

## Civil Society Organizations in Kosovo and Their Inclusion in Decision-making Process at the Municipal Level

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**Abstract:** Civil society is increasingly becoming an important actor in democratic systems of government around the world with a special emphasis on countries in transition. Moreover, the democratic development and maturity of a society has begun to be measured by the space that civil society has in decision-making processes, in the formulation of public policy agendas and in the oversight processes of their implementation. This paper deals with the role and contribution of Civil Society Organizations in decision-making processes at the municipal level in Kosovo, analyzes the activity of civil society as a form of organization of society in democratic systems, its relationship with state power and the necessity of mutual interaction. It also addresses the journey and challenges of civil society in Kosovo in order to harmonize its changing role with the needs of citizens. Furthermore, the paper reveals the importance of civil society organizations in the process of articulation and protection of the overall interests of citizens, as an intermediate link between the citizen and the government, as well as its participation in the decision-making and oversight processes. This paper, through historical, analytical, comparative and qualitative method of research tries to analyze the trends and the level of interaction between civil society and local government in Kosovo, including mutual prejudices.

**Keywords:** Civil Society, Organization, Public Policy, Stakeholders.

### 1. INTRODUCTION

Civil society has a long history which has gone through several important stages. It has faced many difficulties and with the transition from one stage to another there have been changes both in organizational and cultural terms. However, the fundamental goal of civil society has been to raise its voice against the injustices that have been done, especially by the state institutions. Thus, civil society is increasingly becoming an important actor in democratic systems of government around the world with a special emphasis on EU countries. Moreover, the democratic maturity of a society in Europe has begun to be measured by the space that civil society has in decision-making processes, in the formulation of public policy agendas and in the oversight processes of their implementation. The concept of civil society is based on the right of citizens to freely form non-governmental organizations and associations and to systematically put pressure on political decision-making centers to articulate their demands. Civil society, in the first place, protects the individual, his freedom and the right to articulate the interests of groups of citizens outside the political structures and to engage in fulfillment of those interests through institutional ways.

Civil society provides various services: Represents and protects the interests of society or social

groups; Plays a supervisory role over government; promotes democratic values and transparency in governance; influences decision-making and protects the rights of citizens.

While facing its development challenges, civil society in Kosovo is trying to find its authentic voice in the newly established state that must overcome numerous economic, social and political obstacles. Facing those challenges, civil society is aiming to help Kosovo to make the same while focusing on the Euro-Atlantic integration processes as well, which are proving to be extremely challenging and sometimes giving the impression of being a "mission impossible".

However, civil society in Kosovo is still a poorly consolidated sector. NGOs in Kosovo are in the process of developing and face a lack of preconditions to be sustainable and effective in their work. Therefore, not infrequently, the activities of civil society organizations are not in line with the needs of citizens due to the creation of dependence on donors by implementing projects that are not based on the assessment of citizens' needs but on donor agendas. Civil society in Kosovo has not yet been able to position itself as a government partner at the municipal level capable of shaping policies and help solve some citizens' problems that cannot be effectively addressed by state institutions.

On the other hand, it is clear that CSO participation in decision-making processes is characteristic of societies with functional democracies. Moreover, civic participation in decision-making improves the accountability of the authorities by increasing their responsibility in relation to the social contract itself. Despite being a fairly young democracy, Kosovo has a progressive legal framework. It has been developed with a strong support of the international community whereby majority of international instruments protecting human rights are incorporated within constitutional provisions and numerous positive laws. Consequently, the right to participate is entrenched in constitutional provisions, laws and bylaws of Kosovo. Overall, despite the good legal basis for guaranteeing the right of citizens and CSOs to participate in decision-making processes at the municipal level, this important process is being neglected in the context of Kosovo. Improving decision-making through civic participation has remained within the framework of empty statements by political representatives discouraging citizens from getting involved in the process. Civil society organizations are making efforts to change this situation, despite the tendency of local authorities and political institutions to instrumentalize CSOs in an attempt to deprive them of this power guaranteed by constitutional and legal provisions. Quite often, the CSOs in Kosovo are treated as if they were "parallel powers" and not as a groups of citizens organized to address various problems.

## 2. MATERIAL AND METHODS

The purpose of this paper is to highlight the role and contribution of Civil Society in the creation and implementation of public policies at the local level and the activity of civil society as a form of organization of society in democratic systems. The paper aims to highlight the importance of civil society in the protection and articulation of human rights as an intermediate link between the citizen and the government as well as its participation in decision-making and oversight processes of the state power.

In addressing this topic of the paper, research methods used enabled to objectively present the issue of civil society and its role in decision-making in Kosovo. The main support in addressing this topic was provided by sources from local and international institutions and civil society actors in Kosovo. It should be mentioned that, from a methodological point of view, tackling the issues under consideration has been done by using the chronological approach and focusing on cases as

well. The paper has been drafted while using research methods that created opportunities to objectively present the issue of civil society and its role in decision-making in Kosovo. The main support in addressing this topic was provided by sources from local and international institutions and civil society actors in Kosovo. For some parts of the paper scientific literature was sufficient while for some other issues tackled it was almost completely absent. Moreover, historical, sociological, political, juridical-dogmatic and qualitative methods have been applied in order to extract sufficient data related to this particular topic.

Through the historical method we are introduced to the issue from the aspect of genesis and evolution; through the sociological method we have uncovered the roots and social relations that affect civil society and consequently public policy; with the political method we have unfolded theories on public policies and interest groups; with the legal method we have analyzed the legal regulation of the activity of the civil society and its impact on political institutions and processes; while with the qualitative method we have extracted data from the best experts on the issue of public policy making at the local level and the necessity of involving various actors in decision-making process.

## 3. RESULTS AND DISCUSSION

### 3.1. Civil Society and State Institutions

Rivalry and complementarity between civil society and the state has always been present, in which case relations have not always been peaceful and calm, especially on the part of the state which in its history has not always been respectful of civil society. This problem of the state's approach to civil society is not only historical, but also current, because the state, despite the changes it has undergone in nature, structure and form, continues to remain "an institution with a strong cohesive nature". It is indeed quite clear that the state is one of the forms of political organization of society, but it is not the only ruling form. In addition, society has produced other alternative forms of association of people in social groups free and independent of the state with whom the state cannot compete but rather embrace complementarity approach. Therefore, the concept of the absolute state in society that claims the right of monopoly over all power within the community is no longer an acceptable concept (Tushi, 2007).

The state is more willing to have a direct connection with the individuals, without the presence and mediating role of civil society as a means of

regulating and establishing the right balance between state authority and the individuals. This mindset is still one of the most serious obstacles in strengthening civil society and citizen groups. In many cases the state does not agree with the mediating role of civil society, under the well-known pretext of the existence of a "parallel state" or a "state within a state". However, the role of the "intermediate link" between the state and the individual remains one of the priority functions of civil society even in modern times (Tushi, 2007). Moreover, appropriate development of civil society requires a functional state and legal space for articulating the demands of citizens, a space that can be created in interaction with state institutions. This necessary interaction between the state institutions of Kosovo and civil society is ad-hoc (on a personal level) without having functional mechanisms for the purpose of interaction for dialogue and policy making.

In conditions of continuous democratic change and development and in the circumstances of promoting innovative forms of government, the design of sustainable public policies and the provision of social services can no longer be the exclusive right of political representatives. The government needs competent partners outside the government who would help them create effective public policies and implement effective interventions for their citizens. In this process, a unique role can be attributed to civil society, either in initiating, organizing and leading comprehensive debates to address citizens' priority needs or in providing and complementing public services to citizens. In most countries in the region and Europe, formal mechanisms have already been put in place to regulate the role of civil society as a genuine partner of government. In many cases the role of civil society either in the development of internal democracy or in the process of European integration has been essential (Kosovo Government Strategy for Cooperation with Civil Society, 2013).

After the declaration of independence in 2008, Kosovo entered a dynamic period of socio-economic and political developments. Civil society, following social development, 'adapted to its new role within the overall framework of institution building, dealing more and more with governance and policy-making issues. Initially, the cooperation between the two sectors was developed on the basis of various bilateral initiatives, but without any sustainable modality or structure (Kosovo Government Strategy for Cooperation with Civil Society, 2013).

Recent political, economic, social and integration developments, not to mention the recommendations of the international community, have highlighted the need to establish institutional mechanisms for mutual cooperation between civil society and state institutions. This immediate need has been derived with the drafting of the Government Strategy for Cooperation with Civil Society, a strategy drafted in 2013 after an intensive and comprehensive debate between government institutions and civil society. So far, the Action Plan for the implementation of the Strategy has been drafted and the Council for Supervision of the Implementation of the Strategy has been formed as well.

The Government Strategy for Cooperation with Civil Society aims to ensure the participation and empowerment of civil society in the drafting and implementation of policies and legislation; building a public service contracting system for civil society organizations; building the system and setting criteria for financial support for CSOs; promoting an integrated approach to the development of volunteering. The Government of the Republic of Kosovo, with the drafting of this Strategy, is committed to recognizing and appreciating the role and work of civil society in building a democratic society; create a supportive and conducive environment for the development of civil society; establish government mechanisms that will enable a structured cooperation between government and civil society; clearly define the obligations and tasks for each government institution for this cooperation; to encourage civil society in the implementation of the principles of good governance within the sector, including the promotion of a constructive and professional approach towards citizens and government institutions (Kosovo Government Strategy for Cooperation with Civil Society, 2013).

Thus, the importance of involving civil society in policy-making and the necessity of building a partnership relationship with state institutions has been understood in Kosovo, changing the approach from that of rivalry to that of partnership. After all, building a democratic, prosperous and integrated society is not in the exclusive and undisputed ownership of state institutions but of all citizens.

### 3.2. Civil Society and public policies

One of the most comprehensive definitions of public policy is given by Jenkins, who states that public policy is a "set of interrelated decisions made by political actors or groups of actors regarding the goals and means of achieving them in a specific

situation when, in principle, actors must have the power to reach those decisions" (Jenkins, 1978).

This definition sees public policy as a process that has several different stages and that involves many decisions. Another important aspect of the definition is the reference it makes to political actors, who are not always in government (UNDP, 2008). Basically, by public policy we mean a set of actions, carried out by a group of actors, to provide a solution to a certain problem in society.

Civil society influences public policy around the world. Many of the reforms in transition countries in Central and Eastern Europe have been initiated by civil society organizations. There are thousands of cases of civil society organizations that have succeeded as promoters of change in these countries. Even in Kosovo, civil society has had and still has a certain influence in the drafting of public policies and for certain issues has exerted influence and pressure in fulfilling the general social interest (UNDP, 2008).

Public policies can derive from "above" including political leaders, cabinets, government agencies, but can also flow from "below" through pressures of public opinion, media, interest groups, various institutes (think tanks's), etc. Political leaders rarely become a source of political innovation but are the academic part that plays a vital role in political initiatives by developing core theories which are later transformed into political proposals by leaders and parties. Starting public policy from the bottom up is more significant in all political systems. As a general rule, the more democratic and pluralistic the political system, the more significant the up and down pressures for policy launches. Public opinion plays a major role in this process as they force political leaders, through the electoral process, to take these concerns into account by setting agendas that address them. Often, these concerns remain immaterialized until articulated by groups representing different sections of the public like: interest and pressure groups, media, NGOs, opposition parties, etc. (Heywood, 2008).

In Kosovo, the media have been very influential in the stages of setting the agenda in the policy process. This is because politicians care a lot about their public image and the media in Kosovo have a strong influence on citizens. As a result, major headlines about an issue in the newspapers and electronic media are usually signs that politicians will address that topic. Due to the specific situation in which Kosovo has been since 1999, international actors have also played a major role in setting agendas, usually being the main decision-makers for certain legislation. The academia has generally

not been very active, unlike in more developed countries (UNDP, 2008).

During the policy formulation stage, civil society organizations along with other sections of society such as academia, media and international organizations can propose policy solutions. This is also a stage where society can play a key role in improving the information provided by politicians and in testing the viability of the demands of the government and the opposition. Many policy issues have been widely discussed by Kosovo civil society. And for each of them, different organizations have offered solutions. During the drafting of the Labor Law, the Law on Persons with Disabilities, the draft Law on Health Insurance in Kosovo, Civil Society Organizations have been part of working groups where the Government of Kosovo has used the expertise of civil society in formulating adequate policies for our society. The implementation phase of public policies is one of the most important phases, because no policy has value if it is not implemented. Kosovo has plenty of examples of legislation and policies based on best practices that have never been implemented. Civil society organizations play a key role in providing services on behalf of the government. It is not uncommon for civil society organizations to have greater capacity to implement certain public policies than state institutions and therefore in many countries government institutions select civil society organizations to implement certain policies.

The Government Strategy for Cooperation with Civil Society addresses this issue and recognizes the right of civil society to be an active part in the implementation of public policies (Kosovo Government Strategy for Cooperation with Civil Society, 2013).

Policy evaluation raises the question of whether or not the policies implemented have met the purpose and objectives of the legislation. The purpose of policy evaluation is to determine whether or not a given program is effective, that is, whether or not it produces the expected results. Evaluation can also be accompanied by policy changes (reformulation) that can extend, narrow or eliminate a given program. However, many programs undergo changes in an effort to make them more effective and flexible to the requirements. In this view the public policy process never runs out (Denhardt et al, 2010).

In these last two phases, civil society in Kosovo has not been so persistent in relation to government institutions and it has often happened that the reformulation of public policies has been required without properly assessing the impact of the same.

In particular, at the local level, the involvement of civil society in the drafting of local public policies continues to be low, selective and highly instrumentalized without bringing any added value to the quality of these policies. Not infrequently, institutions at the municipal level consider that civil society should be consulted in drafting policies for the sake of legal obligation and only in the final stages of drafting the latter (Hakaj-interview, 2021).

### 3.3. Civil society and inclusion in decision-making process

The theory describes six different steps of the political decision-making process: setting the agenda, drafting policies, decision-making, policy implementation, monitoring and policy reformulation. Each step provides opportunities for interaction between NGOs and public authorities. In addition, there are four different levels of participation/inclusion: information, consultation, dialogue and partnership. These can be applied during any step of the decision-making process, however often any of these forms is more relevant to specific parts of the process.

*Information:* access to information is the basis of every next step in involving NGOs in the political decision-making process. This is a relatively low level of participation related to the provision of information by public authorities and the interaction or involvement of NGOs. However, compared to the past decade, Kosovo has made progress in the obligation of municipal authorities to notify citizens and civil society of decisions taken (Law on Access to Public Documents, Kosovo). Furthermore, municipal institutions are obliged to take a proactive approach to the publication of information through various platforms by facilitating citizens' access to public documents and other information related to decision-making at the local level (Art. 5 & 8, Law on Access to Public Documents, Kosovo). This legal obligation has been strengthened through bylaws which regulate the issue of informing the public in detail (Art. 5-7 of Administrative Instruction No. 04/2018 for the Transparency in Municipalities, Kosovo).

*Consultation:* this is a form of initiative where public authorities ask NGOs for their opinion on a specific policy or development area, or a specific official document. Consultation usually involves the authorities informing NGOs of certain policy or law developments and asking them for comments, input and suggestions. The initiative and the themes come from the public authorities themselves and not from the NGOs. In the consultation phase, municipal authorities usually try to comply with

legal obligations to consult with citizens and civil society, but no proactive approach is observed that would ensure the participation of civil society in this important process. Moreover, the absence of civil society in consultations is seen as a favorable in decision-making and not as a phenomenon that affects the decline of the functionality of local democracy. Moreover, municipal authorities justify the lack of civil society participation in public consultations as their credibility in relation to local authorities. However, the truth lies elsewhere. The small presence of civil society in public consultations is related to the fact that their comments and suggestions are not being taken into account by the municipal authorities themselves (Ferizi-interview, 2021). On the other hand, the legal basis clearly states that no decision or document related to the general interest may be adopted without subject to public consultation with citizens and civil society in general (Art. 5. par. 6 of the Administrative Instruction on Minimum Standards of Public Consultation in Municipalities / Kosovo).

*Dialogue:* initiative can be taken by any party, and can be broad or specific. Broad dialogue is two-way communication and can take the form of public hearings to specialized meetings between NGOs and public authorities. The discussion remains broad and is not related to any specific policy development process. Specific dialogue is built on common interests for the development of a certain policy. This form usually results in some common recommendation, strategy or legislation.

Local authorities are aware that for a given sector civil society has more capacity and experience. Therefore, unlike the dialogue on general issues, on specific issues it tries to dialogue with civil society organizations that are closely profiled in addressing certain problems (environmental protection, culture, human rights, etc.). Usually, dialogue on these issues aims to continue only with certain civil society organizations bypassing others. This is where the problem and the possibility of instrumentalizing civil society arises, creating inequality and undermining the independence of civil society organizations themselves (Tahiri-Interview, 2021). Municipal institutions, unable to draft the Municipal Development Plan have involved experts and civil society organizations to assist in drafting this document which has been drafted and approved in 7 municipalities of the Mitrovica Region. Furthermore, the municipalities of the Mitrovicë / Mitrovica region have been very cooperative with civil society organizations in drafting a Plan for Citizen Participation in Decision-Making Processes at the local level, taking full

advantage of the expertise of local NGOs (Mehmeti-interview, 2021). Namely, the expertise of only few NGOs have been used during this process of drafting these particular documents.

More specifically, the Municipality of Vushtrri has engaged the organization FODEM to draft the Municipal Plan for the Protection and Promotion of Cultural Heritage, the Municipal Development Plan and the Integrity Plan in this municipality. Surprisingly, this organization is constantly involved in various projects and collaborations with municipal authorities, creating a dependence on funds at the municipal level and those at the central level. So, the municipal authorities prefer to dialogue and cooperate with certain civil society organizations which have capacities in certain areas but this is affecting the creation of a negative perception regarding the independence of certain civil society organizations.

*Partnership:* usually provides for shared responsibilities during each step of the political decision-making process, starting from setting the agenda, drafting, deciding and implementing the particular political initiative or law/bylaw. This is the highest form of participation, and may include activities such as delegating specific issues to the NGOs, e.g. in the provision of services to the participating forums and the establishment of joint decision-making bodies, including the allocation of resources. In all municipalities of Kosovo, in very rare cases, interactions have been recorded between municipal institutions and civil society on a partnership level. There are cases when a partnership has been established in the phase of setting the agenda and drafting public policy, but very rarely has any partnership been noted which has been maintained throughout the decision-making process. Municipal authorities consider that the phase of implementation, evaluation and reformulation of policies is in their capacity and should be carried out independently by the municipal institutions themselves. This practice should be changed and harmonized with the legal obligation arising from the provisions of the Law on Local Self-Government, Administrative Instruction on Transparency, Administrative Instruction on Minimum Standards of Public Consultation at the Municipal level and many other legal and sub-legal acts.

A good practice of partnership between civil society organizations and municipal institutions is noted in the Municipality of Prishtina, when municipal institutions work closely with the NGO "ETEA" which is profiled in the field of improving the quality of education. Furthermore, this organization is

involved in the early stages of drafting public policies at the municipal level and contributes throughout the decision-making process, including the implementation, evaluation and reformulation of public policies in the field of education (Ahmeti-Interview, 2021).

However, this good practice is not being implemented in other municipalities, despite legal obligations. However, civil society in Kosovo remains to be better organized and structured in order to exercise their rights to be involved in decision-making which are guaranteed by a number of laws and bylaws.

#### 4. Conclusion

Civil society cultivates a democratic political culture by articulating the will of the citizens and making them aware that they are not servants of the state, but it is the state that is called to be in their service. In this context, civil society is a school of civic education that has as its main ideal freedom, freedom of thought and freedom of expression. Civil society in Kosovo is an unconsolidated sector. NGOs are still maturing entities and lack the necessary prerequisites to be sustainable and effective in their work. There are serious shortcomings in several areas: lack and non-functioning of internal governance structures, lack of financial resources and means to ensure long-term existence and independence and to avoid very high dependence on donors, inability to join forces and capacities to operate together in networks etc. In Kosovo, the activities of civil society organizations, despite their official mission, are not in line with the needs of citizens. The roots of the problem lie in the fact that NGOs have become dependent on international donors and to survive implement projects that are not based on assessing the needs of citizens but on the agendas of international donors. The compatibility of NGO activities with the demands of citizens in Kosovo needs to be increased in the future. These changes, accompanied by appropriate reforms, can be made progressively within civil society. Attitudes and Policies of Government Institutions in Kosovo towards Civil Society are factors that can help or hinder the effectiveness of civil society activities. Civil society in Kosovo with its capacities has managed from time to time to assist the government in shaping the policies, and to help addressing various problems.

Public policy making is a very important process for any country, because the decisions made during this process affect the life of every citizen. Civil society serves as the voice of citizens throughout the

process of decision-making. It can channel that voice, help formulate opinions, and provide solutions.

The nature of civil society in Kosovo in the pre-war period was that of delivering emergency aid and survival. Influencing public policy has not been a priority for the small number of civil society organizations that were active in that period. Communicating with the government was not an option as well. After the end of the 1998-1999 war, with the adoption of the Constitution of Kosovo, the role of civil society was clarified and the policy process was stabilized. With this, Kosovar organizations take on new responsibilities, to speak for the citizens whose voice is not heard, to offer solutions and not only to criticize, and to educate the citizens of Kosovo about policy problems and possible solutions.

Despite the difficulties, civil society in Kosovo has managed, albeit unsatisfactorily, to set the agenda, formulate policies, make decisions, implement policies, monitor and reformulate policies. In this regard, it is worth mentioning the increase of transparency of municipal institutions, drafting plans for citizen participation in decision-making processes, drafting local policies for the preservation and promotion of cultural heritage, local plans for gender equality, etc., which are drafted as consequence of direct influence by Civil Society in Kosovo.

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