



Projekt i Fondacionit të Kosovës për Shoqëri të Hapur  
Projekat Kosovske Fondacije za Otvoreno Društvo  
Project of the Kosovo Foundation of Open Society

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## Mapping of Open Government Policies in South East Europe

Kosovo Report

advocacy for  
open government

Supporting the right to know  
in South East Europe



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# Mapping of Open Government Policies in South East Europe

Country: Republic of Kosovo



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## EXECUTIVE SUMMARY

Mapping of Government Policies aims to identify actual policies related to government openness and their practical implementation by the Government and other relevant institutions. Open data approach is a necessary tool for future membership of Kosovo in the Open Government Partnership (OGP) Initiative. OGP Initiative enables governments to promote transparency, empower citizens, fight corruption and harness new technologies for strengthening the governance. For the membership in OGP Initiative, it is necessary that Kosovo Government embraces high-level Open Government Approach which needs to be stated in a Letter of Intent or an Open Government Declaration. Further, it needs to deliver a country action plan and commit to independent reporting in order to follow progress on the initially committed actions.

Kosovo Government has recently undertaken an initiative to start the process of joining OGP Initiative. Government has decided to authorize Ministry of European Integration to create a working group, which will be co-managed by a representative of the FOL movement. The decision also calls for the inclusion of the members of Economic Chambers and Civil Society Organizations. As one of the first steps towards becoming member of the OGP, on 19 of July, in the Letter of Intent sent to OGP Secretariat, Minister of European Integration has stated the interest of the Government of Republic of Kosovo to join the OGP Initiative.

In terms of criteria that Kosovo needs to fulfil for its membership to OGP, Kosovo has recently been included in the assessment of eligibility criteria's by the OGP support team, but it has only been assessed on Access to Information criteria (availability of law on freedom of information) but not on other three criteria such as: Fiscal Transparency (publication of the executive's budget proposal and the audit report), Disclosures Related to Elected or Senior Public Officials (public disclosure of income and assets for elected and senior public officials) and Citizens Engagement (openness to citizen participation and engagement in policymaking and governance). Our findings indicate that Kosovo is eligible for the OGP membership.

In terms of general policies, Kosovo Constitution does embrace open government standards, and relevant laws which are crucial to OGP initiative are in place. Kosovo Government is implementing an e-governance strategy, which is in the function of the open government approach. A central e-portal is active and citizens, businesses and other interested parties can get hold of relevant information on public services or public administration. Most of the Laws adopted by the Kosovo Assembly are in line with EU legislation. Laws on declaration of assets and law on access to public documents are in place. Main challenge of Kosovo Institutions is proper implementation of adopted Laws.

During last two years, Kosovo Government has concentrated political focus in an intensive EU-facilitated dialogue with Serbian Government aiming to achieve technical and political agreements for the normalization of relations between two countries. Integration of the northern municipalities of Kosovo, populated mainly by K-Serbs, into the Kosovo legislative system is considered as one of the biggest challenges for the Government of Kosovo. This was an important step in order for the EU Commission (2013) to recommend the open-

ing of negotiations for a Stabilisation and Association Agreement (SSA). As EU integration process criteria involve OGP related issues as well, membership in OGP will be another tool for Kosovo Government to strengthen institutions in terms of five areas tackled by OGP: increasing the quality of public services, public integrity, enhancing safety of communities and corporate accountability. These five OGP areas are analysed in terms of four OGP criteria: transparency, public integrity, citizen participation and innovation or technology used by Kosovo Government to increase efficiency and accountability of the public bodies.

Several steps have been made for the enhancement of transparency, public integrity and public participation. Web-sites of the relevant institutions and the government e-portal have been established and are used as main data transparency tools. Hence, further improvement is needed. There are no standardized procedures and published data depend on the discretion of officials in the relevant institutions. Full implementation of e-governance approach and increased transparency might facilitate access to information for citizens which in turn might increase the quality of public services and public administration. Open data on all recruiting processes, such as evaluations in the recruitment process, might create positive pressure in increasing quality of hired employees. Central and municipal institutions publish their approved budgets in their websites, although this might not be the case in all municipalities. Executive's Budget Proposal is not made public prior to its approval. Audit reports of the public institutions are made public by the Office of Auditor General. Whereas, Anti-Corruption Agency publishes declared assets by public officials and elected politicians. Kosovo legislation is mostly in line with the EU standards, but main problems rely in the implementation of adopted laws. Integrity of independent institutions is also faded due to political influence. Involvement of politically affiliated representatives, as board members or executive directors in the independent institutions, largely undermines credibility of these institutions. A similar problem is in the Publicly Owned Enterprises (POEs) where board members are generally related to political parties.

In order to increase quality of public services and public integrity of institutions, an open government approach with an extensive involvement of citizens in governance is essential. As an initial step, Kosovo Government in cooperation with CIVIKOS (Network of civil society organizations) have drafted a governmental strategy for cooperation between the government and civil society in Kosovo for the period 2013-2017 which aims to enhance process of consultations and cooperation. Hence, up to date involvement of citizens and civil society organizations is not satisfactory. To enable an easier approach and closer involvement of citizens, a digital feedback platform, which would be obligatory for all public institutions, would facilitate a wider consultative process, where every interested citizen would be able to provide feedback on issues of interest. Aforementioned and other related policy limitations and their implementation should be addressed in a future OGP action plan. A serious commitment to the open government standards might improve perception and trust of citizens towards institutions. Actually, opinion polling results undertaken by Riinvest (2013) show that the Kosovo Government, the Kosovo President and Political Parties are least trusted institutions by the citizens. On the other hand, people of Kosovo seem to have more trust towards media, religious institutions and security related organizations such as Kosovo Police and KFOR.

## I. OPEN GOVERNMENT

Approach to open government through OGP Initiative enables governments to promote transparency, empower citizens, fight corruption and harness new technologies for strengthening the governance. Using advantages of information technologies it would increase efficiency and accountability of the public bodies.<sup>1</sup> The focus on open data makes the OGP Initiative distinct from other programs. However, it is not only about transparency, because the institutional and procedural conditions of accountability are also integral parts of the Initiative (Peteri, 2013).<sup>2</sup>

OGP Initiative supports multi-stakeholder cooperation. It is overseen by a steering committee of governments and civil society organizations. For the membership in OGP Initiative, it is necessary that governments embrace high-level Open Government Approach which they need to state in a Letter of Intent or an Open Government Declaration, deliver a country action plan and commit to independent reporting in order to follow progress on the initially committed actions.

Kosovo Constitution in its basic principles supports open government standards.. Article 1 of the Kosovo Constitution states “the Republic of Kosovo is a state of its citizens”. The Republic of Kosovo exercises its authority based on the respect for human rights and freedoms of its citizens and all other individuals within its borders. Whereas article 2, states: “The sovereignty of the Republic of Kosovo stems from the people, belongs to the people and is exercised in compliance with the Constitution through elected representatives, referendum and other forms in compliance with the provisions of this Constitution”. From the article 2 of the Kosovo Constitution it can be inferred that Kosovo is determined to open and transparent government towards its citizens.

On 9<sup>th</sup> July, 2013, Kosovo Government decided to start the process of joining OGP Initiative, whereas on 19 of July was made the first step towards OGP Initiative membership through the Letter of Intent expressing interest of Government of the Republic of Kosovo to join the OGP Initiative sent to the OGP Secretariat by the Minister of European Integration. The decision to start the process of joining OGP initiative comes after a series of other political processes in which Kosovo Government has been engaged. In the last two years, it has been intensively involved in the EU-facilitated dialogue with Serbian Government. In this dialogue which started in March 2011 were reached several agreements, although their implementation is questionable. Agreements were reached on integrated border management, freedom of movement, representation of Kosovo in regional forums, protection of religious and cultural heritage sites, acceptance of university diplomas, civil registry and on customs stamps. The second round of dialogues was continued at the level of Prime Ministers. Kosovo and Serbian Prime Ministers agreed to start customs collection and to establish a fund for the development of northern Kosovo. Finally, the “First agreement of principles governing the normalisation of relations” was initialled by the two Prime Ministers on 19 April 2013. However, the Kosovo Government was criticized for lack of transparency in regard to the dialogue and specific agreements reached with the Serbian government.

Since, OGP covers a broad range of good governance areas support from civil society or

1 <http://www.opengovpartnership.org/about>

2 See Peteri, G (2013). “Monitoring and advocating open government partnership commitments in the Western Balkans: Generic Methodology.” p. 3.

ganizations during and after the OGP membership process is of crucial interest. The Kosovo OGP coordination body led by the representative of the MEI has reflected on these needs by initiating establishment of a multi-stakeholder group, including representatives of civil society organizations, business associations and government institutions.<sup>3</sup> Yet, the process is at the initial stage.

## **Actions and Interventions**

Kosovo Independence dates from 17 of February 2008. Following the Declaration of Independence, Kosovo pledged to implement the Comprehensive Proposal for the Kosovo Status Settlement, drafted by U.N. envoy Martti Ahtisaari and the Constitution of Kosovo incorporated Ahtisaari's provisions. Kosovo Independence was initially supervised by the international community. International steering group of countries appointed an International Civilian Representative (ICR) to oversee Kosovo's implementation of the plan. The ICR's mandate and the supervision of Kosovo Independence ended in September 2012. The current EU Special Representative in Kosovo is Samuel Zbogar of Slovenia, who continues to provide advice to the Kosovo Government on the reforms needed to move closer to the future eventual EU membership.

The European Commission (2013) report on Kosovo highlights that Kosovo has delivered on a set of short-term priorities of previous year's feasibility study in the fields of rule of law, public administration, protection of minorities and trade. The Commission has recommended the opening of the negotiations for a Stabilisation and Association Agreement. Such an agreement is an important step for Kosovo on its path towards the EU: a key element of the enlargement process, it liberalises trade with the EU and establishes common political and economic goals. Stability and Association process might facilitate strengthening of government capacities to fulfil OGP related criteria as well.

Membership on the OGP Initiative requires that countries fulfil at least 75% of the set Eligibility Criteria. There are four criteria's set by the OGP.<sup>4</sup>

1. Fiscal transparency - The timely publication of essential budget documents forms the basic building blocks of budget accountability and an open budget system.

Measurement: Two points awarded for publication of each of two essential documents (Executive's Budget Proposal and Audit Report) for open budgets.

In case of Kosovo, Executive's Budget Proposal is open for inputs and discussion only for the Kosovo Assembly Commission for Budget and the Kosovo Assembly which are entitled to

<sup>3</sup> Interview with Fidan Kalaja, co-leader of the Kosovo OGP coordination body, August 2013.

<sup>4</sup> <http://www.opengovpartnership.org/eligibility>

revise it and approve final version. The Budget is published upon the approval but not as a Budget Proposal. In terms of the audit report, disaggregated audit reports on all institutions and spending agencies are made public by office of the auditor general, together with the annual audit report which includes audit opinion on the consolidated financial statements of the Budget of the Republic of Kosova.

In January 2013 the International Budget Partnership (IBP) released the Open Budget Survey 2012 (OBS), the only independent, comparative, and regular measure of budget transparency, participation, and accountability around the world. The OBS 2012 covered 100 countries, including 36 OGP member countries and future member countries that are developing their commitments.<sup>5</sup> As Kosovo is not part of the survey, its inclusion in the OBS would enable comparative assessment of fiscal transparency criteria.

2. Access to Information – An access to information law that guarantees the public's right to information and access to government data is essential to the spirit and practice of government.

The measurement used in this case: 4 points awarded to countries with access to information laws in place, 3 points if a country has a constitutional provision guaranteeing access to information, and 1 point if a country has a draft access to information law under consideration.

The Constitution of Kosovo provides for free speech, access to information and the plurality of media. Article 40 of the Constitution [Freedom of Expression] states: "Freedom of expression is guaranteed. Freedom of expression includes the right to express oneself, to disseminate and receive information, opinions and other messages without impediment." It further states that the freedom of expression can be limited by law in cases when it is necessary to prevent encouragement or provocation of violence and hostility on grounds of race, nationality, ethnicity or religion. In addition, Kosovo Assembly has approved the Law No.03/L -215 which guarantees rights on access to public documents and it regulates right on access to information, respectively to public documents.

3. Disclosures Related to Elected or Senior Public Officials - Rules that require public disclosure of income and assets for elected and senior public officials are essential to anti-corruption and open, accountable government.

Measurement: 4 points awarded to countries with a law requiring disclosures for politicians and senior public officials to the public, 3 points awarded to countries with either a law requiring disclosures for politicians OR senior public officials to

<sup>5</sup> <http://www.opengovpartnership.org/2013/09/open-budgets-key-to-open-government-next-steps-for-ogp-countries/>

the public, and 2 points awarded for a law requiring non-public disclosures for elected or senior officials.

Kosovo Law No. 04/L-050 regulates the procedure on declaration and control of property, declaration of revenues and obligations of all senior public officials and of their family members and also regulates defined sanctions. Law on Declaration, Control and Origin of Property of Senior Public Officials determines accurately that any official in time to taking the senior public position must make a declaration of his property to the Anti-Corruption Agency (ACA) within 30 days. But there have been cases where officials have violated the law in question. Consequently, the Agency has initiated minor offense proceedings against them. This Law regulates as well the procedure on declaration, control and origin of gifts received by all public officials. In Kosovo, senior public officials (including Assembly members, Presidency and the Government, among others) have the obligation to the property declaration throughout the public service and in terms defined by law, and they are under obligation to declare the status of their property to ACA, from 1 to 31 March of each year (ACA, 2013).

#### 4. Citizen Engagement

Open Government requires openness to citizen participation and engagement in policymaking and governance, including basic protections for civil liberties.

Measurement: Using the 2012 Economist Intelligence Unit (EIU) Democracy Index's Civil Liberties sub-indicator where 10 is the highest and 0 is the lowest score, 4 points for countries scoring above 7.5, 3 points for countries scoring above 5, 2 points for countries scoring above 2.5, and 0 points otherwise.

A comparable measurement of civil liberties in the case of Kosovo is more complex as Kosovo is not part of the EIU Democracy Index which is used in assessing civil liberties. Because the methodology of the EIU index is not public, comparative assessment of citizen engagement in Kosovo is not possible. Alternatively, according to civil society index (KCSF, 2011), citizen participation in public life is disappointingly low, with only 16.3% of Kosovar citizens active in socially based initiatives and organizations. However, considering that all regional countries scored above 7 in the EIU Democracy Index, and based on a self subjective assessment, it is expected that Kosovo would earn at least 3 points by scoring above 5 in the Civil Liberties sub-indicator.

Following a self-assessment of Kosovo OGP eligibility criteria, it seems that Kosovo will score 14 out of 16 points, which is above the required threshold of eligibility to become an OGP member.

### Related actions to date:

- On 09 of July, 2013 Government of the Republic of Kosovo has decided to start procedures for the membership of Kosovo in OGP.
- On 19<sup>th</sup> of July, 2013 Minister of the European Integration has sent the Letter of Intent expressing the interest of the Kosovo Government to become member of the OGP Initiative.
- Ministry of European Integration is mandated to create a working group which will be leaded by a representative from the Ministry and a representative from FOL movement (Civil Society Organization). The decision calls for establishment of a multi-stakeholder group by including relevant representatives of civil society organizations, economic chambers and other groups of interest.
- The Kosovo OGP Action Plan is planned to be drafted by March 2014.
- Kosovo Government has also undertaken steps which are in the function of OGP standards and as it seems from the self-evaluation of the eligibility criteria, Kosovo is eligible to become new member of OGP.
- Actually, Kosovo is implementing an e-governance strategy which is coordinated by the department of Information Technology within the Ministry of Public Administration.
- Kosovo Government has established a central e-portal where citizens, businesses and other interested parties can get hold of most relevant information on public services, public administration. All the users' credentials are protected conform all the security standards for online services.<sup>6</sup>
- Kosovo Government in cooperation with CIVIKOS have drafted a governmental strategy for cooperation between the government and civil society in Kosovo for the period 2013-2017 which aims to enhance process of consultations and cooperation.
- The EU Commission (2013) has recommended the opening of the negotiations for a Stabilisation and Association Agreement (SSA). SSA process might facilitate strengthening of government capacities to fulfil OGP related criteria as well.
- Most of the Laws adopted by the Kosovo Assembly are in line with EU legislation. Relevant Laws related to OGP criteria, such as Law on declaration of assets and law on access to public documents are in place. Kosovo has recently approved the Law on confiscation of assets. However,

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<sup>6</sup> For details and services provided see <https://www.rks-gov.net/en-US/Pages/Fillimi.aspx>

its proper implementation is a serious challenge.

#### Initial Actions Proposed:

- Membership in OGP Initiative will increase public integrity of the Kosovo Government and will add OGP to the list of international organizations in which Kosovo is a member.
- In order to overcome limitations related to the government capacities in preparing an OGP action plan, a wide consultative process involving governmental institutions, civil society, academia and business representatives should be practiced. The Kosovo Government seems to be willing to have a wide inclusion of CSOs and other related institutions in the process.
- Since the process is assigned to the Ministry of European Integration, the Minister should be assigned with the responsibility to ensure inclusive approach for all groups of interest in the OGP process. The authority of the minister may act as facilitating mechanism in building capacities and coordination of all relevant institutions in the implementation of the open government approach. This will be in the function of increased quality of services, transparency, public integrity, public asset management, safer communities and enhancement of corporate governance.
- Inclusion of Kosovo in the OBS would enable comparative assessment of fiscal transparency criteria, and hence should be one of the first activities in order to enable data which will make Kosovo's fiscal policy openness more comparable to other countries. In this context, publication of the Executive's Budget Proposal should be the first step in showing government's commitment to the open government standards.

## Legal and administrative institutions

Department of Information Technology at the Ministry of Public Administration, in cooperation with UNDP, has drafted "The Strategy for Electronic Governance 2009-2015" of the Republic of Kosovo for the provision of services of government institutions to citizens, businesses and other categories through information and communication technology (such as WAN, Internet, mobile network). The Action Plan presents the development process of electronic services based on legal basis and in accordance with ICT infrastructure. "The Action Plan Implementing the Strategy for Electronic Governance 2009-2015" of the Republic of Kosovo can be downloaded in the website of the Ministry of Public Administration.

Training of current staff and engaging necessary capacities is seen as a major risk in implementing the e-governance strategy. Apart from that, amendment of necessary laws and implementation of electronic services will involve further limitations in the budget. One

significant omission from the action plan is delay in the implementation of e-procurement, among others. According to the action plan, e-procurement was supposed to be implemented in 2011, but it has not been introduced to date.

Main Laws and administrative directives related to OGP criteria are in place. Access to public documents is guaranteed by the Kosovo Constitution. Article 41 of the constitution says: "Every person has right to access public documents. Documents held by public and state institutions are public, with exception of information and data protected by law, because of the privacy, trade secrets or classified information".

In terms of transparency and e-governance approach, administrative directive no. 7/2008 of Ministry of Public Administration states that all Kosovo central and local institutions are obliged to create their own websites or to improve the existing ones, in order to increase transparency. Kosovo has as well approved Law No.03/L -215 on access to public documents. Article 1 of the Law states: "This Law shall guarantee the right of every natural and legal person to have access, without discrimination on any grounds, following a prior application, to official documents maintained, drawn or received by the public institutions." Application on access to public documents can be made in any form which will enable identification of the document by the institutions and applicants are not obliged to justify the need for access to documents. According to Law, institutions are obliged to respond to request on the access to public documents within 7 days. In case of refusal of requests, Law foresees a process of appeal at the Ombudsman, competent courts or other relevant institutions. Central and local institutions and independent institutions as well, have assigned officials who deal with such requests.

According to Article 12 of the Law, any applicant shall have the right to access public documents. Limitation of this right shall be exercised proportionally, and only for the purpose of protection of: national security, defence and international relations; public security; prevention, detection and investigation of criminal activities; disciplinary investigations; inspection, control and supervision by public institutions; privacy and other private legitimate interests; commercial and other economic interests; economic, monetary and exchange policies; equality of parties in court procedure and efficient administration of justice; and environment related issues.

In terms of ensuring accountability related to the right to access public documents, article 17 of the Law on Access to Public Documents - Ombudsperson is the independent institution which shall assist citizens and other relevant stakeholders to access public documents which are refused to them. In addition, article 20 of the law states that each public institution shall publish an annual report for the preceding year, including the number of cases in which the public authority has granted access, as the cases in which the public authority has refused to grant access to documents, as well the reasons for such refusals.

The number of request to access public documents is limited (Comprehensive report, 2012). At the level of central institutions, during 2012 over 600 requests were made for access to

documents of public institutions, from which over 80% of cases have been granted access to documents. Around 49% of requests came from journalists whereas only 9% from civil society. Other requests were made from individuals, budgetary organizations and other interested stakeholders. At the level of municipalities, for around 590 requests made, in around 80% of cases access to public documents was granted, whereas other requests were refused or access was limited. Unlike at the central level, at the municipal level around 44% of requests were made by CSOs. On the other hand, reports of the independent organizations present a much lower rate of positive responses by the public institutions.

Lack of information on the possibility to access public documents, and of clarification of who can make a request and how a request should be written seems to be one of the weaknesses. The Prime-minister's office has also published list of all public officials responsible for granting access to public documents at each institution.<sup>7</sup>

## **Incorporation of multi-ethnic considerations into action plans**

Kosovo has no action plan on fulfilling OGP standards, but the multi-ethnic consideration are part of almost every strategy and specific rights for communities are secured by the Constitution of Kosovo, derived from Ahtisari Plan which has set the basis for Kosovo independence.

Article 57 of the Kosovo Constitution states: "Inhabitants belonging to the same national or ethnic, linguistic, or religious group traditionally present on the territory of the Republic of Kosovo (Communities) shall have specific rights as set forth in this Constitution in addition to the human rights and fundamental freedoms provided in chapter II of this Constitution". Specific rights of communities are related to: language, culture, religion, education, guaranteed representation in public institutions, and other relevant rights. Whereas Article 60 of the Kosovo Constitution defines the establishment of a consultative council for communities such as: "A Consultative Council for Communities acts under the authority of the President of the Republic of Kosovo in which all Communities shall be represented". In terms of religion, Article 8 of the Kosovo Constitution states: "The Republic of Kosovo is a secular state and is neutral in matters of religious beliefs". In terms of community inclusion in the Kosovo institutions, there is a Ministry for Community and Return which is run by Kosovo-Serb minister as part of the governing coalition.

Main problem of Kosovo government in relation to the minorities in Kosovo is in northern municipalities of Kosovo populated mainly by K-Serbs. The population in this region did not comply with the Kosovo institutions and the Kosovo Government, whereas Serbian government has continued to finance parallel institutions which are operational for last 14 years.

The last agreement between Kosovo and Serbian Prime-Ministers aims for the integration

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<sup>7</sup> See Comprehensive Report (2012). Government of Kosovo, Prime Ministers Office, Comprehensive report on the right to access public documents by public institutions.

of K-Serb institutions in northern municipalities in the Kosovo Legislative system, by granting some additional local governance rights, such as establishing the Association of K-Serb municipalities in the north of Kosovo. Additional local governance competences such as proposal of the regional commander for municipalities in the north region of Kosovo were recognized to the newly proposed association. A unit of Kosovo Court of Appeal is agreed to be established in the north of Kosovo as well. This court unit will address issues related to K-Serb community. Hence, an agreement on the implementation plan of this agreement is not achieved to date.

Beyond the legal system related to multiethnic aspects, there are several other areas, where greater transparency would be needed to have a clearer picture on service performance, level and sources of funding public services, etc. Inclusion of K-Serb CSOs from all K-Serb municipalities in the Kosovo OGP working group is crucial in order to enable overall inclusion and address related local governance issues of these municipalities in the future Kosovo OGP action plan.

## Stakeholder analysis

OGP initiative requires extensive participation of government institutions, civil society and business organizations in preparing an action plan. As drafting an action plan will be the immediate step after Kosovo Government embraces the Open Government Partnership Declaration, coordination between all stakeholders in the process is of crucial interest in order to compile a comprehensive and realistic action plan addressing all necessary issues.

In terms of Kosovo Government Institutions, Ministry of European Integration is the focal point of the OGP process since it has been assigned to coordinate the Kosovo OGP membership process. Its role in the cooperation and involvement of civil society organizations was evident also in the Task Force for European Integration. Other related ministries such as Ministry of Public Administration and Ministry of Finance are expected to be key actors in the process of OGP membership as they are directly related to OGP requirements. Ministry of Public Administration is responsible for the implementation of e-governance strategy which is a very important element of the open government approach; hence its role is expected to be significant and positive. The role of the Ministry of Finance is central in terms of increasing fiscal transparency.

In regard to independent government agencies and Kosovo Parliamentary committees, they are very important institutions in ensuring government accountability and increased transparency so their role is expected to be positive towards increasing the transparency. Hence, while the independent agencies are expected to be supportive to the OGP related goals, the role of parliamentary commissions is ambiguous. The composition of parliamentary commissions might influence the direction of the impact on OGP related issues by respective commissions. While members of political parties in the government may be less supportive to the process due to potential implications that the OGP related activities might have

to their groups of interest, whereas the members of opposition political parties in Kosovo would be expected to act in the positive direction. They might influence government towards greater transparency and accountability, so they are very important actors, especially in the process of monitoring the progress of OGP committed government actions.

Apart from public and independent institutions responsible to enhance and implement transparency and good governance instruments, CSOs in Kosovo are expected to advocate and raise awareness of the institutions for the importance of OGP and act in partnership to prepare an action plan. Several CSOs have made a substantial experience and knowledge base in regard to areas covered by OGP. FOL movement is engaged in promoting OGP in Kosovo and is currently working in the field. Its representative is nominated to be a joint coordinator of the OGP process by the Kosovo Government. Other CSOs with extensive experience in policy research and advocacy for open and transparent government are Kosovo Democratic Institute (KDI), Kosovar Institute for Policy Research and Development (KIPRED), and Institute for Advanced Studies (GAP), among others. CIVIKOS is also expected to play an important role in the coordination of CSOs in the OGP advocacy and monitoring process. Inclusion of CSOs which represent Kosovo minorities is very important. This will increase knowledge potentials when addressing problems in municipalities inhabited mainly by minorities. Among other aforementioned organizations, Kosovo Foundation for Open Society (KFOS) is expected to act as the core support actor to the OGP process in terms of coordinating and supporting CSOs involved in the preparation of the OGP action plan and in monitoring the results of planned actions.

Other relevant stakeholders in the advocacy process are business associations due to their extensive experience in promoting business related policies in an open and transparent governance approach. Public procurement policies and open data approach in this regard is of crucial importance. E-procurement would be the next progressive step in advancing public procurement system in Kosovo. Other open data services will facilitate doing business in Kosovo and will increase transparency and free competition. From business related stakeholders, Kosovo Chamber of Commerce, American Chamber of Commerce, Kosovo Business Alliance and the German Chamber of Commerce are most influential business associations which will empower the advocacy process on OGP. Inclusion of minorities in this process is of crucial importance. Although all minorities are fairly represented in the Kosovo Business Associations, inclusion of Kosovo Serb business association will increase the participation level of K-Serb community. Overall, a close coordination of all related CSOs, government representatives, independent bodies and other related stakeholders is necessary in order to prepare an inclusive action plan which will cover all areas of OGP Initiative.

To become a member of OGP, participating countries must embrace a high-level Open Government Declaration; deliver a country action plan developed with public consultation; and commit to independent reporting on their progress going forward. It takes political leadership. It takes technical knowledge. It takes sustained effort and investment. It takes col-

## THE GRAND CHALLENGES OF THE OPEN GOVERNMENT PARTNERSHIP

laboration between governments and civil society.<sup>8</sup> The Kosovo Government is expected to embrace high level commitment of Open Government declaration and prepare an action plan in joint consultation with civil society and other relevant stakeholders.

Five “grand challenges” that government’s face and which make the hub of the Open Government Partnership commitments are: 1) improvement of public services; 2) increasing public integrity; 3) managing more effectively public resources; 4) creating safer communities and 5) increasing corporate accountability. The applied methodology is comprised of the accountability framework components specified by the OGP declaration (Peteri, 2013). The focus is more on the government as an identifiable institution and less on governance, which is a process and action oriented concept of managing public affairs. The key principles of open government are, as follows: 1) transparency; 2) citizen participation 3) accountability and 4) technology and innovation. These commitments may build on existing efforts, identify new steps to complete on-going reforms, or initiate action in an entirely new area.<sup>9</sup>

## IMPROVED PUBLIC SERVICES

This section discusses public services in Kosovo from the open government viewpoint. Public administration, public service agencies, and all relevant public services are in the domain of government influence and its governance approach. Education, health care, environmental issues, business environment and other administrative services are core to this analysis. Open data and transparency are main aspects which ensure better governance. To have a technical application of the openness criteria, appropriate laws should be in place. Further, this section analyses open governance in the public administration and the public service sector as one of five OGP areas, in terms of transparency, accountability, public participation and innovation.

### Transparency

**Merit Based Personal Services and Infrastructure:** Transparency in public services will enable Kosovo citizens to have free access to both public administration and civil staff related information and access to information on services deriving from them and from service organizations. In this regard, a complete and open registry of the service organisations might support any future monitoring.

Kosovo government is gradually developing the open data approach. It has established a central e-portal which acts as an information focal point for citizens and businesses. Through this e-portal, service organizations have been listed and general related information has been provided. However, the data revealed in the portal are of descriptive nature,

<sup>8</sup> See OGP website [www.opengovernmentpartners.org](http://www.opengovernmentpartners.org)

<sup>9</sup> OGP website [www.opengovernmentpartners.org](http://www.opengovernmentpartners.org)

such as data on related laws, institutions and other related agencies established in Kosovo. Main information which can be extracted from the e-portal are: information on social assistance types provided by the institutions, information on procedures and documents for which citizens need to get hold to solve their civil status, health care related information, job related, business and other related information such as access to public documents, safety, freedom of movement, etc. In addition, through the government e-portal, citizens can get access to the municipality websites, information regarding local development and other information on the individual websites of service agencies.

Policy coordination mechanisms and ownership on the side of the government have recently been improved through various measures: the establishment of the Strategic Planning Office (SPO), the inclusion of the provisions related to strategic planning in the new Government Rules of Procedures 2011, the current assessment of the sectorial strategies proceeded to the government by the SPO, establishment of Departments for EU Integration and policy coordination in line ministries, the clarification of procedures and standards for the development of strategies and policies (EU Annual Programme, 2013). The Ministry of European Integration is actually performing policy coordination and external assistance coordination functions, ensuring a better flow of information and coordination.

In terms of the procedure for issuance of permits and licenses, citizens, businesses or other interested parties can access this information online through the Kosovo Government e-portal and individual websites of respective ministries and institutions, but the online application is not available. Access to approved plans, such as regulating and spatial plans, details and specifics of individual infrastructure projects, etc., is very limited as institutions publish only general information. An example is Ministry of Environment and Spatial Planning which publishes only general information on ongoing projects, such as the total cost of the project, timeline of completion and actual accomplishment of works which is not very informative for citizens.

In 2011 Kosovo Assembly has approved three laws related to Intellectual Property Rights, the Law on Trademarks No. 04/L-026, the Law on Patents No. 04/L-029 and the Law on Industrial Designs No. 04/L-028. The Industrial Property Office is an institution that deals with the activity in the field of protection of industrial property rights. The office implements the procedures for protection and registration of rights pursuant to Law No. 2004/49 on Patents, Law No. 02/L-100 on Amending and Supplementing the Patent Law No. 2004/49", and Administrative Instruction No. 2007/06 on the Organization and Functioning of the Office of Industrial Property. In addition, the Office on the Copyrights and Related Rights is an administrative body established under the Ministry of Culture, Youth and Sport.

Application forms for registration of Patents, Trade Marks and Industrial Designs and instructions for completing these applications can be found in the website of MTI.<sup>10</sup> With regard to consumer protection, in 2012 MTI has established the department for the consumer protection. Consumers can report any violations by calling for free on the phone number

<sup>10</sup> See <http://www.mti-ks.org/?cid=1,381>

provided in the MTI website. An informative leaflet has been edited and published in the MTI website as information to consumers.

In terms of access on financial data, central and municipal institutions publish their approved budgets in their websites, although this might not be the case in all municipalities. Information on donors of specific projects is published as well. An online platform on Aid Management has been established. Actual commitments and disbursements by donors per municipality can be extracted through this platform. Whereas, audit reports of public service organizations are published by the general auditor office in its website. For services which are contracted to a private contractor, based on the procurement law, only the winner and the price of the service contract are published by the Public Procurement Regulatory Commission (PPRC). PPRC is in charge of establishing the detailed implementing rules of the Public Procurement Law and is responsible for the overall development, operation and supervision of Kosovo's public procurement system (Riinvest, 2012). The entire agreement between the service organization and the client government is not made public. These contracts are to be accessible after an official request for access to public documents is made, but in many cases it was not succeeded to get such access.

Rules on the access public documents are defined in broad terms, so the government can in many cases argue that it has legal right to withhold sensitive information to the public. Authorities have denied journalists access to public documents in some cases (for example, regarding the Pristina-Tirana highway construction contract (BTI, 2012). According to Fidan Kalaja, there is a need for a standardized process of access to public documents in order to avoid unreasonable justification given by public officials when the access to data is rejected.<sup>11</sup> According to the Kosovo Government report on the implementation of the right on access to public documents, around 80% of requests to access public documents have been granted (Comprehensive Report, 2012). On the other hand, according to BIRN (2013) report, only 100 out of 300 requests to official government institutions on the access to public documents have received positive responses between January 2012 and May 2013. While public institutions do not seem to be fully responsive to requests on the access to public documents, opinion polling results (see section IV) show that roughly about 77 % of respondents agree that all financial, performance and technical information on government funded contracts should be made public (Riinvest, 2013).

Apart from regulatory agencies, CSOs are playing an important role in Kosovo in assessing service performance of public service organizations and relevant institutions in Kosovo. Over the years, capacity of CSOs in monitoring and evaluating performance of service organizations has increased. To increase transparency in the education system, the Kosovo Agency for Accreditation publishes all accreditation reports of private and public education institutions in the website. The agency can further strengthen transparency by collecting and publishing statistics on number of students attending public and private universities, and as well the performance of these institutions. Ministry of Education, Science and Technology (MEST) publishes annual report on the education performance at the primary

<sup>11</sup> Interview with Fidan Kalaja, April, 2013.

and secondary level. Apart from the annual report composed of aggregated statistic on the number of pupils in the primary and secondary schools, disaggregated data is not publicly available. Data on personnel working in the schools, their qualifications and experience and school performance measured by annual performance would increase transparency and in turn would increase accountability.<sup>12</sup> Whereas, in terms of health care services, Ministry of Health publishes all laws and relevant reports on the website but the information seems to be outdated. The last inspection report published in the website is of 2009. Organizational chart and information on managing staff at the Ministry of Health is published in the website as well.<sup>13</sup> However, prices and other relevant information of individual health care providers is not made public on e-portal but is generally provided at the level of health institutions.

Environmental issues are addressed by the Kosovo Law on Environmental Impact Assessment which has been approved in 2010. In terms of transparency, apart from general reports published by Kosovo Electro Energy Corporation, data on emissions by different utilities and private companies which may influence environmental pollution or other environmental related issues are not accessible in the websites of related institutions. In terms of construction permits and relevant taxes, MESP publishes in its website information on taxes on construction per municipality.

**Public Administration:** Kosovo's public administration is characterised by disconnected planning and policymaking at government and ministerial levels. Plans are often developed in ad hoc manner responding to the momentum and/or requirements expressed mainly by the international community (EU Annual Programme, 2013). The Civil Service Law entered into force on 9 July 2010. It is important as it defines which public officials are considered "civil servants", and regulates the terms and conditions of their employment. According to the OSCE (2012) report, the Kosovo Civil Service Law, provides a merit-based system of appointment and promotion and creates legal foundations for diversity of the civil service (OSCE, 2012). The OSCE (2012) report indicates that Kosovo Government Ministries have issued job advertisements that aimed to encourage applications from communities, while the vacancies were consistently published in both official languages in print media and on official websites. At the municipal level, 28 of the 29 assessed municipalities advertised job vacancies in both official languages in print media, official websites and, often, through local radio stations. Hence, recruiting is one of the most disputable issues in public sector which is generally related to nepotism. The transparency of short term contracts is critical. Short term jobs in education, especially in primary and secondary schools is usually not made public, so interested candidates in most cases need to have insiders in order to get an information for an available short term position.

Information on institutions and their organization structure is published in the websites of the respective institutions. The names of the higher officials in the public institutions are made public. Salaries of public officials are as well published as public officials are obliged to declare their income and assets. Whereas, salaries of other public officials are publicly

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12 See MEST for annual reports

13 See MEST website

known based on the positions and relevant grade coefficients they have. Number of employees and organization structure is reported by public companies in their annual reports.

Although all institutions submit quarterly reports to the Ministry of Public Administration (MPA) detailing the number of civil servants employed (disaggregated by community, sex and qualifications), very few keep accurate data on the community affiliation of applicants (OSCE, 2012). In almost all institutions at central and local level, the number of statutory positions is larger than the current number of employees.<sup>14</sup> This is an indicator that Kosovo Public Administration lacks capacities, whereas a formal evaluation of public administration capacities is expected to be undertaken during 2013.<sup>15</sup>

A problematic factor in state administration remains the existence of Serbia's parallel structures, mainly in the north. These include parallel health and education systems alongside Serbia's state administration. In other Serb areas, this phenomenon has been minimized as part of the country's decentralization process. (BTI, 2012)

**Security and Defence:** KFOR, the NATO-led peacekeeping force in Kosovo, has the role of ensuring the overall security of Kosovo, while leaving policing duties to local authorities and EULEX. KFOR also plays the leading role in overseeing the training of the 2,500-strong Kosovo Security Force (KSF) called for by the Ahtisaari plan. NATO and the United States are providing assistance and training to the KSF, which possesses small arms but not heavy weapons such as artillery and tanks.

Kosovo Police Force is actually not serving in the northern municipalities of Kosovo, which are inhabited by Kosovo-Serbs. In terms of transparency, Kosovo Police publishes annual report with detailed statistics such as cases on crimes, arrests, accidents and all police related activities.<sup>16</sup> The chain of command is published in the website, whereas police personnel have identifiable uniforms and numbers which are visible to citizens in case they want to complain and report an abuse by an officer. Similar transparency level is applied in case of Kosovo Security Force. Both, Kosovo Police and Kosovo Security Force continuously support inclusion of minorities in these services. The success rate in integrating minorities in south of Kosovo is high, whereas northern municipalities are still resisting to operate under Kosovo institutions.

## Public Participation

According to BTI (2012) report, the Government of Kosovo has been predominantly closed in its decisions, consulting civil society only formally. Soliciting input was mainly done on a partial basis and monopolized by the government. Noticeably due to increased international community pressure to include NGOs in decision-making, the government in 2010 started supporting specific groups of NGOs. Lately, the Kosovo Assembly Secretariat strengthened

14 See answers provided in the questionnaire of the stability and association process, Ministry of Integration

15 Interview with the Permanent Secretary of the Ministry of European Integration (2013)

16 See Kosovo Police annual report 2012

the research capacities of the committees. More public hearings were organized but their impact remained minimal (OSCE, 2013).

Kosovo continues to facilitate a culture of civil society, leading often to societal debates and presenting the views of civil society on various issues of public concern. Other parts of civil society, such as academics and scientists, continue to be silent on issues of public concern and rarely engage in government criticism (BTI, 2012). The freedom of association and assembly is a key pillar of Kosovo's constitutional democracy. Individuals and social or political groups have unrestricted rights to associate and assemble. However, the criteria used to evaluate requests for permits to assemble are not sufficiently transparent (OSCE, 2012).

Kosovo Government in cooperation with CIVIKOS have drafted a governmental strategy for cooperation between the government and civil society in Kosovo for the period 2013-2017 which aims to enhance process of consultations and cooperation. The office of Prime Minister has also prepared guidance manuals for line ministries on how to draft legislation in coordination with civil society organizations, and the manual for the process of public consultations. The manual for public consultation is drafted for all civil servants at the local and central level who are responsible for drafting laws and policies, but also for the members of civil society organizations who are interested to involve in the decision making process in Kosovo, through public consultation process. Civil society and civil servants are encouraged to go through the process of public consultation. First step in the process is information, followed with consultation process, open dialogue and the highest level of engagement which is partnership. While first two steps are expected to be initiated from the public institutions, last two steps can be initiated from both sides.

The manual emphasizes the need to include in the process of public consultation marginalized groups of society and all other related parties. Kosovo assembly working regulation 65 and 66 enables participation of NGO-s in parliamentary commissions and public hearings organized by these commissions. However, the weak side of it is that the regulation specifies that NGO-s may participate, without describing how to use this opportunity for public participation. Therefore, participation of NGOs in public hearings will be dependent on the willingness of Kosovo Assembly commissions to engage NGOs in the preparation of legislation. According to statistics, it seems that not more than 1/3 of Laws approved by the Kosovo Assembly have undergone public hearings in different parliamentary commissions (KCSF, 2011).

Working regulation of the Kosovo Government more specifically addresses the issue of public participation. According to articles 32, 39, 69 and 70 of this regulation, all proposals from Kosovo Government will go through public consultation with civil society, whereas government shall reply on any initiative or proposals coming from civil society. The capacity to review policies, before they are submitted to government and the capacity to prepare policies and draft legislation, is constrained by limited human resources across all ministries. Consultation processes both inter-ministerial and with civil society, need improve-

ment (SIGMA, 2011).

In regard to municipal level, Law on local self-governance recognizes the right of citizens to participate in the activities of their respective municipality (Article 4.5). Municipalities are obliged to inform citizens with their plans or programs which are in the interest of public. This Law also foresees that municipalities have at least two public meeting within a year. The relevant legislation states that public meetings must be announced two weeks in advance. According to OSCE (2012) findings, this rule have been followed in only 50% of the cases on public hearing in municipal budget developments. Additionally, the most commonly used forms of public notification for public meetings were announcement on the municipal website, notices posted on municipal buildings and/or public information boards, or a combination of these two forms. Only one municipality announced public meetings in print media (newspapers). One of the greatest identified shortcomings by the OSCE reports is the failure of the vast majority of municipal assemblies to call at least one public meeting on the municipal budget proposal prior to its adoption. In general, involvement of civil society and citizens in drafting plans and strategies needs further improvements, whereas a feedback module to receive comments from citizens in regard to institutional services needs to be established.

## Accountability

To ensure accountability of service organizations, internal and external audit of each of the public organizations is very important. Through audit, it can be ensure a more accountable management in the ministries, municipalities and other public enterprises (Office of the Auditor General, 2012).

External audit report is made public by the Office of the Auditor General for each public institution, whereas internal audit reports are conducted by the respective institutions. Citizens and other interested parties can get access to audit reports in the auditor general office website. Central and local government institutions publish their budgets, audit reports, on-going and finished projects, government decisions and information related to services they offer in their websites. For the documents which are not available in the website, citizens, civil society representatives or other related parties should make a request to be granted access on public documents and they do not need to have a reason why they are demanding a document, and they are expected to get a reply within 7 days.

The anti-corruption agency is active in monitoring and publishing any conflicts of interest, public official's declaration of assets. To ensure accountability, Kosovo agency against corruption has implemented the process on declaration of assets by public officials, and by 2013, around 99% of public officials who are obliged by law to declare their assets have done so. Cases of conflicts of interests are made public as well. On the ACA website are published court decisions on conflict of interest, fines related to officials who did not declare their assets and the lists of all officials who declared their assets.<sup>17</sup>

17 See ACA website for detailed information.

In terms of other accountability measures, inspectorates and regulatory agencies are key to holding accountable and monitoring actions of institutions and public companies. An example is the Energy Regulatory Office in Kosovo which did not allow an increase in the energy price as required by the management of energy Distribution Company. In regard to security services, Kosovo Police Inspectorate is responsible for oversight of police work. Statistics on activities within Kosovo Police are published as part of the annual police report.

The credibility and public integrity of executive boards of public enterprises is challenged by the political influence of government on board members, which derives from their nomination influenced by political parties in government. Although by law board members have to be independent individuals, they seem to be influenced by political parties.

In regard to planning of medium and short-term actions, prepared documents tend to identify measures without prior assessment of the available budget and the institution's capacity to perform the relevant tasks. Consequently, both medium and short-term planning processes are poorly institutionalized, resulting in unclear ownership of the plans within the institutions, which in turn impacts on monitoring and implementation (EU Annual Programme, 2013).

Recruitment of public administration has been a subject of nepotism which in turn affects the quality and performance of public sector. Latest indications for nepotism within public institutions resulted from wire-tapping of government officials, including the Kosovo Prime-Minister who was involved in the conversation recorded by EULEX investigators, as part of an investigative process, which recordings were released illegally. A reliable HRM information system is lacking, and the available information on human resources is therefore not sufficiently accurate to support proper and coherent civil service policy and management (SIGMA, 2011). However, the adopted legislation has created a legal framework in which the MPA and the Ministry of Finance will be able to improve the quality of the control of staffing in public services. In terms of recruitment policies, a large number of citizens seem to believe that information on ethnicity and religion should not be collected in order for the recruitment process to be fair (Riinvest, 2013).<sup>18</sup>

Public services, such as public transport and heating companies operate as local POEs. Based on Law No 04/L-11 on Amending Law No 03/L-087 on Publicly-Owned Enterprises. Heating Companies operate in Prishtina, Gjakova and Mitrovica as Local POEs (the latter is not operational). Altogether they generate only 3% of the heating demand in Kosovo (only Prishtina comprises round 80% of this capacity). They supply the most populated areas of the cities and public premises such as hospitals, schools and administrative buildings. Such systems suffer from out of date technologies, poor management, great commercial losses caused by non-payment of bills that leads to unsustainability, no state subsidies.<sup>19</sup>

**Kosovo administration** is not present in the northern municipalities of Kosovo inhabited by

18 Opinion Poll Results (See section IV, 2.1).

19 Task Force for European Integration (2012). Discussion Material, *Thematic Round Table "Economy, Finance and Statistics"*.

K-Serbs. With the latest agreement between Kosovo and Serbian Prime Ministers, situation is expected to improve. Whereas, in municipalities in other parts of Kosovo, where Serbian community is majority, legal structures are now functioning and Kosovo Law is being implemented. However, more open data standards are expected to increase accountability of municipal officials in these municipalities.

In regard to Public Administration, the Ombudsperson Institution of Kosovo (OIK) is one of the key independent bodies. It is an instrumental human rights protection body and it faces major challenges, notably in terms of budget and premises (EC, 2012). The career development of civil servants is regulated by the Article 25 of the Law on Civil Service in Kosovo states that for each job grade there will be steps established in progressive order. Civil Servants' career progression from their present step to a higher step shall be based on performance. Also, in article 26 it is specified that direct appointment to a vacant position in derogation of the principle of merit and procedures established by applicable legislation is not permitted.

The legal infrastructure covering the judiciary in Kosovo has been completed by the passing of a number of basic and essential laws. According to the Kosovo Constitution, Article 104, paragraph 1, the Kosovo Judicial Council (KJC) shall propose the names to the President of Kosovo where by the President makes the appointment, reappointment and removal from office of judges. If the independence of the judiciary is guaranteed by law, in practice there are attempts at political interference, influence and the intimidation of judges (OSCE, 2012a). The popular perception is that the courts are amongst the most corrupt and controlled by political institutions. However, there are few credible statistics or known cases of direct interference of politics in the judiciary. In all institutions and public companies citizens are encouraged to give feedback but a proper feedback mechanism is not established.

## Technology and innovation

Main technological tools used by the central and local government are internet media. They use their websites to inform general public on laws and decisions. Public enterprises as well publish their annual reports, budgets and audit reports on their websites. Other social media such as facebook are used by the Government and other institutional leaders to communicate to citizens. Regarding the use of technology for information access and sharing, it is worrying to note that 55.1 % of the respondents in the Opinion Poll (Riinvest, 2013) are not aware if their local government has a web-site. Whereas, only 37.7 % know that their local government has a web-site and 7.2 % state that their local government does not have a web-site.

An e-platform for business registration is available. Businesses can register online and access relevant information via e-portal. While, citizens can track now online the process of issuing personal documents such as identification card, passport and driving license. Other digital systems which are being functionalized are online application for driving license,

registration of vehicles, online application for civil status certificates, wealth management system, electronic archive of documents, system of project managements and police service application for identification of vehicles and driving licenses.<sup>20</sup> Whereas, information on contracting services is published by the Public Procurement Regulatory Commission.

Actually, IT department within the Ministry of Public Administration is acting as e-governance center. Publication of job vacancies in websites seems to be a weakness. Especially in municipality websites, job vacancy publications are outdated and there does not seem to have been published any recent vacancy. As alternative, institutions seem to prefer newspapers for publishing their vacancies. A feedback module in all public services is necessary in order to get direct comments from citizens for the increase of quality in public services.

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20 See website of the Ministry of Public Administration.

Table 1. Improvement of public services: Table of Threats and Opportunities

Threats	Opportunities
Lack of standardized Rules and Procedures for the publication of data will increase the discretion of government officials in selecting the data they want to make public.	Open data on all recruiting processes, such as evaluations in the recruitment process, CV-s of the hired employees, etc., would create positive pressure in increasing quality of hired employees.
Lack of capacity for performance evaluation of service agencies and assumed political influence creates the risk for biased performance evaluation.	Establishment of a proper internet based feedback mechanism as a tool to increase quality and service performance is an opportunity for institutions to improve public services.
Assumed nepotism in the public administration might negatively affect the quality and performance of public administration.	Drafting of the cooperation strategy between Government and CSOs is an opportunity for greater inclusion of civil society in the planning and decision making processes.
Lack of a reliable HRM information system and the available information on human resources will create risks for further hiring of relatives in the public administration at the cost of quality and performance based employment.	Integration of the K-Serb parallel institutions in the Kosovo legislative system according to the agreement reached between Prime Ministers of Kosovo and Serbia might create an opportunity for greater inclusion and more transparent data on services provided in municipalities in the north region of Kosovo.
Cooperation between the Kosovo Government and CIVIKOS might risk the process of CSO inclusion if the CIVIKOS leaders fall under the government influence.	
Political influence towards the management of service agencies will compromise quality of services.	



## ENHANCED PUBLIC INTEGRITY

Kosovo has made progress in establishing proper legal framework for the enhancement of public integrity. By 2009, the law on managing sequestered or confiscated assets was approved, but the institution that manages these assets is still in its initial stage of operating. In 2011, several laws such as: the law on declaration, origin and control of property of senior public officials, on declaration, origin and control of gifts of all public officials, the law on protection of informants (whistleblowers), and the law on public procurement have been adopted. The laws on financing political parties and on conflict of interest need to be improved further. Full implementation of this legislation is a future challenge for the Kosovo Institutions, whereas corruption remains as a core concern of the society.

### Transparency

Kosovo Government has made some steps towards more transparent governance, but significant improvements are needed. According to the Rules of Procedures, some of the documents such as the minutes from the Kosovo Government meetings are confidential records (Section 59, paragraph 3). The process of annual budget adoption by the Kosovo Assembly regulates also the publication of the Government budget.

Although, the annual Kosovo budget and the government's expenditures are made available for citizens, the information on more detailed expenditures are complicated in order to be understood by ordinary citizens. In this regard it is required to make transparent all budget related information, and follow examples of other countries, such as Albania, where detailed information on public expenses are made on accrual basis.

The Kosovo Assembly publishes reports on the work of its internal forums at specific times, but there is no legal requirement to report to any specific institution, or to the citizens of Kosovo (KDI, 2011). The annual expenditures of the Assembly of Kosovo have not been published in the website and there is an unsatisfactory level of vital documents published on the Assembly website.

Kosovo has established an Anti-Corruption Agency (ACA), Anti-Corruption Task-Force, National Anti-Corruption Council and Anti-Corruption Prosecutorial Council. Kosovo ACA publishes on its website the declared assets of high public officials. The Anti-Corruption Agency is a key institution in raising public awareness of corruption in Kosovo which is tasked with controlling asset declarations and preventing conflicts of interest, and can conduct administrative investigations on its own initiative or following denunciations (Sigma, 2011).

The proportion of public officials who are obliged to declare their assets and are doing so, has increased significantly. In April 2013, ACA published that 99% of public officials who are obliged to declare their assets have done so. This has increased transparency by public officials, but still, the problems resides in the gap between declared and real assets at one hand, and the sources of capital on their reported assets. This seems to be supported by

the citizens as well, since a large majority of respondents part of the opinion poll (around 75 %) indicate that members of parliament and local councillors should make public their personal assets and income.

National Agency for Personal Data Protection (NAPDP) is established as well. Its mandate refers to the LAW No. 03/L-172. This Law defines the process and extent of data processing and protection of confidential data, among others features. List of official's in-charge for the protection of data at each institution is published in the website of NAPDP. Other relevant data published in the website are: organizational chart of the agency, information on support and projects, citizen rights, job vacancies, and annual report, among other information. The agency has made several refusals and approvals related to personal data access. For example, an NGO request in the municipality of Lipjan to have access on payrolls of municipal employees, and a request by a Kosovar citizen to access pension fund data of his cousin in the Kosovo Pension Saving Trust, were considered against the Law on Personal Data Protection and were refused (NAPDP, 2013)

Another issue related to transparency and increase of public integrity is funding of political parties. Political parties are not sincere in their financial reports. This becomes evident in times of elections when parties possess and spend more funds than they declaratively possess. Audit of parties should be done by independent companies in order to provide full transparency to the public (KIPRED, 2012). The Law on Financing of Political Parties, ratified by the Assembly of Kosovo on 16 September 2010 regulates the conditions for the financing, administration, oversight, transparency and reporting of the expenditures of the assets and income of political parties in Kosovo. Political parties submit their financial statements to the Central Election Commission (CEC), but these reports are not uploaded in their websites or in the website of CEC. Information published by CEC on political parties is limited in terms of provided details. In the CEC website are published information on laws, decisions, results, forms and other related information. In terms of election campaigns, only the total amount of expenditures is supposed to be made public. Other information is not made public. The CEC is obliged to audit expenditures, however only to ensure that the total amount is not exceeded (KDI, 2011).

General audit of all public institutions is an important tool for the increase of transparency and public integrity. The OAG publishes all reports in the website since 2005. The public may find general information, the legal basis, policies, standards, manuals and guidelines. Moreover, it provides information on tenders and addresses, phone numbers or electronic addresses of the OAG contact persons.

With regard to transparency of judiciary, judges are obliged to declare their property to the Kosovo Anti-Corruption Agency (KACA) pursuant to the law on the Declaration and Origin of Property and Gifts of Senior Public Officials (Law 03/L-151) and in the KJC based on the Code of Ethics and Professional Conduct for Judges. The Kosovo Justice Council (KJC) reports to the Assembly of Kosovo once a year in relation to the general efficiency and functioning of the Judicial System, as required by the constitution. Regulation 2005/52 'On the

Establishment of the Kosovo Judicial Council, Article 1.7, foresees that the KJC provides data and statistics to the judicial system as needed.

Decisions and data on the judiciary are only published in the annual report of KJC which is not comprehensive and which is sent to the Assembly of Kosovo and is published in the website of this institution. This report contains data on the number of judges, cases received and settled, number of cases inherited from previous years, number of judges in comparison to the number of cases etc., but does not contain data for example on the budget and governance of the judiciary. In practice, judges declare their property which is then interrogated by the IJPC and there were many cases in which the non-declaration of property by judges was discovered and punishment measures were undertaken against them as a result.

In regard to public services, the Public Procurement Regulatory Commission (PPRC) publishes the Annual Report on Public Procurement Activities in Kosovo, which is submitted to the Government and the Assembly of Kosovo. Data on public procurement in Kosovo, the number of awarded contracts, their value, etc. are provided in the report. The PPRC and the Procurement Review Body (PRB) have their websites where decisions reached by these two institutions can be seen.

## Public Participation

Public involvement in a consultative process is stipulated in Sections 27 (Working Groups Consultations with the Public) and 36 (Additional Consultations with Kosovo society in case of dilemmas in relation to specific aspects of the draft legislation) of Kosovo Government Rules of Procedure. However, the Government has been reluctant to involve the public and civil society organizations in the policy-making processes (KDI, 2011). Cooperation and involvement of civil society in government planning and decision making might increase public integrity of the institutions. The latest cooperation between Kosovo Government and CIVIKOS in drafting strategy for the improvement of cooperation is a good start. The weakness and risks are that the CIVIKOS platform may be captured by government interest and monopolise the decision making on the civil society part.

Enabling civil society representative to participate in government meetings would be another step forward in increasing transparency and integrity of institutions. Ministry of European integration established a Task Force for European Integration as a national consensus-building mechanism that gathers various experts from the entire governmental and non-governmental structures of the country, in order to discuss and analyse comprehensively the current state of affairs and the challenges that must be addressed within the European integration process. By this, it aims to multiply the efforts and commitments through the participation and contribution of all actors in governance, politics, academia, the public life, civil society, media and other stakeholders who have an interest in the European integration process.

The necessity of including civil society and other stakeholders in the planning and preparation of laws and strategies rises from many failures of government to come up with fast and closed solutions. Lack of cooperation in developing the economic development strategy of Kosovo prepared by the Kosovo Government in 2012 was criticized for lack of serious approach and depth of strategic planning. The same strategy seems to have been forgotten by the government just a year later.

Opinion poll results suggest that around 46.4 % of the respondents say that, an ordinary citizen does not have sufficient expertise to judge the decisions made by the government (Riinvest, 2013). This might be one of the reasons why 76.4 % of interviewed respondents – while unsatisfied with the government – do not protest or rally. Hence, overall citizen involvement remains low.

However, Kosovo Government has involved civil society organizations in the consultation process in several cases. In 2013, in cooperation with the Kosovo Education Center (KEC) 12 workshops have been organized in various municipalities around Kosovo in order to discuss Strategy and Action Plan against Corruption, the Law on Anti-Corruption, and the legal mandate of Anti-Corruption Agency. The aim of these workshops was to increase public input in the preparation of the documents.

CSO ÇOHU took part in the development of the Anti-Corruption Strategy; however, their recommendations were ignored. Notwithstanding the fact that the version of This Strategy sent by the Kosovo Government was refused by the Assembly upon the request of NGOs and with a justification that this document was poorly drafted, the Anti-Corruption Agency later sent the same Strategy with only minor changes, which was adopted by the Assembly on the second occasion (KDI, 2011). In 2013 the Anti-Corruption strategy has been adopted, and despite the suggestions from civil society organizations which were a counseling forum in the process (FOL, KDI, AsKK, ÇOHU, GAP, IKS, INPO, KMDLNJ, QPA) they were not incorporated in the final document.

In general, governmental–civil society cooperation needs to be strengthened and understood as a partnership and not as an antagonistic relationship. The institutions need to be much more open and CSOs need to be more proactive and vibrant (KDI, 2011). A good example of public participation in planning phase is the Kosovo spatial planning plan development. This plan was drafted in close cooperation with professionals, various scientific institutions, university, non-governmental organizations, local officers and international organizations.<sup>21</sup>

## Accountability

Political accountability is one of the features for self-control and accountability of political representatives. The integrity of the Kosovo Government seems to be questioned by the

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<sup>21</sup> For further details see website of Ministry of Environment and Spatial Planning.

respondents interviewed as part of the opinion poll. The vast majority of respondents agree that government decisions are influenced by International community, individual members of parliament, or even big international companies (Riinvest, 2013). Since Kosovo is designated by Law as one electoral zone and there are no electoral districts, the accountability of Assembly members is an issue of their own choice as they are not directly accountable for the electoral zones they represent.

The Kosovo Assembly, the Law on Rights and Duties of the MP states that an assembly member cannot at the same time be Prime Minister, deputy prime minister, minister or deputy minister (article 6 of the law). However, the law has created some privileges such as right to a supplementary pension, for members of the Kosovo Assembly. The Constitutional Court has decided to suspend the implementation of these provisions on a temporary measure on the basis that they result in permanent damages and that this suspension is in the public interest (Sigma, 2011).

Article 7 of the law on political parties states: "A political party, that does not submit the annual financial report to the CEC within the term defined by this Law, shall loose the right to receive benefits from the fund in coming year". Responsible persons within political party shall be fined from one thousand (1.000) Euro up to five thousand (5.000) Euro. Whereas political parties which cannot prove the origin of revenues over twenty thousand (20.000) Euro will be fined three times of that amount. If funds are misused by a candidate or the political party and there can be verified that the wining of mandate/s is as the result of misuse of funds in contradiction to the provisions of this Law and applicable legislation, the mandate of the candidate or political subject may be taken. Violations of provisions have been fined financially in some cases, whereas other measures, such as taking a mandate of a candidate was not experienced.

Kosovo Agency for Anti-Corruption enables citizens who possess any information on corruption related cases or that are faced with corruption in their daily life, to contact the agency in a provided phone number, by ensuring that all reports will be confidential. The agency is also responsible to: initiate the investigation on cases of corruption and initiates criminal charges in cases of suspicions on corruption, if for the same case no penal procedure is undertaken. The agency monitors and supervises the implementation of the Anti-Corruption Strategy and the action plan, cases of conflicts of interest and undertakes necessary measures and other related duties such as overseeing wealth of public officials, acceptance of gifts by public officials. The latest case reported by ACA is the conflict of interest of the Central Bank of Kosovo board member who is at the same time vice-rector of Public University "Hasan Prishtina".

The new Law on Public Procurement in Republic of Kosovo, Nr.04/L-042, is approved by the Assembly of Kosovo on August 29th, 2011, is promulgated by the President of Republic of Kosovo with decree No.DL-032-2011, on August 31st, 2011 and is published in the official Gazette of Republic of Kosovo No.18, on September 19th, 2011. According to the section 135 of this Law, it is foreseen that this law enters into force fifteen (15) days after the publication

in the official Gazette of Republic of Kosovo, which means that from October 05th, 2011, the new law on public procurement No. 04/L-042 enters into force. Contracting Authorities of Kosovo are obliged that from this date for all procurement activities to implement the Law on Public Procurement No. 04/L-042. Articles 34 – 37 of this Law specifically authorizes the use of different procurement procedures, open and restricted procedures, hence a contracting authority shall select and use open or restricted procedure when conducting procurement activities leading to the award of a public contract.

Lots of violations in the procurement process have been noticed throughout the years. According to a research by Preportr (2013), foreign business for ten years in a raw have received hundred millions of Euros from KEK, often by selling them depreciated equipment as new equipment, but also services and energy with prices higher than the market price. The same research found that over 200 local and international businesses won over 500 public bids of KEK, with the value of over 550 million of Eur. Among these companies, the biggest beneficiaries are two local companies which raise suspicions for corruption.

With respect to the practice of the complaint mechanism treatment, it is important to emphasize that the Assembly of Kosovo has not made much effort to increase the level of knowledge on this option of complaints and petitions by the citizens to the Assembly. Even on the Assembly website (as of September 2010) there is no form/application or necessary instruction with respect to the scope of operations of this Committee and the possibility to access this Committee.

KDI (2011) notes that Government audit is performed regularly by the Office of Auditor-General which reports only to the Kosovo Assembly. However, there is lack of enforcement mechanisms to ensure compliance and implementation of remarks by the Auditor. The same report suggests that there is little cooperation of Institutions with the Ombudsperson as an independent state agency called upon to protect general interest and hold accountable institutions for their actions. (KDI, 2011).

Privatization process of SOE in Kosovo was followed with critiques from civil society for the way it was managed. Although the process itself was transparent in legal terms, the suspicions have been raised for the mismanagement and shadow corruption. Suicide of the head of Privatization Agency of Kosovo in 2012 made these suspicions more robust. Recently, a former vice-minister of the Kosovo government was appointed as the head of Privatization Agency of Kosovo, and his actions after the nominations made the USA representative in the board to resign, calling upon supposed mismanagement and nepotism issues within the agency. This led to his resignation as well. Credibility of other independent institutions such as Central Bank of Kosovo (CBK) has been tackled by the nomination of new governor who is the former minister of Finance. Although the process in which he is elected has followed legal route and has been voted in the Kosovo Assembly, it has challenged the CBK independence.

Despite the adoption of the Law on Right on Access to Public Documents, Kosovo institutions

do not seem to be accountable towards the requests for access to public documents. Consortium of Civil Society for Sustainable Development (KOSID), continuously required access to public documents regarding KEDS privatization, but all attempts turned out negative. Last October, KOSID during a press conference, published a dossier in which a correspondence between Institute for Advanced Studies GAP and Ministry of Economic Development was presented. Executive Director of GAP, Agron Demi, claimed that Ministry of Economic Development never gave response to any of the requests that were made (Prepotr, 2013). According to FOL movement representative, in their request to get access to the highway construction contract, they were given three different justifications why cannot be given access to the contract which were not in line with one another.<sup>22</sup> Therefore, a standardized process of giving access to public documents is necessary, in order to minimize the discretion of public officials in charge of granting access to public documents.

## Technology and innovation

To ensure public integrity of the Kosovo Assembly, all sessions of the assembly are broadcasted online, whereas meetings of parliamentary committees are open for media. So media broadcasting is one of the technological tools used to increase transparency. Official gazette is another tool for publishing Laws and relevant documents. Government decisions are published on the website after each meeting of the government.

In order to increase public integrity, incorporation of citizen feedback should be an imperative. Apart from Ministry of Education, Science and Technology (MEST) which has included a feedback module where citizens can write their comments to the public relations office, other institutions have not established such modules.

Opinion Poll Results show that from about 37 % of respondents who know that their local government has a website, only about 22 % of them use the website to follow council decisions, submit documents or even file a complaint. Awareness rising in this regard seems to be necessary. It is in the interest of institutions to prepare rules and a general policy for feedback comments from citizens which would be operational digitally in the government e-portal and will in turn facilitates accountability of the institutions.

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22 Interview with Fidan Kalaja (April, 2013).

Table 2. Enhanced Public Integrity. Table of Threats and Opportunities

Threats	Opportunities
Political interference in the work of independent agencies risks the credibility of institutions.	Increase of efficiency of rule of law through the process of EU integration.
Risks of manipulating published data for the sake of political interests.	Publication of disaggregated data will act as a correcting mechanism towards institutions.
Reluctance of Government to involve CSOs in the planning process.	Involvement of citizens and CSOs in consultancy process in regular basis based on a standardized procedure.
Risks of selection bias when involving CSOs.	
Risks of information disclosure in cases of corruption reporting and non-protection of whistle-blower's.	Establishment and implementation of protection measures for whistle-blowers will increase number of reported cases on violations. Consequently it will increase accountability of the public officials and institutions.
Existence of shadow corruption despite proper legal administrative procedures.	
Lack of legal sanctions against public fund misuse, may increase the threat of continued behaviour.	Standardized process on access to public documents will decrease discretion of government officials when deciding on granting right on access to public documents.
Extent of discretion allowed to government officials in responding to requests on rights on access to public documents.	Establishment of an online feedback mechanism which will ensure data confidentiality will increase number of reporting cases on corruption and other institutional related violations.
Nomination of politically affiliated individuals in the important positions such as Central Bank Governor, or head of Privatization Agency, will have a negative impact on the level of trust and public integrity of institutions.	
Involvement of CSO in the drafting laws and strategies, but not considering their viewpoints in the outputs of these processes, will further weaken trust on institutions and will negative effect public participation in the decision making processes.	
Lack of online feedback platforms weakens the reporting rate of institutional violations.	

## EFFECTIVE PUBLIC RESOURCE MANAGEMENT

### Transparency

Appropriations for all budget organizations, including municipalities, are established by the annual Appropriations Law adopted by the Assembly of Kosovo which provides budget organizations with the authority to spend or transfer public funds, up to a set limit and for a specified purpose, during a given fiscal year.<sup>23</sup>

The overall public finance management in Kosovo is concerning. Kosovo lacks microeconomic stability because it is threatened by unpredictable fiscal policies. Although, the legislation for public expenditure management is in place, and it contains elements required by international standards; inconsistencies remain between the strict legislation and the implementation. Kosovo's capacity to provide macroeconomic and fiscal projections is fairly basic. In this case, the Ministry of Finance regularly publishes data on the economic and fiscal situation in Kosovo, but the projections for the annual budget are published only with documents that are approved by the government (Sigma, 2011).

Support for Treasury rules has been offered to the Public Internal Financial Control (PIFC), with instructions for financial management and control, which have been approved partially from the Ministry of Finance in 2010. With ongoing technical assistance, the PIIC policy paper was approved by the government in April 2011 (BTI, 2012). In order for the PIIC to fully function, it needs to be embraced by all management teams on their daily activities and it should not be seen as another requirement from the EU.

According to GAP (2013) research, the current form of appropriation and budgetary reporting is not detailed in the level that would allow the Members of the Kosovo Assembly and the citizens to clearly understand the allocation and expenditure of public money. Instead of increasing transparent reporting, the Ministry of Finance (MF) has reduced the format of budget reports in quarterly and annual basis, reducing even further the transparency and accountability for the spending of public money. In terms of reporting details, budgetary organizations do not publish the detailed expenditure reports in their websites. GAP (2013) finds that out of 19 ministries in the Government of Kosovo, only the Ministry of Justice regularly publishes data on budget expenditure by this institution. Whereas, independent institutions do not publish separate reports on budget expenditures, but only annual performance reports which also cover a brief description of the budget of the institution. Publication of expenditures and budget seems to be more problematic in municipalities. Out of 37 municipalities in Kosovo, only the Municipality of Malisheva published periodic reports for budget expenditures, while the majority of municipalities did not publish the budget at all (GAP, 2013). The same report finds that Kosovo Government's budget does often provide general budget lines. Such cases are allocation of budget lines such as investments in municipalities in co-financing with other donors without specifying in which municipality or what project. One significant weakness in regard to budget transparency is non-publication of the executive's budget proposal until it is approved. By this omission in the process of budget transparency, Kosovo does not earn all points in terms of OGP budget transparency

<sup>23</sup> Articles 1 and 20.9, Law No. 03/L-048 on Public Financial Management and Accountability, 3 June 2008.

criteria. Kosovo budget is made public for citizens, in the website of Ministry for Finance only after it is approved by the Kosovo Assembly.

In the process of budget planning, public hearings are organized. The most commonly used forms of public notification for meetings of the main legislative bodies were announcement on the municipal website, notices posted on municipal buildings and/or public information boards, or even public video screens, displaying of posters or notices in public places, distribution of flyers, airing of radio announcements, and sending of invitations directly to civil society and media organizations (OSCE, 2012).

Exploration, mining and/or processing of a Mineral Resource or any other mining related activity is regulated by the Article 4 of the Law No. 03/L-163, which states that no person may carry out any activities without a License or Permit issued by Independent Commission for Mines and Minerals (ICMM) in accordance with this law. The ICMM publishes in its website invitation letters to investors, issued licenses, tenders and vacancies. All application forms can be downloaded as well.<sup>24</sup>

Kosovo Assembly has also approved Law No. 03/L-090 on Public-Private-Partnerships (PPP) and Concessions in Infrastructure and the Procedures for their Award. Article 6 of this Law states that Public-Private-Partnerships and Concessions shall be granted by the Public Authority which, based on the law, is directly responsible for the economic activity which is the object of the Agreement. According to the Law, a PPP inter-ministerial steering committee has been established. PPP Agreement for the operation and expansion of Prishtina International Airport, dating on 2010, has been published.<sup>25</sup>

International Aid – The Government of Kosovo has recently approved the Regulation on Donor Coordination Nr.04/2011 which has entered into force on 03 June 2011. All the data of monitoring and evaluation of the whole system of donor coordination in Kosovo are: The data in the Aid Management Platform, other data about the public spending and the use of external funds. While basic indicators to measure the results of the system for donor coordination are based on the Paris Declaration Survey (Nitaj, 2012). Partner countries and donors agreed to hold each other accountable for making progress against the commitments and targets agreed in Paris by monitoring their implementation (OECD, 2008).

EU Annual Programme Report (2013) notes that one of the shortcomings of previous assistance projects was lack of linkage between policymaking and budgetary process. Donor assistance to date has been focused on individual institutions and specific aspects of Planning. Projects tend to focus on the importance of working closely together to maximize the benefits to be gained from existing structures and processes. However, further support is needed in order to establish a more comprehensive, coordinated and sustainable strategic planning and policy coordination system.

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24 See <http://www.kosovo-mining.org/kosovoweb/en/home/news.html#LicensatANG>

25 See <http://www.pppkosova.org/repository/docs/PPP%20PIA%20Agreement%20Web.pdf>

## Public Participation

The Law on Local Self Government and the Administrative Instruction 2008/09 for Transparency in Municipalities, state that meetings of the municipal assembly and its committees are open to the public. Whereas, the Law on Public Financial Management and Accountability and the Budget Circular specify which forms of public consultation should take place during the executive's and municipal budget preparation and approval process (OSCE, 2012).

OSCE (2012) report indicates that attendance at public meetings varied greatly from meeting to meeting. Presence of the media in public meetings is similar to that of municipal assembly meetings. Usually citizens are not informed or are partially informed when the budgetary hearings take place. This results to a consequence when the citizens of Kosovo who finance the state budget do not know how the budget is allocated or spent (OSCE, 2013). In order to increase the transparency level of the budgetary system, there ought to be coherence between budget documents and the expenditure objectives. The philosophy of an annually balanced budget, leads to continual surpluses considering that many spending agencies did not have the proper procurement capacities in order to allocate funds efficiently. There are several principles of transparency regarding procurement procedures: fairness and impartiality, accountability and transparency of process, confidentiality and security of information and materials, and effective management of conflicts of interest (AMCHAM, 2012).

## Accountability

The Kosovo budget is executed through the central treasury system, and it is used on all budgetary organizations, including all of Kosovo's municipalities. The Central Procurement Agency (CPA) is established within the Ministry of Finance and is in charge of central and coordinated purchasing but also supporting contracting authorities with professional expertise.

The preparation of the Kosovo Budget and its planning process is based on the Law on Public Financial Management and Accountability.<sup>26</sup> In accordance with the Guide to Kosovo's budget and planning process (p.11), the Kosovo Budget is approved by the end of the year by the Assembly of Kosovo. The budget is prepared through a number of actions known as the budget process. Until it reaches a final form as the Draft-law on budget, and before it is submitted for approval in Assembly, the budget process is usually conducted between the Ministry of Finance and budgetary organizations (GAP, 2013).

Fiscal policy approach increased budget deficits and limited financing options (EU Progress Report Kosovo, 2011). Using the Euro as the official currency has linked the inflation rate of Kosovo to the Euro Zone inflation rate. As such, changes in global prices have contributed to a higher inflation rate in Kosovo (BTI, 2012). The government of Kosovo decided to exceed medium-term expenditure framework to increase the salaries of civil servants and health

<sup>26</sup> Law No. 03/L-048 Public Financial Management and Accountability, article 1

personnel to 50% by the end of 2010. These expenses were heavily criticized by the IMF as an ad-hoc approach to fiscal policies. Furthermore, the feeling of exclusion by citizens from budgetary and fiscal policy processes continues to grow (BTI, 2012). This also continued to increase the burden on border customs, to fill the state budget.

The Kosovo budget is regularly audited from the General Auditor; however, in reality most of the irregularities that are found, do not lead to legal sanctions. Regarding monitoring and accountability, the external auditor office has continued to increase in staff and improve in function, while its role has become more meaningful for the government organizations. Over the years audit intensity has increased and the office of the general auditor started auditing also state owned enterprises. Oversight of municipal adherence to the budget development-related deadlines, is to be questioned. Although the majority of mayors did not submit the budget proposal to the municipal assembly by the deadline, the Ministry did not fulfill its legal obligation to appoint a municipal financial administrator in any of the affected municipalities (OSCE, 2012)

In regard to public procurement process, the monitoring bodies need to be strengthened and to increase their capacities. Public Procurement Regulatory Commission (PPRC) establishes implementing rules and is responsible for the development, operation and supervision of Kosovo's Public Procurement system. The Public Procurement Agency (PPA) is in charge for organizing coordinated purchasing, while the Procurement Review body (PRB) is responsible for reviewing procedures. The Kosovo Institute for Public Administration (KIPA) is in charge of training public procurement officers.

Among other issues, corruption in the procurement system has become an accepted phenomenon. Over the years, many complaints for procedural irregularities and corruption have been raised by the business community (AMCHAM). The latest major corrupted case was revealed in the Ministry of Interior, respectively, the process of printing biometric passports. The allegations refer to a corruption value of up to 10% of the overall tender value. In light of all the corruption possibilities, many countries have created a so called blacklist, which includes contractors who at a certain point in time have bribed officials, fixed prices, offered sub-contracted goods and services, or have breached the law in some form. In this way, unfair competitors are eliminated, enabling a fairer, transparent and open public procurement procedure (AMCHAM, 2012). The new law on public procurement has been passed by the assembly of Kosovo in 2011, and it entered in force in the same year. The first article of the law clearly states that that the goal of the law is to ensure the most efficient, cost-effective, fair, and transparent use of public funds, by establishing rules and procedures (AMCHAM). Many secondary acts have been issued as well, such as:

- Procurement Regulation and Operational Guidelines
- Standard Tendering Documents and Forms
- Regulations for Contract Management
- Procurement Code of Ethics
- Document s for Diplomatic Missions of Kosovo (AMCHAM, 2012)

The 3rd phase of the EU project “Reform of the Public Procurement System” from 2009 to 2011 provided a lot of support, which later on was not taken into consideration. The PPRC by the end of 2011 approved over 70 secondary acts that deal with procurement procedures such as tender dossier, Procurement Code of Ethics, and others, in addition to the law on procurement Law No. 04/L-042. The new law is complex, especially for medium and small value contracts, and it still utilizes the approval from the PPA for negotiated procedures without notice publication, or for the non-cancellation of procedures. These requirements create bureaucratic problems. Among other secondary acts such as Procurement Regulation and Operational Guidelines and Work Regulation of PPRC with Operational Guidelines, were entered into force in 2012 (AMCHAM, 2012). The previous law on Public Procurement although attempted to meet EU standards, still was not able to meet certain standards.

## **Technology and Innovation**

The highlight of budgetary reform was introduced with the change in the system of budget execution, which is related to the ex-ante control procedures of Treasury payments. The responsibility of lawful payments is with the lawful organizations, while the treasury exercises limited control to ensure that spending is in accordance with the approved budget. To support the control over payments in decentralization process that started in 2009 and finished in 2010, the Treasury set up a help-desk and treasury monitoring functions (Sigma, 2011).

With regards to financial management and control (FMC), the focus ought to be on secure and efficient management of financial management information systems. This should also include good planning and reporting measures. Proper training on using the reporting procedures needs to be enhanced. The technical assistance coaching for financial control on delegated organizations has ended in the summer of 2011 (Sigma, 2011). As such the procedures taught need to be taken into account to ensure consistency and transparency, whereas feedback mechanism should be established and standardized in every institution. To date, only few institutions have a feedback module. The Ministry for Environment and Spatial Planning set a good example by establishing an online feedback module where citizens can report any illegal action in regard to damage of rivers, forests or constructions without permissions.

Table 3. Effective Public Resource Management. Threats and Opportunities

Threats	Opportunities
<p>Current budgetary reporting is not easy to be understood by citizens. This might be the case with some members of the Kosovo Assembly when it comes to the allocation and expenditure of public money.</p> <p>Unpredictable fiscal policies may lead to macroeconomic instability.</p> <p>Citizen participation is low on budget hearings; this runs the risk of tax money not being allocated to issues that the citizens deem crucial.</p> <p>Citizen exclusion from policy and budget making, may lead to public not feeling ownership towards public assets, as well as increased informal economy if they do not see the value in paying taxes and the law.</p> <p>Possibility for discretion of public procurement officers.</p>	<p>Publication the Executive's budget proposal while in the process of approval will increase transparency and involve citizens and relevant CSOs in the early stage of budget planning.</p> <p>Publication of the detailed budget expenditures on accrual basis will increase accountability of the public officials when spending public money.</p> <p>Efforts to improve operational efficiency of the public procurement system are crucial to ensure professional and transparent public procurement procedures.</p> <p>Implementation of e-procurement will decrease the discretion level of procurement officials.</p>

## SAFE COMMUNITIES

### Transparency

In April 2007, Martti Ahtisaari submitted his plan for Kosovo Settlement to the UN Security Council. Part of this 15 point plan was also the municipal decentralization of Kosovo. Ahtisaari proposes broad municipal powers in which case the Serb communities will have control of their own health, higher education, police, cultural affairs, Serbian cultural heritage, and so on. Furthermore, this ensures that Serb populated communities will have high financial autonomy, can accept funding from Serbia and can benefit from partnerships and cooperation with Serbian institutions. According to the Ahtisaari plan, 6 Serb populated municipalities were foreseen: Gracanica, Novo Brdo, Klokot, Ranilug, Partes, and Mitrovica-North. The plan is focused on protecting the rights, culture and identity of minority communities in Kosovo, and also to ensure that an active participation in public life is established (Summary of the Comprehensive Proposal for the Kosovo Status Settlement, 2009). The latest political talks, held between Prishtina and Belgrade in Brussels, a 15 point plan was approved by both parties, which guarantees rights to the Serb minorities.

The Serb minority in Kosovo has also a guaranteed number of seats in the parliament. The parliament electives represent the interest of the population and as such, Serb rights in the parliament are protected because they have 20 guaranteed seats in the parliament voicing the opinion of the minority. In the Kosovo assembly, a permanent Committee on the Rights and Interests of Communities was proposed, which will help in guaranteeing the vital interests of communities in the law making process. The representation of communities is guaranteed at the executive level as well, by offering one ministry to the Serb community and another one to a non-majority community. In the judicial system, at least 15 % of the judges at the Supreme Court of Kosovo must be from minority communities (Beha, 2011). This includes wide representation of minorities on the executive, legislative, and judiciary body, which aim to implement laws that are inclusive and democratic to all nationalities.

Apart from municipalities in the north of Kosovo, other decentralized municipalities are established and are functioning. However, there is limited number of documents published in these websites. In the website of municipality of Gracanica, municipal budget is not published at all. There is generally only descriptive information on services provided by the municipality.

Kosovo's territorial security and integrity is protected under NATO's peace keeping mission KFOR. They coordinate their work with the Kosovo Police and EULEX. Most personnel such as judges, prosecutors, police, and customs officers are from EULEX, especially in the North of Kosovo and they try to regulate legal activities within these territories. In fact, the main mandate of EULEX is to fight against war crime, organized crime, and corruption in Kosovo (SIGMA, 2011).

Local police are part of the Kosovo Police Service in entire Kosovo territory, but their composition has to correspond to the local ethnic mix and the local police commander is recommended by the municipality. Central government bodies and the judiciary also have to

reflect Kosovo's ethnic composition. Kosovo's constitution and laws guarantee minority rights. Laws of special interest to ethnic minorities can only be approved if a majority of the minority representatives in the parliament votes for them. Serbian religious and cultural sites and communities in Kosovo are protected by law. All documents are available in the websites on the relevant institutions. Ministry for Community and Return publishes in its website relevant documents to return of K-Serb community in Kosovo. Projects, tenders and employing opportunities are published as well.

Mitrovica is perceived as the most unsafe region, and not only by Serbs. After 2008, the politically motivated events have strengthened this belief of danger and violence in that region. In 2009, the Humanitarian Law Center, issued a report on Security and Human rights, where it points out that in Mitrovica the situation is tense, and members of all ethnic groups feel unsafe there. In this case, the Kosovo Serbs have identified some of the most problematic issues that make them feel un-safe starting with: inter-ethnic conflict problems (53.5%), but largely they agree with other groups regarding other safety concerns such as economic, environmental, crime, and so on. Latest agreement between governments of the Republic of Kosova and Serbia for the normalization of relations between two countries have created an opportunity for the inclusion of K-serb citizens in the north of Kosovo within the Kosovo legal system. This might relax tensions in the north and creates an opportunity to establish formal institutions in northern municipalities. One of the agreement was to establish an independent developing fund for north of Kosovo. Apart from agreeing that the fund will be managed independently from the budget of Kosovo and that will have a managing board composed of one EU representative, one representative of the Kosovo Government and one representative of the local serb community, other related details are still ambiguous.

## Public Participation

The decentralization process was successful in creating the new Serb municipalities and as such it resulted in high Serb voter turnout in Kosovo municipal elections in 2009, especially in the south of the Iber River. The issue is that full implementation depends on funding of the new administrative structures and the ability of the international missions to restore rule of law in northern areas. Decentralization has been extended with the establishment of the Hasi municipality. The decentralization process aims for municipalities to be close to their citizens and increase the amount of public services and independent decision making.

Over the years, Kosovo aimed to improve the safety of the citizens of all ethnicities, and as such, developed Community Safety Strategies, which were not so successful in achieving their goal. The latest Community Safety Strategy for 2011-2016, was approved, quite successfully. The new strategy involves a new concept of community safety, where a partnership is formed between safety authorities and the citizens of Kosovo, where the involvement of planning and decision making of the citizens is higher, when it comes to creating a safe environment. In this way, the citizens shared their own experiences and concerns, which

made this strategy not only comprehensive, but also more reliable and more successful at implementing. Safety objectives have been set as part of this Safety Strategy, and it was made through the involvement of citizens in 7 leading municipalities, central institutions, civil society, local NGO's, and international organizations; which means that the strategy is inclusive (National Strategy and Action Plan for Community Safety 2011-2016, 2011).

Part of this new strategy is also community policing, which are annual patrol plans and the use of new patrol reporting forms. Those reforms have been successfully introduced in police stations. Today, in many neighbourhoods patrolling police are spotted, who make sure that the citizens are doing well. The achievement of the strategy is also the plan to reduce certain key crimes, enhance other operational procedures to define categories and victim ethnicity, enhances crime reports, and so on. In this way, clear statistics about conflict in certain ethnic groups can be recorded. Also progress was seen in enhanced patrol management, especially after the inclusion and consultation of the local community was done (EULEX Programme Report, 2011).

In terms of community perceptions regarding security, different surveys have been conducted throughout last decade to measure the level of security and safe feeling that the citizens of Kosovo believe they have. Survey results showing data before 2009 reveal that Kosovo Serbs who do not feel safe, agree with the rest of the population on fundamental concerns regarding local security. This means that the shared safety concerns are at the local level and are very similar compared to other municipalities as well. When analyzing statistical data, it is very difficult to determine viewpoints of the Serb population as their concept of the central and local government, police, and courts, is different from the rest of the population, and quite often different even between Serb municipalities in Kosovo (Anna Di Lellio, 2009).

In 2011, other surveys were conducted, which reveal different results from previous years. To begin with, the overall trust in security, for both national and international institutions has decreased drastically. The level of trust in the Kosovo Police has dropped as well listing issues like: corruption, nepotism, lack of capacity to intervene, arrives late on emergency calls, and so on. On the other hand, Kosovo Serbs trust mainly Serb policemen, and would like to deal mainly with them. This is regulated by Law as Kosovo Police Force structure is proportionally represented by ethnicities living in respective municipalities.

## **Accountability**

In recent years, Kosovo has transferred a number of political, fiscal, and administrative competencies from the central level to the local level of government as part of a comprehensive decentralization process. This process is in line with the principles of the Council of Europe's European Charter on Local Self-Government and its Protocols (OSCE, 2012).

The Law on Public Finance Management and accountability ensures financial independence of municipal institutions. These institutions, submit their requests in their entirety to the Assembly of Kosovo, who then are analyzed, presented and approved in the General Assembly of Kosovo. Many municipalities also receive a lot of donor support and this gives them additional development funds. However, there is no unified finance collection model and it depends from municipality to municipality (SIGMA, 2011).

The institutional mechanisms that are concerned with community safety are: the Ministry of Internal Affairs- Department of Public Safety-Community Safety Division, Ministry of Internal Affairs- The department for Drafting, Implementing and Monitoring policies, Kosovo Police, Ministry of Administration and Local Government - Local Self Government Department, Ministry of Administration and Local Government- Department for investigation and Local Government reform, Emergency Management Agency, Association of Kosovo Municipalities, Municipal Advices on Community Safety, Action Teams for Community Safety, and Local Advices for Public Safety (National Strategy and Action Plan for Community Safety 2011-2016, 2011). Specifically for minority safety and needs are the Ministry of Minorities and the Consultative Council for Minorities.

The legal framework that is concerned with public safety is: the Constitution of the Republic of Kosovo, Law no. 03/L-035 on Kosovo Police, Law no. 02/L-70 on Traffic Road Safety, Law no. 02/L-41 on Fire Protection, Law no. 03/L-143 on Weapons, Administrative Instruction no.08/2009 MIA-02/2009 MLGA for Municipal Advices for Community Safety (National Strategy and Action Plan for Community Safety 2011-2016, 2011).

In terms of environmental disasters, Kosovo is exposed to earthquakes, floods and forest fires. Considerable risk is also posed by landslides, drought, heavy snowfall and water reservoir dam bursts. These hazards constitute a permanent threat to the citizens of Kosovo (UNDP, 2011). Emergency Management Agency (EMA) operates with the mission of the Ministry of Internal Affairs. Its scope is to support the citizens and First responding Teams to ensure joint action team, in the construction, upgrading and maintaining our capacity necessary to prepare, protect, respond and recover from all hazards types.

Fire Brigade and Rescue Service are established to fight fire and natural disasters that occur in Kosovo. It is part of the Department for Emergency Management of Ministry of Internal Affairs but it functions under the responsibility of the respective municipalities. These services also respond to other emergencies, such as earthquakes, floods and other cases that require civilian protection. Telephone lines of fire brigades in each municipality are published in government e-portal.

## Technology and innovation

Up to this day, safety forums have been established in most of Kosovo's municipalities, which aim to address social and municipal concerns that the citizens may have (National Strategy and Action Plan for Community Safety 2011-2016, 2011). The development of information technology and communication (ICT) represents a critical function for updated police organizations. This case has proven difficult to get installed in the Kosovo Police, especially when it comes to human capacities that manage the ICT. So far the Kosovo police have achieved only sustainable IT component and development. An IT expert from the European Commission, TAIEX, was brought to Kosovo by the request of Kosovo police management in order to help them advance the ICT system. This expert in collaboration with the IT director of the Kosovo police developed a five year strategy plan for ICT systems, which is supposed to address issues related to sustainable IT and database (EULEX Programme Report, 2011).

Table 4. Safe Communities. Threats and Opportunities

Threats	Opportunities
Lack of transparent data will affect trust of citizens in the local institutions.	The decentralization process enables municipal governors to be close to their citizens and increase the quality of public services. Lately, government decided to create municipality of Hasi in the Prizren region.
Not all citizens are aware of the functions that each institution provides and this runs the risk of them not knowing where to address their issues.	Composition of local police force according to the ethnical composition increases trust on police and safety of the communities.
There is still risk of inter-ethnic conflict, especially in the North of Kosovo.	Community policing should be supported with published statistical data disaggregated by communities/localities.
Because of the listed reasons such as: corruption, nepotism and lack of capacity to intervene, it may be very difficult for the Kosovo safety institutions to reclaim the trust from citizens.	Decentralization of the emergency support services such as fire-fighters at the municipal level increases opportunity for citizen support to the service and increase of community safety.
Kosovo Government agreement with Serbian Government to establish a developing fund for north of Kosovo may create another source for corruption if full transparency is not applied in the management process.	Potential implementation of the agreement between Kosovo and Serbia (Integration of northern municipalities) will create a more favourable and safe environment in general as it might relax inter-ethnic relations.
Lack of public data on environmental pollution disaggregated per regions threatens community safety as they are not aware of the problems and are not able to give feedback in this regard.	
Implementation of the agreement on the normalization of relations between Kosovo and Serbia on the integration of north municipal institutions in the Kosovo legislation may be challenged by the K-Serb community in the north.	

## ENHANCED CORPORATE ACCOUNTABILITY

The law on POEs approved in 2008 and amended in 2012, regulates the issue of corporate governance by relying on the principles of OECD and other international practices. The law foresees that all shareholders, regardless of their size of ownership, are to be treated equally and that POEs are subject to the same treatment and same legal framework as are private enterprises. The concept of corporate governance is relatively new in Kosovo and as not been widely applied. In the process of privatization it was generally discussed to point out alternative methods of privatization but was not incorporated as a core factor in the management of companies. In private companies the concept of corporate governance is related to the absence of a stock market and specific regulations for private companies (Task Force for EU Integration, 2012). Therefore, the only group of companies that are legally expected to comply with these principles are publicly-owned enterprises (POEs). Because of their specific features, the way in which these companies offering basic public services to the citizens of Kosovo are governed is of central importance. Whereas, only few privately owned companies are expected to comply with the corporate governance standards.

### Transparency

Some of the key principles of the EU in this field include:<sup>27</sup>

Boards must be balanced between executive and non-executive directors, while the roles of the Chairman and Chief Executive must be separated. Composition of non-executive of directors in the Board must be based on criteria of qualification, experience, professionalism, independence and diversity of candidates. Salary policy and remuneration of directors must be transparent. Companies must have a risk management plan and must be monitored by their boards. Conflict of interest must be avoided in every aspect. Companies in public interest must establish an Auditing Committee, which provides advice to the Board. In terms of transparency, the EU approach requires that companies make periodic financial reporting and disclosure of major shareholdings.

The Constitution of the Republic of Kosovo states that “the Republic of Kosovo is owner of all enterprises in the Republic of Kosovo, that are recognized as POE ... All obligations that derive from this ownership will be obligations of the Republic of Kosovo ... Ownership rights of a POE that provides services only in a specific municipality or in a limited number of municipalities will belong to that/those municipalities, ... as well as respective obligations ...”. POEs in Kosovo are divided into Central Publicly-Owned Enterprises (CPOEs) which Government can privatize, grant through concession or rent, and Municipal Publicly-Owned Enterprises (MPOEs) where the municipalities have ownership, as defined by Law 04/L-111 on changing and amending the law no.03/l-087 on publicly-owned enterprises (Task Force for EU Integration, 2012).

The Unit for Policies and Monitoring of Publicly-Owned Enterprises (UPMPOE) established according to article 37 of the Law on Publicly-Owned Enterprises no. 03/L-087 is responsi

<sup>27</sup> The EU approach to corporate governance, 2008, p.5-8.

ble to supervise and monitor POEs. The monitoring includes collection of data, analyses and recommendations in relation to POE issues that are under the competence of the Ministry and Government. UPMPOE provides support for budget department on budgetary issues of POEs, and operates under the Ministry for Economic Development (MED). It has a managing director, one assistant and 5 economic analysts trained in a high professional level.<sup>28</sup>

The PMUPE has created an official website on which it is obliged to continuously upload and update all important documents and information of POEs. These documents have to be kept in public domain for a five year period. In terms of transparency, PMUPE publishes in the website relevant documents for all public enterprises such as: report on compensations paid to high officials, number of employees and organogram and business plan. Other important documents published are their statute and procedures, ethical code, government related decisions, etc. Similar information is published in the websites of individual POE-s.

Other institutions involved in monitoring POE activities are independent agencies such as Public Procurement Regulatory Commission (PPRC) and Procurement Review Body (PRB) in terms of public procurement. Office of the Auditor General of Kosovo (OAG) conducts auditing of the legality of the Kosovo's consolidated budget, its budgetary organizations and other institutions that receive more than 50% of its budget from the Kosovo Budget; Whereas, Kosovo Commission on Competition (KCC) monitors competition rules as a quasi-legal body (Task Force for EU Integration, 2012). The role of competition commission is important as major monopoly industries operating in Kosovo belong to publicly owned enterprises, namely to the Kosovo Energy Corporation (KEK), the Kosovo Electricity Transmission, the System and Market Operator (KOSTT), Kosovo Railways (KR), Pristina International Airport (PIA), among others (BTI, 2012). Two public companies are recently privatized, Post and Telecom of Kosovo (PTK) and Kosovo Electric Distribution Company (KEDS). Some organizations lost their monopoly status, such as the PTK, when authorities started issuing licenses for private telecommunication operators. However, most of the other public companies, such as KEK, PIA, KR and KOSTT still have retained monopoly status in their markets. KEK and PTK alone are the two biggest commercial employers in Kosovo, with more than 3,000 employees. On the other hand, the PTK and PIA are the most profitable companies, with combined net profits of more than €50 million (€44 million for PTK and €10 million for PIA) (BTI, 2012).

According to Riinvest (2012), relevant stakeholders contest the legal basis on which the privatization process is undertaken. Telecom privatization was introduced as part of the 2011 budget law. This law expired on 31st of December 2011 and as such cannot be used as the base for further continuation of this process. Regardless of this, the government has approved privatization of Kosovo's Telecom. PMUPE is not directly involved in the privatization process. This process is carried out exclusively by the Government Privatization Commission (about the competences of these committees see Riinvest, 2009).

Selection of the board members remains one of the most contested issues on POEs' governance in Kosovo. The process of appointing members to boards, started in 2012, has been

28 (MED - <http://mzhe.rks-gov.net/npmnp/?page=1,2>)

accompanied by numerous delays and cancelations that have negative influences in strategic decision-making and efficient functioning of POEs. This process has continuously been criticized for lack of transparency and for being tainted with political interference. According to the Law No. 03/L-087 boards of directors in public companies will be composed of 5 or 7 directors. Article 17.4 of the law on POEs also requires that at least two board members are experts on accounting. Riinvest (2012) research finds that the resume of none of selected candidates is published. Their qualification, experience and professional expertise are known only to the selection commission. The absence of transparency at this instance fuels negative perceptions for the process. Lack of information on the background and expertise of the board members represents a big concern for the civil society and the public at large given the importance of services that these POEs deliver. Kosovo Government did not make public reasons for the cancellation of board member selection in 2011, whereas reasons given for the cancellation process in 2012 did not provide strong justification, indicating lack of transparency.

In terms of reporting transparency, there seem to be delays in publication of PMUPE annual report. Delay seems to happen due to delays caused by annual POE's reports which are supposed to be completed within 90 days after the end of the calendar year and have to undergo audit process afterwards. An overall PMUPE report also has to be audited which causes additional delays. In this regard it might be considered more an issue of a delayed transparency.

The process of privatization of KESD and PTK was followed with many critics from the civil society. The process was criticized for the lack of transparency and accountability of government. Suspicions of corruption are raised by civil society in this regard. The privatization of KESD was considered to have been done at a very low price and similar suggestions are made in case of PTK. The former is privatized in 2012 whereas the latter in 2013 in the second privatization bid due to the cancellation of the first PTK privatization process.

Information on environment pollution caused by public companies is available only in reports and there are no public statistics which could provide citizens with easy to read information on air pollution, especially from the Kosovo Energy Corporation (KEK). Reports published in terms of environment situation, such as air pollution, are not updated. The last available data provided in their reports is for 2011 and there is no continual update on statistics regarding environment situation. Another important aspect of transparency is establishment of the open business registry. Kosovo Business Registry Agency (KBRA) provides all necessary information in terms of registering, making changes or ceasing a business. Citizens also can get information on businesses they are interested through the online database provided by KBRA. A number of additional business services are offered online, such as information about business establishment and development, labour law, tax system, foreign economy and infrastructure related information. Kosovo Statistical Agency (KSA) provides aggregated data on established and dissolved companies within a year. Hence, the number of registered companies is not accorded with the number of active companies and there is no centralized database.

## ***Public Participation***

Public participation in the decision making of Public Companies in Kosovo is very limited. The decision making process and strategic planning of public companies is sole responsibility of the board of directors and consequently the government.

The government, other than through PMUPE, holds the boards accountable for their performance through the Annual General Meeting (AGM). AGM is an official event in which the government, as a shareholder, has the opportunity to ask questions related to the reported performance and expected performance, and to vote on key issues important for the future of the enterprise. Even though the AGM is supposed to be a public meeting, it is not publicized; hence the public is not well informed with its proceedings (Riinvest, 2012).

The privatization process in these two sectors is constantly accompanied with major controversy and criticism from civil society, opposition parties and other stakeholders. In the process of privatization of two public companies, KEDS and PTK, attempts of the opposition parties, trade unions and civil society representatives to suspend this process until basic social consensus is created have remained unsuccessful. Although, civil society was very active in providing research reports advocating for good governance in the public companies, their recommendations were not considered seriously.

According to Task Force for EU Integration (2012), there is restricted access of POEs in non-majority settlements as in some Kosovo settlements, inhabited mainly by Serb population, POEs have restricted possibility to conduct their activities or do not operate at all. Due to political reasons, KEK has not been able to invoice and collect for the electricity provided to Serb population in the north of the country and was not able to disconnect customers.

### **Accountability**

Kosovo assembly has amended the Law on POE-s in 2012. Changes introduced in the new law involve restriction of the board involvement in micro-management of enterprises. In addition, some conflicts on the law on local governance were eliminated and bonuses received by board members have been reduced. By the new law, POEs are required to harmonize their business plans with the development policies of the sector, and can be reviewed in the later periods. Apart from the regular internal and external audit, introduced amendments allow institutions such as the government, parliament of auditor general to undertake any kind of audit that is considered necessary (Riinvest, 2012).

The law clearly defines reporting channels. The POEs should systematically report to the PMUPE regarding their performance, whereas PMUPE prepares and submits to the government the analysis and evaluations of POEs' performance. The overall POEs' performance report is presented by the government to the parliament in their annual reporting. Following OECD standards, these reports should provide sufficient information to ensure that the government exercises its property rights in an informed manner.

Still, new amendments did not address weaknesses regarding the clarification of the independence of board members. KIPRED (2011) has found that in the selection process of 2009 the list of candidates was not sent to the government from the selection commission as required by legal provisions, and the overall process was not transparent and tainted with political interference. A crucial factor in affecting this weakness is composition of the commission for board members. As this commission consists of government officials, it reduces the belief on ensuring independence of chosen board members, despite the fact that the process is conducted through a regulated evaluation process. Riinvest (2012) research finds that majority of selected candidates are political partisans of coalition parties. KIPRED (2011, pp. 28-29) indicates that despite the law requirements that the candidates are politically independent some board members of central POEs are even officially political party members (for details see the KIPRED report, 2011; pages 28 and 29). The law emphasizes that board members are independent officials, but does not address the issue of board members who in the past have run for public office and were members of political parties.

Despite the establishment of the legal infrastructure (the company law, law on POEs and other related laws) and the necessary institutions such as PMUPE a lack in implementation of legal provisions and a qualitative supervision from stakeholder are still evident (Riinvest, 2012). As required by law, PMUPE since 2009 has been organizing trainings for board secretaries to ensure better communication flow and coordination between PMUPE and board of directors. It has also managed to produce important documents for advancing corporate governance of POEs. In addition, it has designed and approved the code of ethics and the code of corporate governance and has drafted performance evaluation reports for POEs including: report of the board performance and a guideline for board members of POEs. The fulfilment of legal requirements by PMUPE remains only the first step towards improving corporate governance. However, the capacities of PMUPE to better supervise operation of POEs are still limited (Riinvest, 2012).

PMUPE assesses each POE individually. Harmonization of operations with the business plan is a key factor to measure their performance. In addition, board meetings, and meeting minutes, operations of the board committees, audit and other related reports are part of the performance analysis. According to Riinvest (2012) research, KEK is among enterprises that have managed to complete their fiduciary duties. There were positive indicators in achieving objectives set in the business plan as well as in respecting the law on POEs and code of ethics and corporate governance. KEK has also managed to report regularly to PMUPE. Prices of electrical energy and central heating as natural operating monopolies in Kosovo are determined by Energy Regulatory Office (ERO) based on the authority granted by the Law on Energy Regulatory 03/L-185 and based on the Regulation of the Principles for Calculating Fees in Electrical Energy Sector (Pricing Regulation). Fees for central heating are set based on the Law 03/L-116, according to which ERO sets prices and fees based on an annual proposal of the distributor. ERO Board of Directors is run by Chairman and it has five members. Each one of them is appointed for an alternating period of five years (Task Force for EU Integration, 2012).

The operation of Kosovo aviation is regulated by the Kosovo Civil Aviation Authority of Kosovo (CAAK), established by Law on Civil Aviation is a regulatory agency. It is responsible to safeguard the security of civil aviation, economic regulation of airports and air navigation services in Kosovo. It issues licenses and ordinances of air navigation as provided on the law. The Supervisory Board is comprised of five members; two of them have a two year term (including the Chairman), while the rest of them (three) have a four year term. The members of the Board are appointed by the Government. It reports directly to the Assembly. Railways sector is regulated by the Railways Regulatory Authority (RRA) that works as an independent body and reports to the Assembly of Kosovo. RRA defines the rules and criteria to have access in the railways market and licenses railway operators, issues security certificate for railways operators and issues security instructions, in accordance with European Licenses and SEETO (Task Force for EU Integration, 2012). Whereas, the operations of water and waste companies are regulated by the Water and Waste Regulatory Office (WWRO) that supervises the water and solid waste services in Kosovo, licenses service providers for water and waste and sets the fees. It also sustains the standards of services provided to customers. The Office operates based on the legal framework on the Law amending UNMIK Regulation 2004/49 on operations of service providers for water, sewage and waste. It is managed by a Director and Deputy Director that are appointed by the Assembly for a five year term.

Kosovo Environmental Protection Agency (KEPA) and Kosovo Agency for Radiation Protection and Nuclear Safety (KARPNS) are two agencies established in protecting the environment.

## **Technology and innovation**

Public and Socially Owned enterprises are lagging behind in terms of employing digital information to disclose public related data. Websites of public companies are not updated and more relevant data could be included. The most important issue is that there is no option for feedback which would support enhancement of services from these companies.

Kosovo Energy Corporation (KEK) does not offer e-options to citizens so they could check their bills and other related information, or even file a complaint. The only information offered is that citizens can call on the KEK call center and get all necessary information or leave a feedback. Hence, establishing an internet based module would increase service performance of the institution. A recent miscalculation of energy bills led to several protests organized by citizens. Although KEK officials associated energy bill miscalculations as technical mistakes, it will further decrease trust of citizens on POEs.

Table 5. Enhance Corporate Governance. Threats and Opportunities

Threats	Opportunities
Nomination of politically affiliated members in the executive boards of POE threatens POE performance and increases possibilities for conflicts of interest and nepotism.	Publication of biographies of executive board members will increase transparency and accountability of selection panels when evaluating candidates.
Delays in reporting of POEs to PMUPE have negative impact on accountability and transparency.	Publication of all related data on regular basis in the websites of POEs and other related companies which implement corporate governance criteria will increase trust of citizens towards offered services and credibility of companies.
Lack of protection measures for whistleblowers will negatively affect number of reported cases.	Interference of board member in issues of micro-management of POEs.
Lack of proper user friendly feedback mechanism in POEs will impede POEs from getting right feedback input from citizens.	Inclusion of civil society representatives in the commission for the selection of POEs executive board members and regulatory agencies might ensure selection of independent members.
	Establishment of the Institute for Corporate Governance in Kosovo in order to support research in this field.
	If Kosovo Assembly ensures greater inclusion of other stakeholders in public hearings that are related to the governance of central POEs, it may decrease politically influenced decisions.



**SURVEY ON TRUST AND CONFIDENCE  
IN GOVERNMENT OPENNESS**



## SURVEY ON TRUST AND CONFIDENCE IN GOVERNMENT OPENNESS

The opinion poll in Kosovo is one of the first activities which aims to measure public perceptions towards Kosovo relevant institutions in terms of open government approach and covers four main pillars on which the OGP approach is built upon. It is a first tool to provide measurable indicators on how citizens perceive government, its transparency, accountability, public participation and technological tools used by government to increase transparent and open government approach.

This section will provide a thorough analysis of the opinion poll conducted in Kosovo; an assessment that was withdrawn from a representative sample of the country's population. The opinion polls' main aim is to research the citizens' perception towards the government, their trust in institutions, as well as their assessment on functionality and efficacy related to Open Government fields. It first provides general respondent information, and then it focuses on confidence and trust on Kosovo institutions, perceptions on the transparency level of these institutions including attempt to access public information from citizens, the level of participation, the level of institutional accountability, and the use of technology.

### Methodology and General Information

The opinion poll in Kosovo was all-encompassing, where 1,049 respondents from all over Kosovo participated in the survey. The distribution of the random sample was representative. The methodology of collecting the data was face-to-face interviews, whereas the processing of the data was done in the operative software SPSS.

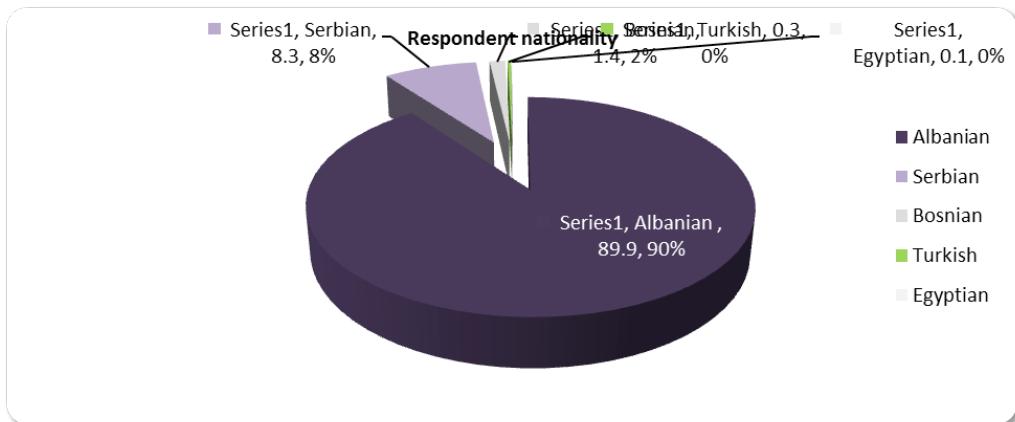
Riinvest team has trained all surveyors regarding the questionnaire and sample selection. As part of this training, surveyors received instructions and detailed explanations of the questionnaire. The questionnaire was also tested prior to conducting the survey in the field. A verification process was also carried out via phone by the Project Manager. Data collected by the survey was next encoded into SPSS. We have used this statistical tool to facilitate data checking and perform basic statistical analyses that we will present in the following section.

Data gathered by the survey, was encoded by experienced personnel using SPSS spreadsheets prepared with the data fields and pop-up tables indicating relevant codes. After entry, two individuals, one using the questionnaire and one the spreadsheet, read aloud to one another to confirm the correctness of the responses. Next, the data is analyzed using SPSS to identify responses outside of expected ranges, including potential inconsistencies across variables.

All municipalities, including the Serb minority municipalities, were involved in the questionnaire. Roughly, 50.7 percent of the respondents were male, while 49.3 percent were female. The male/female ratio in Kosovo is 96 percent (Kosovo Agency of Statistics - KAS, 2013). This means that the gender representation with this opinion poll was achieved. The average respondents' age was 34.09 years old. This means that the respondents' average age was a lot older than the countries average age of 29.5 years (KAS, 2013). The nationality of the respondents is presented in figure 1, where the majority of the respondents were Albanian

(89.9 percent) and the remaining were Serbian (8.3 percent), Bosnian (1.4 percent), Turkish (0.3 percent), Egyptian (0.1 percent). In Kosovo, roughly 92 percent of the population is Albanian and the remaining 8 percent are other ethnicities (KAS, 2011). The results of this poll and the respondent groups are fairly representative of the main ethnicities in Kosovo.

**Figure 1. Respondent nationality (results in percentages)**



***Source - Authors' calculation based on survey results***

Roughly 45.3 percent of the respondents have finished their undergraduate studies, 40.9 percent have finished their high school, while 4.3 percent have finished some sort of post graduate studies. Only 9.5 percent have finished primary education or have no education at all. Regarding the level of employment of the respondents, 30.8 percent are permanently employed, while 25.6 percent are unemployed and are seeking employment. The remaining respondents are in fixed-term employment contracts (19.6 percent), not employed and not seeking for employment (13.2 percent), retired (5.1 percent), and students (5.7 percent). Roughly 43.2 percent of the respondents are employed in the private sector, while 33.3 percent are employed in the public sector. The remaining are entrepreneurial (23.5 percent). The labor force survey for the first half of 2012, conducted by KAS, reveals similar results to the opinion poll, where 36.8 percent of the population is an active workforce, while the remaining is inactive.

Roughly 89.5 percent of the respondents declared their religion as Muslim. This corresponds with the data that roughly 90 percent of Kosovo's population, does declare themselves as a Muslim. Finally, roughly 46.3 percent of the respondents state that their family income is between 200 and 600 Euros a month, which is fairly accurate because the average salary in Kosovo is about 280 Euro, and it is the lowest in Europe (Kosovo: Industrial Relations Profile, 2012). Only 2.3 percent of the respondents state that their salary is over 2000 Euros, while 19.2 percent state that their salary falls between 51 and 200 Euros a month.

## POLLING RESULTS

This section will analyze the main findings of the opinion poll, conducted in Kosovo. Respondents were asked to rank institutions on an ordinal scale from 1 to 4. In terms of analysis, proportion of citizen responses reporting *great trust* (or *fully agree*) and *trust to some degree* (or *more or less agree*) on relevant questions are used as indicators of trust. Results disclose perceptions of Kosovo citizens on the level of confidence and trust in the state and public institutions, government transparency, public participation, accountability and use of technology as moderator tools for facilitating open government.

### Level of confidence and trust in the state and public institutions

Figure 2, presents the level of trust that Kosovo citizens have in different institutions. The media is the most trusted institution in Kosovo (by 62.9 percent of respondents), while religious institutions are the second highest trusted institutions in Kosovo. According to the law (Article 5) on Religious Freedom in Kosovo there is “no official religion in Kosovo” (although roughly 90 percent of the population is estimated to be Muslim), and

as such the law on Religious Freedom omits the constitutional right to operate religious institutions (Religious freedom in Kosovo: Parental care to a new nation, 2008). Still, religious institutions seem to enjoy a high level of trust from the Kosovo population, although legally they remain unregulated. Kosovo Police, European Union and KFOR are the following most trusted institutions. Media, Religious Institutions, Kosovo Police, EU, and KFOR appear to be the most trusted institution in Kosovo, whereas Kosovo Government, President of Kosovo and Political Parties are least trusted institutions.

It is interesting to note that in a survey conducted by the Forum for Civic Initiatives and Saferworld in 2010, the

Kosovo Police and Kosovo Security Force were the highest trusted institutions, while the media was ranked as the fifth most trusted institution (A matter of trust, 2010). The other results are fairly similar for example the trust in EULEX (in 2010 the trust was 33.6 percent and now it is 31.1 percent) and the Judiciary system (in 2010 with 22.3 percent and now it is 26.9 percent) did not experience radical change. Although these institutions have changed in their ranking, still the same institutions create the group of the highest trusted ones from the citizens.

**Figure 2. Please, state your confidence and trust in the following institutions (in percentages)**



#### **Source - Authors' calculation based on survey results**

NGO-s are indicated to be the sixth trusted institution and the last to be trusted by more than 50 percent of respondents. Kosovo Government, the President of Kosovo and Political Parties, are the three least trusted institutions. Only 22.9 percent of citizens indicate to have great trust or trust to some degree on Kosovo Government, whereas only 22.4 percent indicate that for the President of Kosovo.

According to the Public Pulse Report (UNDP, 2013) similar results are found in terms of the satisfaction with the government, where roughly 30 percent of the citizens are satisfied with the governments work. Hence, citizens seem to have higher trust on the local government compared to central government. Around 43 percent of respondents indicate to have great trust or trust to some degree on their mayors, which is even larger than trust on Kosovo Parliament (36.3 percent). Other institutions, such as public utilities (Relevant Public Companies), public administration, state audit organization and EULEX seem to be perceived as trusted by roughly same proportion of citizens (around 32 percent). It is surprising that although European Union seems to be one of the most trusted institutions, EULEX which is operating under the EU mandate is less trusted by Kosovo citizens. With regard to Kosovo Judiciary, only 26.9 percent of respondents indicated great or trust to some degree (26.9 percent).

BTI (2012) report argues that political parties in Kosovo are leader based, have no ideology, and shift from left to right depending on the opportunities that are presented. According to

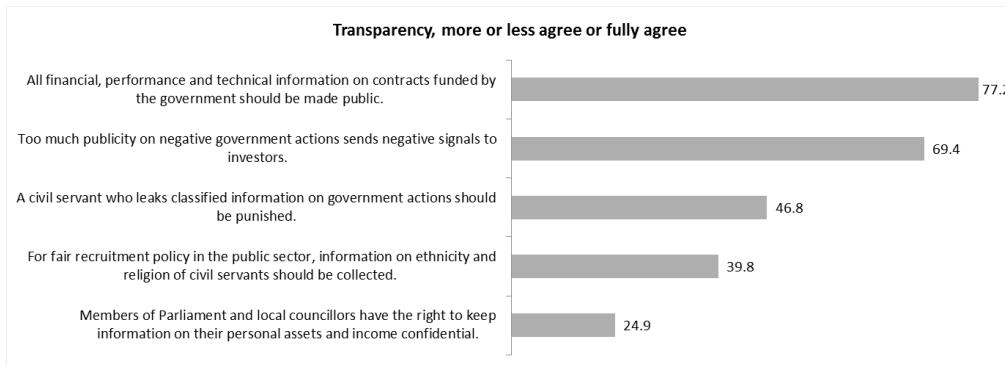
same report internal party elections are only formal and the party president is never challenged for their viewpoints. Next sub-section discusses findings on citizens' perceptions related to government transparency as one of four government openness criteria's.

## Transparency

Transparency is one of the main pillars of OGP. Although, Kosovo only recently started OGP initiate talks with founding members of OGP, there still remains a lot to be done in this regard. E-governance is a step in the right direction, but also increasing the awareness level for such available services and information to the society is crucial.

Regarding the transparency level as one of the key pillars of open government approach, the respondents believe that all financial performance and technical information on contracts funded by the government should be made public (77.2 percent – trust is measured here by *more or less agree* and *fully agree*). The World Bank estimates that corruption adds on average 20 percent of the cost of public procurement (Making public procurement in Kosovo more transparent, 2012). Although citizens in majority agree that contracts funded by the government should be made public, in reality there is still a lot of room for corruption, as the finding by the World Bank suggests.

**Figure 3. How much do you agree with the following statements (in percentages)**



### Source - Authors' calculation based on survey results

At the level of central institutions, during 2012 over 600 requests were made for access to documents of public institutions, from which over 80 percent of cases have been granted access to documents. At the municipal level, for around 590 requests made, in around 80 percent of cases access to public documents was granted.<sup>29</sup>

29 Comprehensive Report (2012). Government of Kosovo, Prime Ministers Office, Comprehensive report on the right to access public documents by public institutions

Only 24.9 percent of the citizens believe that parliament members have the right to keep personal asset information confidential. In fact, by law it is mandatory for individuals in crucial public positions to declare their assets to the Agency Against Corruption (AAC), and if they do not, they risk fines and imprisonment. 75.1 percent of the respondents do not believe that Parliament members have the right to keep personal asset information confidential. By law officials are required to declare their personal assets

A 2011 campaign on the declaration of assets led to an increase in the number of declarations by 96 percent (1830) officials (Progress Report, 2012). The awareness level for accountability seems to be rising. On question related to publicity of negative government actions, around 70 percent of respondents more or less or fully agree that it sends negative signal to investors, thus it has a negative effect on the country economic development. Whereas, roughly 46.8 percent of the citizens state that civil servants who leak classified information on government actions should be punished. However, Kosovo has implemented the law on whistleblower protection. In this case an informant would be legally protected; though, it would all depend on the type of leaked information. One would believe though, that if such information is of crucial importance for public knowledge, that such an act could be justified.

In terms of recruitment policies in the public sector, respondents do not largely agree that information on ethnicity and religion of civil servants should be collected (around 60 percent). Results seem to suggest that recruitment policies should be based on performance as main criteria of the recruitment.

Finally, although respondents in general believe that information should be publicly shared with the citizens, only 5.5 percent of the respondents state that they have filed a formal request for public information (from the 5.5 percent that filed a formal request for public information, 1.2 percent of these requests were made in 2013) and data access. Although by law (2010/03-L-215), citizens are allowed to ask for these information to be shared, 94.5 percent of the respondents have never acted upon their legal right.

## Public Participation

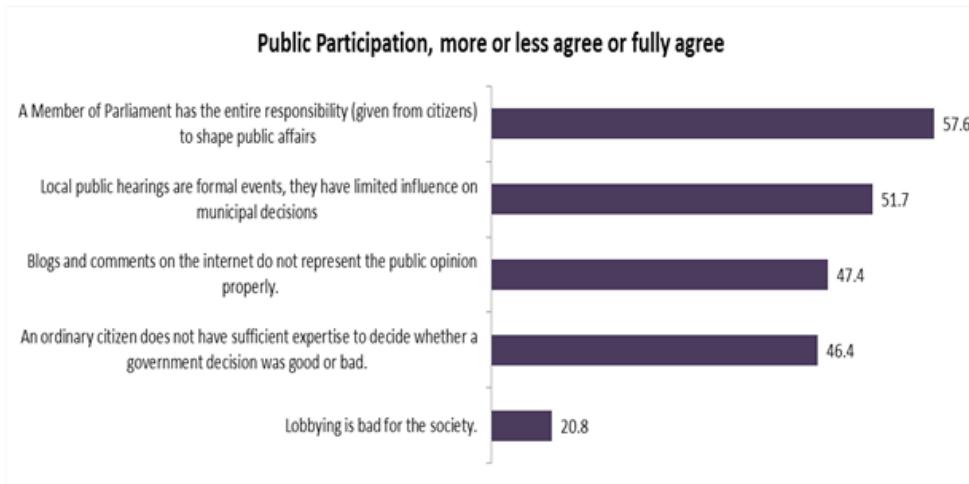
Public participation is crucial to increase public intuitions integrity and level of accountability. The involvement of the public and CSO ought to be included in law and strategy drafting. Hence, public participation and engagement of citizens on public developments goes beyond CSO involvement in drafting government strategies and policies.

Only 23.6 percent of the respondents state that they have attended a demonstration or a rally. This indicates that the citizens are not active in protecting/demanding their rights. On the other hand, the Public Pulse Report shows that 45 percent of the citizens are ready to join protests for political reasons (UNDP, 2013).

46.4 percent of respondents state that citizens do not have sufficient expertise to judge governmental decisions.

Around 46.4 percent of the respondents say that, an ordinary citizen does not have sufficient expertise to judge the decisions made by the government (figure 4). Hence, it indicates that large proportion of citizens do not believe that civil society is capable to judge or evaluate decisions made by government officials, and as such they accept the decisions as given. This might be one of the reasons why 76.4 percent of interviewed respondents – while unsatisfied with the government – do not protest or rally.

**Figure 4. How much do you agree with the following statements (in percentages)**



#### **Source - Authors' calculation based on survey results**

Additionally, while 57.6 percent of the citizens' state that Parliament representatives, as elected with free vote, have the entire responsibility to shape public affairs; 51.7 percent of respondents believe that public hearings are merely formal events and have hardly an impact on municipal decisions. This indicates that many citizens may believe that decisions could be made beforehand and that hearings are only formal and have no impact on the municipal level. However, in reality, citizen participation itself, although granted by law, is low on different hearings with only 16.3 percent of Kosovar citizens active in socially based initiatives and organizations (KCSF, 2011).

Despite indicating the highest trust on media, around 48 percent of respondents agree that blogs and comments on the internet do not represent the public opinion properly, which in comparison to televisions and newspapers seem to be less trusted by citizens. Finally, only 20.8 percent of respondents agree that lobbying is bad for the society. As lobbying might be considered from both positive and negative perspectives, responses might be affected by the lobbying perspectives considered by respondents.

## Accountability

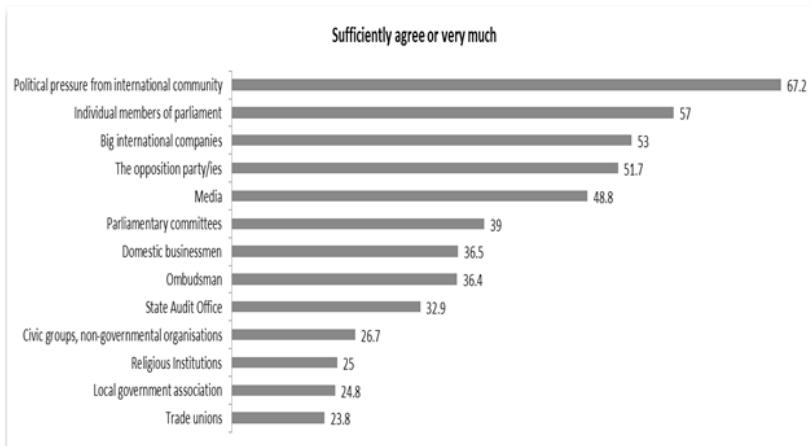
Institutional accountability is one of the four criteria's required by OGP standards. In this case, elected public officials, by democratic vote, should be accountable to the citizens of the country. The legal framework should be strengthened and the laws should be fully implemented.

Most respondents (67.2 percent) believe that political pressure from the international community has an impact in overall decision making of the government (figure 5). Whereas, 57 percent of respondents sufficiently or very much agree that individual members of parliament can affect government decision making process. While they believe that parliament members are responsible to shape political affairs, citizens have witnessed international pressure on Parliament members to vote pro the Prishtina- Belgrade agreement in Brussels, and also pro the Amnesty law (citizens have petitioned against the law with 12,000 signatures), among some recent examples.

**Around 67 percent of respondents sufficiently or very much agrees that institutional decision making is influenced by the international community.**

Respondents (53 percent) also indicate that big international companies can impact government decisions. Whereas a smaller number of respondents (51.7 percent) sufficiently or very much agree that opposition parties might affect government decisions. Smaller number of respondents sufficiently or very much agrees that media, parliamentary committees, domestic businessmen ombudsman or state audit office might affect government decision making process (see fig. 5). From 62.9 percent of the respondents who state that they trust the media the most, 60 percent of them state that they sufficiently or very much agree that the media can influence the government decision making process.

**Figure 5. According to your opinion, how can the following organizations influence government decisions (in percentages)**



**Source - Authors' calculation based on survey results**

Civic groups, religious institutions or local government association are seen as even less influential towards government decision making (see fig. 5). Respondents believe that trade unions have the least effect on governmental decisions (23.8 percent). This may very well depend on the industry that a trade union is part of, but traders were quite successful in persuading the government to take out the tariff of 35 percent for imported cement, which was introduced in 2012. The construction industry is booming in Kosovo, and as such a decision like that had impacted a lot these traders. Although, it was not entirely the traders merit for the withdrawal of this decision, they were quite an influential group in this case. However, in reality, this is only a rare case where trade unions have had this type of influence.

## Use of Technology

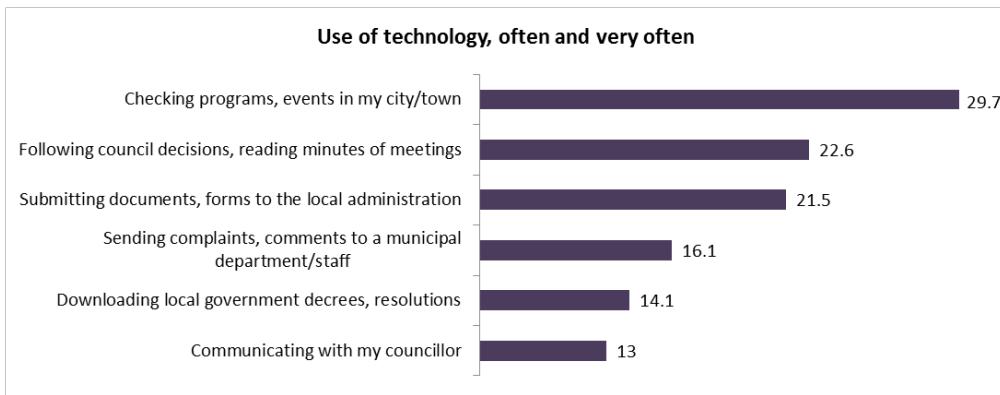
Kosovo is fairly new to e-government; however, it is a basic requirement in the open data approach required within the OGP Initiative criteria. Citizens are not always aware of the available online services; as such awareness campaigns should go hand in hand with technological developments.

55.1 percent of the citizens are not aware if their local government has a web-site.

Regarding the use of technology for information access and sharing, it is worrying to note that 55.1 percent of the citizens are not aware if their local government has a web-site. Only 37.7 percent know that their local government has a web-site and 7.2 percent state that their local government does not have a web-site. This goes back to the fact that the main source of getting information and also the most trusted source is the media. This also indicates that the low level of participation from the citizens side and the fact that they do not research the governmental web-page, either at the central level or at the local level.

Only 29.7 percent out of 37.7 percent of respondents who know that their local governments have a web-site say that they mostly use the web-sites for checking programs and events in their city/town (figure 6). On the other hand, 21.5 percent of respondents who use local government websites state that they use the web-sites to submit documents and download forms for the local administration. This feature may have increased the ease of services for those citizens, but still the awareness level for the existence of such services is low.

**Figure 6. If the local authority has a web-site, how do you use it (in percentages)**



***Source - Authors' calculation based on survey results***

Even fewer respondents use local government websites to send complaints or comments to municipal staff or for downloading local government decrees or resolutions (see fig. 6). The least reason to use the local-governments web-site is to communicate with the local councilor (13 out of 37.7 percent of respondents who know that their local government has a website).

From the opinion poll, we can see that citizens have low level of trust in public institutions and decision makers. Citizens do not trust the government, president, or political parties. This is a major problem that has to be addressed. Committing to an open government approach would be an important step. . Additionally, regarding trust, not all citizens believe that the government officials should inform the public about their assets. In this case, however, by law officials are obligated to publish their asset information. This is crucial for public official accountability toward the citizens of the country. Citizens do not require access to public information, nor do they rally or demonstrate for different cases. This indicates that citizen participation is very low and as a consequence so is officials' accountability.

Generally, citizens of Kosovo do not have high trust or confidence in the public institutions. This should be highly concerning for these institutions, and as such, the need to address this problem is crucial. In order to gain back public trust, the government, the parliament, the judiciary, and so on, needs to incorporate transparent and inclusive policies, to encourage open debate, and to include civil society and interested citizens in the law drafting processes.

## CONCLUSION

Analysis of Kosovo Government policies in the context of government openness shows that there is a considerable legislative framework in place. Despite the fact that Kosovo Government has decided to start procedures for the membership of Kosovo in OGP Initiative the implementation of open government remains a future challenge. The process is leaded by the Ministry of European Integration and will be supported by a representative of civil society as a co-leader of the process. The Kosovo minister of European Integration has signed and addressed the Letter of Intent to the OGP Secretariat expressing interest of the Kosovo Government to join OGP. An action plan is to be prepared in a consensual process by a wide spectrum of Public Institutions, Business Community and CSO representatives. OGP action plan should address main OGP areas which aim to improve public services, public integrity, and efficiency of public resources, community safety and corporate accountability. By addressing these issues, simultaneously it will be contributed to the improvement of related institutional weaknesses, which is a prerequisite for further progress of Kosovo in the EU integration process.

The necessity of increasing transparency by the Kosovo Government is suggested by the polling results on trust in public institutions conducted by Riinvest Institute (2013). Polling results suggest that Kosovo President, Kosovo Government and political parties are the least trusted institutions in the country. This indication should be considered as a serious indicator for Kosovo Government to commit to more transparent and accountable governance, which in turn may increase its public integrity and trust of citizens.

Although the process of joining OGP Initiative has started only recently, relevant actions have been taken to date by the Kosovo Government. According to administrative directive no. 7/2008 of Ministry of Public Administration, all Kosovo central and local institutions are obliged to create their own websites or to improve the existing ones as a tool for increasing transparency. However, there is no standardized method in regard to the scope of data to be published by institutions. This might increase the discretion of public officials or institutional leaders to publish data of their own choice. At the central and local level there are obvious differences in terms of types of documents downloadable in the websites. Whereas in terms of documents accessible upon request, at both central and local institutions there is lack of administrative capacities to deal with this issue and as a result, many requests of citizens, CSOs and other interested parties to access public documents are being rejected or not being addressed. Because the Public Procurement Regulatory Commission makes public only the name of the company and the amount of the winning bid, requests to access public documents is in a large number related to public contracts, such as the highway contract or other public projects,. A similar reflection is given by citizens in the public poll conducted by Riinvest. Around 78% of the interviewed citizens agree that all financial, performance and technical information on contracts funded by the government should be made public.

In terms of increasing accountability and public integrity, several laws such as: the law on declaration, origin and control of property of senior public officials, on declaration, origin and control of gifts of all public officials, the law on protection of informants (whistleblow-

ers), and the law on public procurement have been adopted. The laws on financing political parties and on conflict of interest need to be improved further. Full implementation of this legislation is a future challenge for the Kosovo Institutions, whereas corruption is a core concern of the society. Independent institutions in charge for the oversight of the work of government institutions and public companies are as well established. Nevertheless, involvement of politically affiliated members in executive boards of the independent institutions undermines their assumed independency. Although respective individuals may resign from political positions prior to their engagement with independent institutions, potential influence from their political parties will most likely continue. OGP Initiative might serve to Kosovo Government as self-correcting mechanism in increasing its public integrity. Actual perceptions of Kosovo citizens in relation to government accountability seem to be in line with the weak public integrity of government and other related institutions. More than 67% of the citizens agree that government decisions can be influenced by political pressure from international community, whereas over 50% of citizens agree that significant influence comes from individual members of parliament or big international companies. Smaller proportion of citizens agrees that government decisions can be influenced by parliamentary commission, Ombudsman or State Audit Office. Only around 26% of citizens agree that CSOs can influence government decisions.

In regard to increase of public participation, Kosovo Government in cooperation with CIVIKOS have drafted a governmental strategy for cooperation between the government and civil society in Kosovo for the period 2013-2017 which aims to enhance process of consultations and cooperation. The office of Prime Minister has also prepared guidance manuals for line ministries on how to draft legislation in coordination with civil society organizations, and the manual for the process of public consultations. Though, involvement of citizens has been quite limited. Rules on participation in the public hearings for the municipal budget developments have been followed in only 50%. Polling results show that only around 6% of interviewed citizens have ever filed a formal request for public information or data. Whereas, around 52% of citizens agree that public hearings are formal events with little influence in the decision making process. Establishment of a government office for cooperation with civil society may strengthen cooperation between public institutions and citizens and increase public participation.

Publication of data in the e-portal of the Kosovo Government and the websites of related institutions are main technological tools used to bring data closer to citizens and increase of transparency. On the other hand, polling results show that more than half of Kosovo citizens don't know if their local government has a website, whereas only around 38% have ever checked their government websites. From citizens who check their municipal websites, around 28% check programs and events in their city, around 22% check the website to follow council decisions, while only around 16% of them have ever sent a complaint through the website. Websites are used as a tool to communicate with local councilors by only around 13% of interviewed citizens. Establishment of a standardized feedback module in the e-portal of the Kosovo Government and in the websites of other institutions will facilitate citizen participation and their interest to provide inputs on government decisions

and actions. In turn, it will positively affect service quality and will strengthen transparency and accountability of institutions.

In general, considering OGP Initiative eligibility criteria, Kosovo seems to fulfil more than 75% of the required criteria which qualifies Kosovo Government for membership in the OGP Initiative. Kosovo is fully eligible in terms of the criteria on freedom of access to information and the criteria on the law on disclosure of assets of senior public officials and elected politicians, whereas for a precise assessment of criteria on civil liberties, Kosovo needs to be included in the EIU democracy index survey. In terms of fiscal transparency, The Open Budget Survey as core measure of fiscal transparency used within the OGP Initiative has not included Kosovo, so a comparative assessment of fiscal transparency is not possible. The publication of Executive's Budget Proposal as an OGP fiscal transparency criteria is not applied by the Kosovo Government, but the budgetary audit reports of all institutions are published by the Office of Auditor General.

Overall, OGP Initiative is about multi-stakeholder cooperation for the improvement of open government. Kosovo is in the first stage of the process and aims to prepare the first OGP country action plan. The action plan should be a product of a consensual agreement between the Government, civil society organizations, business community and other related parties, aiming to increase transparency, empower citizens, fight corruption and harness new technologies for strengthening the governance.



## SOURCES / REFERENCES

ACA, 2013. Kosovo AntiCorruption Agency Annual report.

AMCHAM, 2012. Public Procurement in Kosovo Challenges of the Business Community. Rep. Prishtina: American Chamber of Commerce in Kosovo.

Beha, A., 2011. Decentralisation in Kosovo: A Challenge to Deal With?" *Journal of Peace, Conflict and Development* ISSN 1742-0601: 23-42.

Bennett, Ch, 2011. Public Perceptions of Safety and Security in Kosovo: Time to Act. Safer-world.

BIRN (2013). The State: Accessible to citizens. Balkan Investigative Reporting Network – BIRN Kosovo

BTI, 2012. Kosovo Country Report. Rep. N.p.: Bertelsmann Stiftung's Transformation Index. Print.

Di Lellio, A., 2009. Community Safety. Rep. Prishtina: United Nations Development Programme.

EC, 2011. KOSOVO 2011 PROGRESS REPORT. Rep. no. SEC(2011) 1207.

EU, 2008. The EU approach to corporate governance, 2008, p.5-8.

EU, 2013. Annual Programme. Support to Public Administration Reform: 01 – 2013 / 0. Eulex Programme Report, 2011. Bolstering the rule of law in Kosovo: A Stock Take.

GAP, 2013. Kosovo Budget – transparency and forms of budget reporting.

KCSF, 2011. Kosovo Civil Society Index. Better Governance for a Greater Impact. Analytical Country Report for Kosovo.

KDI, 2011. Kosovo Democratic Institute. Assessment of Institutional Integrity.

KIPRED, 2011. Kosovar Institute for Research and Policy Development. Public Management: Analysis of executive boards of public enterprises and independent agencies. 2011/06.

Kosovo Prime Minister's Office, Comprehensive report., 2012. Comprehensive report on the right to access public documents by public institutions.

Kosovo Police, 2012. Kosovo Police annual report.

MIA, 2011. "National Strategy and Action Plan for Community Safety 2011-2016." Government of Kosovo, Ministry of Internal Affairs.

Nitaj, F. 2012. Donor Coordination in Kosovo 2012-2020. Capstone Project Report in partial fulfilment of the requirements for the degree of Master of Science at the RIT - Centre for Multidisciplinary Studies & American University in Kosovo.

OECD, 2008. Survey on Monitoring the Paris Declaration. Making aid more effective.

Office of the Auditor General (2012). Kosovo Annual Audit Report.

OSCE, 2012. Budget Development Process in Kosovo Municipalities: An Assessment.

OSCE, 2012a. The state of independent institutions in Kosovo.

Peteri, G., 2013. "Monitoring and advocating open government partnership commitments in the Western Balkans: Generic Methodology."

Preporotr, 2013. Periodic publication of the Kosovar Center for Investigative Journalism.

Riinvest., 2009. Improving Corporate Governance and Transparency in Banks and Insurance Companies in Kosovo.

Riinvest, 2012. Improving Transparency and Governance of Public Funds. Public Procurement Process in Kosovo.

Riinvest, 2013. Opinion Poll.

Sigma, 2009. ASSESSMENT Kosovo. Support for Improvement in Governance and Management.

Sigma, 2011. ASSESSMENT Kosovo. Support for Improvement in Governance and Management.

Summary of the Comprehensive Proposal for the Kosovo Status Settlement." U.S. Department of State. U.S. Department of State, 20 Jan. 2009.

Task Force for European Integration (2012). Discussion Material, *Thematic Round Table "Economy, Finance and Statistics"*.

UNDP, 2011. Kosovo Human Development Report: Private Sector and Employment.

NAPDP, 2013. National Agency for Personal Data Protection Annual Report for 2012.

Interview with Demush Shasha, the Permanent Secretary of the Ministry of European Integration, January 2013.

Interview with Valdete Idrizi, CIVIKOS, January 2013.

Interview with Fidan Kalaja, FOL movement, April 2013.

Interview with Ardita Metaj, TACSO, April 2013.

Web sources:

<http://www.opengovpartnership.org> (OGP Initiative website).

<https://www.rks-gov.net/en-US/Pages/Fillimi.aspx> (Kosovo Government e-portal, a link to other websites of central and local governmental institutions and other relevant web sources).

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Advocacy for Open Government, launched in January 2013, is an EU-funded regional project led by PASOS network, to encourage governments in Kosovo, Albania, Bosnia and Herzegovina, Macedonia, Montenegro, and Serbia to become more transparent. Through a common methodology addressing a common framework for open government, the project includes expert training of civil society in the methodology for shaping Open Governance Partnership (OGP) commitments country by country, training of civil society organizations based in advocacy, monitoring, and policy analysis. Mapping of government policies and opinion polls are carried out in all six countries, with a view to developing policy-relevant country action plans, advocating open government and integrity to address the five challenges around which the OGP commitments are structured.