrum was outvoted in the 2021 elections. It is the only country in the region with significant progress in democracy and governance, as measured by international organisations such as Freedom House, Transparency International, Reporters without Borders, the V-dem Institute, or the Rule of Law Index² project. It is also the only country in the region where civic space did not shrink during 2022.

However, despite notable advancements on the ground and international assessments that Kosovo is today freer and more democratic than ever before, there is quite a gap to bridge before fully realising the potential of democracy. Among other things, this can be attributed to the concentration of public policy-making within formal systems.

1 Venera Hajrullahu and Fatmir Curri, October 2007, State of play and main challenges for Kosovo on the way to the European membership, Kosovar Civil Society Foundation. https://www.kcsfoundation.org/wp-content/uploads/2017/12/03_03_2014_1098333_KCSF_2007_STATE_OF_PLAY_AND_MAIN_CHALLENGES_FOR_KOSOVO.pdf

2 <https://worldjusticeproject.org/sites/default/files/documents/Kosovo.pdf>



Too few Kosovars are engaged in civic actions or in formal decision-making processes, including youth, who are the dominating demographic group in Kosovo.

Except for the usually relatively high election turnout, the majority of Kosovo's population abstains from participating in either formal decision-making processes or civic actions in their own interests. A small percentage of citizens participate in public hearings at the local level, and a similar trend is observed in public consultations at the central level.³ A survey by Friedrich-Ebert-Stiftung shows that participating in civic actions and initiatives was the second lowest value ranked in young girls' and boys' responses, with only 16% considering it a very important value (compared, for example, to 72% for graduating from a university), while they also feel the decision-making process is inaccessible, with only 10% of them thinking their interests are "well" represented.⁴

These figures may paint a picture of citizens lacking interest in engaging in issues of their own interest, however, it is not an assumption to be easily made unless all (or most) prerequisites for enabling civic engagement are in place. These prerequisites span a variety of actors (government, civil society, and donors) and factors (quality of education, economic development, and rule of law). While recognising the crucial importance of each of those factors in the development of a truly democratic society, in this paper the focus will be on the two sides of the formal process of participation in decision-making: 1) the space for participation provided by state institutions, and 2) the venue for mobilisation and channelling the needs of citizens provided by civil society.

Standards for public participation as a formal opportunity for engagement in decision-making

Participatory democracy can manifest itself in many forms and spaces. However, in formal policy-making processes, there is a need for specific mechanisms to ensure that space for participation is not reliant on the discretionary willingness of a single politician or civil servant but rather is sustained, predictable, and transparent.

The state should provide timely information, and formal and effective opportunities for public participation and regular dialogue.

For a long period of time, the standards of participation were organised around the Organisation for Economic Cooperation and Development's⁵ three pillars of how governments can strengthen relations with citizens: 1. access to information; 2. pub-

3 Kosovo Local Government Institute, "Procesi i Buxhetimit në Komuna - qytetarët afër apo larg". <https://www.klgi-ks.com/wp-content/uploads/2023/04/Analiza-e-Procesive-Buxhetore-Komunale-2023.pdf>

4 Youth Study Kosovo 2018/2019, 2019, Friedrich-Ebert-Stiftung (FES). <http://library.fes.de/pdf-files/id-moe/15264.pdf>

5 Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy-making, OECD 2001. <https://internationalbudget.org/wp-content/uploads/Citizens-as-Partners-OECD-Handbook.pdf>



lic consultations, where the government invites the public to comment on specific issues; and 3. active participation, where citizens actively engage in decision- and policy-making. The Council of Europe went one step beyond to define active participation by highlighting dialogue and partnership as two distinguished levels of more advanced participation, centred around regular dialogue on broad or specific issues.⁶ These standards should be applicable both to individual citizens and organised forms of civil society.

Translating all the above into the specific context of the region, the Balkan Civil Society Development Network spells out the standards that enable civil society involvement in decision-making, by requiring defined minimum standards for involvement organised around routine invitation of all interested parties, adequate and timely information on the proposals and sufficient time to respond, written and public feedback, as well as adequate capacities of civil servants to implement those standards, and regular coordination, monitoring, and reporting of the involvement.⁷ These standards also became part of the EU enlargement process through the Guidelines for EU support to civil society in the enlargement countries 2014-2020,⁸ and the revised edition for the period 2021-2027.⁹

All these principles aim to ensure that decision-making in a democratic society remains open to everyone affected by those decisions while also being responsive to the needs of people who are often excluded, such as women, youth, persons with disabilities, the elderly, and various ethnic, sexual, or other minorities.

Kosovo has developed a comprehensive set of legal requirements for public participation at all levels of governance, generally in line with the best international standards.

Kosovo has built a solid foundation of legal requirements with regards to public participation in decision-making. In addition to the constitutional provisions of 2008 that guarantee such rights, specific provisions requiring public consultation have been present since 2011 and culminated with the Government Regulation on Minimum Standards for Public Consultation process in 2016. It sets out a detailed list of obligations for all units of the government when drafting proposals, starting with consultation of annual legislative and policy plans, initial meetings before the drafting process, and written online consultations before the proposals are finalised. It also includes the obligation for written feedback on the results of the consultation, and it provides internal mechanisms to ensure that no legislative or policy document is adopted without those standards being fulfilled. The regulation's ultimate goal was to

6 Code of Good Practice for Civil Participation in the decision-making process, Revised 2019, Council of Europe. <https://rm.coe.int/code-of-good-practice-civil-participation-revised-301019-en/168098b0e2>

7 The Monitoring Matrix, The Toolkit - BCSDN 2013, Balkan Civil Society Development Network. https://www.balkancsd.net/novo/wp-content/uploads/2015/08/BCSDN_Monitoring_Matrix.pdf

8 https://neighbourhood-enlargement.ec.europa.eu/guidelines-eu-support-civil-society-enlargement-countries-2014-2020_en

9 https://neighbourhood-enlargement.ec.europa.eu/dg-near-guidelines-eu-support-civil-society-enlargement-region-2021-2027_en



create an open and transparent system where every citizen was able to participate.¹⁰ Inspired by the central level, a set of similar standards were established for the local level soon after in 2018,¹¹ in addition to other legal tools of direct democracy that have been part of the legislation since 2008.¹² The Rules of Procedure of the Parliament were also amended in 2022 to include more specific provisions on when and how public hearings are held, including lowering the threshold for MPs to require public hearings within parliamentary committees.¹³

Once the government regulation was in force, significant improvements were made in designing and maintaining a functional Online Platform for Public Consultation¹⁴ and in the regular publishing of the majority of proposals drafted by line ministries. Also, a functional reporting system was built, which resulted in gradually improving annual reports on the state of public consultation at the government level.¹⁵ Recently, positive steps have been taken to improve the accessibility of public consultations for specific categories of people with disabilities.¹⁶

Implementation of formal requirements is partial and results in effective opportunities to participate only for a very limited number of well-established civil society organisations and experts.

Nevertheless, the entire system built around these minimum standards has yet to ensure that all groups in society have effective opportunities for involvement. Annual plans are rarely put up for public consultation, effectively preventing civil society and citizens from influencing the agenda of decision-makers, and with initial public meetings being held equally rarely, the possibility to influence a proposal at an early stage is even more limited. Currently, public consultations boil down to publishing pre-final drafts of proposals on the online platform, where interested parties have 15 days to comment in writing. Despite being nominally open to everyone, the highly complex published documents, full of legislative and technical jargon, require analytical capacities and skillsets that few individuals or organisations possess, thus rendering a large majority of the population excluded due to being unable to respond adequately with analysis or amendments. When this limited opportunity nevertheless manages to garner some response from the public, often the feedback from public institutions is either non-existent or highly technical, with little transparency on the reasons for the integration (or lack thereof) of these public inputs. Even for very important societal issues, in most cases, no alternative methods of consultation are organised.

10 Regulation (GRK) No.05/2016 on minimum standards for public consultation process. <https://konsultimet.rks-gov.net/Storage/Docs/Doc-58b819f98ec60.pdf>

11 Administrative Instruction (MLGA) No. 06/2018 on minimum standards for public consultation in municipalities. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18425>

12 Law No.03/L-040 on Local Self Government. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

13 Rules of Procedures of the Assembly of the Republic of Kosovo. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=61266&fbclid=IwAR2pkg1WSEcTI3ZFBSGCbPz0Vh51-t7ysr9nvzgMndq-6nYhvjljBQF00qKQ>

14 Online Platform for public consultations. <https://konsultimet.rks-gov.net/index.php>

15 <https://konsultimet.rks-gov.net/documents.php>

16 <https://www.youtube.com/watch?v=8C-uBvwL1vQ>



Even less public consultation happens at the local level. Despite similar standards, there are no functional tools and capacities comparable to those of the central government. Legally required biannual meetings between mayors and citizens are largely a “tick-the-box” exercise, both in content and outreach. Consultative committees are almost non-existent, and instances of participatory drafting of municipal regulations, participatory budgeting, or other forms of deliberative democracy are rare at best.¹⁷

Building on the existing formal opportunities for public participation, decision-makers running policy-making processes at all levels need to significantly improve their discipline and capacities to implement legal requirements in order to reach out to wider groups of civil society and citizens. Simply taking steps towards meaningfully implementing what is already on paper would significantly democratise the citizens’ engagement process in Kosovo.

Civil society as an effective tool for channelling citizens’ needs and voices

Civil society as a notion commonly includes a wide array of organisations such as community groups, non-governmental organisations (NGOs), labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations.¹⁸ NGOs and other formalised forms of civil society have dominated both the activity of and perception of the sector for a long time. However, with the changing context, civil society is increasingly being recognised as an ever wider and more vibrant range of organised and unorganised groups, with new civil society actors blurring the boundaries between sectors and experimenting with new organisational forms, both online and off.¹⁹ This evolution is not bypassing Kosovo.

The civic resistance tradition of the 1990s and huge influx of foreign donor support have been crucial to the development of civil society in Kosovo after 1999, yet the top-down approach has created a disconnect between NGOs and citizens.

Following an unprecedented civic movement that included almost the entire population of Kosovo during the parallel system and civic resistance during the 1990s,²⁰ for over two decades after the war, civil society in Kosovo consisted predominantly of NGOs. This was a result of a top-down approach by large international donors, whose support was provided both as part of a broader standard donor strategy and as a response to the specific circumstances in Kosovo following the 1999 war. Project management skills and formal reporting capacities were prioritised over

17 Kosovo Local Government Institute, Standardet Minimale te Konsultimit Publik ne Komuna. <https://www.klgi-ks.com/wp-content/uploads/2022/09/Raporti-UA-per-Standardet-Minimale-te-Konsultimit-Publik-ne-Komuna.pdf>

18 <https://www.worldbank.org/en/about/partners/civil-society>

19 The Future Role of Civil Society, January 2013, World Economic Forum. https://www3.weforum.org/docs/WEF_FutureRoleCivilSociety_Report_2013.pdf

20 Shkelzen Maliqi et al., KCSF 2001 Anthology of Civil Society. https://www.kcsfoundation.org/wp-content/uploads/2017/12/18_03_2015_7449381_Antologjia_e_Shoqerise_Civile_ENG.pdf



inclusive practises, consistent engagement, and links to respective communities. Project funding was the main incentive for engaging in decision-making processes, with very little activism occurring outside of these frameworks. There have been notable achievements in post-war emergency aid, reconstruction efforts, and the initial phases of state-building,²¹ and today the Kosovar civil society is considered to be amongst the most vibrant in the Western Balkans and beyond.

Yet, it became increasingly evident that a gap existed between NGOs and the citizens they sought to serve and represent.²² Data spanning over a decade now reveals that only a limited portion of Kosovo's population engages with civil society through means such as volunteering (2.5%), participation in civil society activities (5.00%), membership in an association (4.5%), or actively supporting a cause raised by civil society (5.3%).²³ The fact that formal mechanisms of participation primarily favoured high-capacity NGOs meant that even when decisions made by public institutions resulted from participatory processes, participation was predominantly confined to a small number of NGOs that sometimes lacked effective connections to the groups of citizens they meant to represent or serve. While participatory democracy was upheld in a formal sense, it failed to come from below.

The global trend of civil society beyond NGOs is also observed in Kosovo, with more alternative forms of civic engagement and more inclusive working approaches.

Mirroring global trends, alternative forms of civic engagement are now rapidly developing in Kosovo. There are more non-registered initiatives and informal collectives organised around specific causes, or even individual activists taking on issues of public interest. Social activism is gradually extending beyond mere formal participation in the drafting process of legislative and policy documents; reading clubs, cultural activism, street performances, online activism through social media, and community spaces open to the public have flourished in the past few years. While organisational affiliation is still the dominant manifestation of civil society, it is evident that younger generations are more driven to rally around causes and daily problems than commit to a specific organisation. This is also affecting the working approaches of existing NGOs, which are increasingly exploring participatory models of working with more diverse groups of citizens and communities.²⁴

Public community spaces and adequate funding instruments for inclusive civic practises are crucial to enabling the engagement of citizens through civil society in decision-making.

21 Dren Puka, Kosovar Civil Society Index 2018, KCSF 2018. <https://www.kcsfoundation.org/wp-content/uploads/2018/12/Kosovar-Civil-Society-Index-2018.pdf>

22 Taulant Hoxha, Better governance for a greater impact – A Call for citizens, KCSF 2011. https://www.kcsfoundation.org/wp-content/uploads/2017/12/26_02_2014_9442560_KCSF_2011_KCSF_CIVICUS_CSI_Analytical_Country_Report_Kosovo.pdf

23 Kosovar Civil Society Index 2022 dataset, KCSF March 2023.

24 Interview with Taulant Hoxha, Executive Director at the Kosovar Civil Society Foundation (KCSF).



Equally important to the formal participation opportunities provided by the state are: public spaces for people to gather and mobilise around issues of joint interest and financial means for inclusive civic initiatives to be undertaken.

After decades of neglect before 1999 and a rampant privatisation of the majority of public assets in the post-war period, during the last decade Kosovo has been experiencing a movement of revitalising abandoned or closed public spaces and transforming them into community centres and cultural spaces. The successful initiative to save the old cinema in Prizren city centre and transform it into a multipurpose cultural centre²⁵ inspired many activists to follow with reimagining and reinventing other abandoned spaces such as Termokiss²⁶ and Kino Armata in Prishtina,²⁷ Jusuf Gervalla Cinema in Peja,²⁸ as well as new community centres such as Foundation 17 numerous spaces,²⁹ or Hivzi Sylejmani Public Library.³⁰ Until now, this movement has been carried out exclusively by civil society, with public institutions either being indifferent or at the opposite end. The legal foundation underlying these instances of success has been lacking clarity, at best. However, it seems that the positive echo of these actions was able to bring about a policy shift. A recent Concept Document addressing the utilisation of municipal property, has revised its policy objective from a financial gain focus to the pursuit of sustainable development goals encompassing social, cultural, and environmental advancement.³¹ If followed with positive legislation, it may provide great momentum to multiply best practises beyond large cities and cultural spaces.

Though at a slow pace, donors are gradually responding to such developments. A number of forward-looking bilateral donors are funding programmes in support of alternative forms of civic engagement, including non-registered initiatives and individual activists, aimed at strengthening the links of civil society with respective groups of citizens in Kosovo. In 2022 and 2023, the Kosovo Ministry of Culture, Youth and Sports opened non-traditional grant opportunities, including flexible institutional grants or funding for individual activists.³² Although currently insufficient in number, such examples may provide the impetus for other donors and public institutions to consider similar alternatives to support, leading to more inclusive participation in practises.

Conclusion

In a participatory democracy, the state has an obligation to provide timely information, and formal and effective opportunities for public participation and regular dialogue. Kosovo has built a solid legal basis for public participation at all levels of governance. Yet, it is limited in scope and outreach, thus giving the majority of the population no opportunity to influence decisions about their lives and their future.

25 <https://lumbardhi.org/about/lumbardhi-cinema/>

26 <https://www.facebook.com/Termokiss/>

27 <https://www.kinoarmata.org/>

28 <https://www.facebook.com/pejacinema/>

29 <https://foundation17.org/>

30 <https://manifesta14.org/education/collective-memory-of-the-hivzi-sylejmani-library/>

31 <https://kryeministri.rks-gov.net/blog/koncept-dokument-per-dhenien-ne-shfrytezim-dhe-kembim-te-prones-se-palujtshme-te-komunes/>

32 <https://www.mkrs-ks.org/?page=1,114>



Civil society, with all its various methods of manifestation, can be an effective tool for channelling the citizens' needs and voices. The significant development of civil society in Kosovo during the last two decades has been dominated by NGOs and has not been followed by an equally successful connection with citizens. The recent trend of alternative forms of civil society organisations and civic initiatives that are built around inclusive practises has a higher potential to mobilise diverse groups of citizens around issues of their interest. With more citizens involved in the work of civil society, their needs and concerns become more central to the agenda and activities of these civic initiatives, resulting in increased demand that such needs and concerns be addressed within the formal decision-making process. For this to happen, in addition to functional and effective mechanisms for public participation in decision-making, the state also needs to follow the positive practise of creating public community spaces and design adequate funding practises that enable civic engagement. These should further enable a state of democracy where policy and decision-making are guided from below, reflecting the needs and priorities of the citizens and communities they aim to serve.



About the authors

Venera Hajrullahu has over 20 years of professional experience in the areas of democratic institution building, EU integration, public administration reform, regional cooperation, and civil society development. In her work, she has collaborated with top academics, practitioners, politicians, and senior civil servants in Kosovo as well as in countries of the Western Balkans and the European Union. Currently, she works as an independent consultant.

Contact: venera.hajrullahu@gmail.com

Taulant Hoxha has been a civil society activist for over two decades and, since 2018, has served as the Executive Director of the Kosovar Civil Society Foundation (KCSF). He has conducted numerous research studies and actively engaged in initiatives to protect and advance civic space in Kosovo and beyond. His main areas of expertise are related to civil society development, non-profit law, CSO participation in policy-making, civil society-government cooperation, and civil society funding. Contact: taulant.hoxha@kcsfoundation.org

Dren Puka is the Research and Advocacy Director at the KCSF. He has contributed to developing and conducting research projects that aim to produce evidence to shape public policies through greater civic participation. In working with numerous organisations and participating in key policy initiatives related to civil society development, Dren's work is particularly focused on producing an environment that seeks to accentuate diverse and marginal voices to shape a reflexive and inclusive public sphere. Contact: dren.puka@kcsfoundation.org

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Austrian Society for European Politics (ÖGfE)
Rotenhausgasse 6/8-9
A-1090 Vienna
Austria

Secretary General: Paul Schmidt

Responsible: Susan Milford-Faber, Vedran Džihic

Tel: +43 1 533 4999

E-Mail: policybriefs@oegfe.at

Website: [ÖGfE Policy Briefs](#)

Project Website: [WB2EU](#)