

GUIDELINE TO COOPERATION between Civil Society and Kosovo Security Institutions



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Kosovar Centre for Security Studies

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June 2017
Prishtina

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1

The Concept of Civil Society and the Security Sector in Kosovo

Civil society means voluntary participation of citizens with non-profit purposes aiming to influence on matters of general interest.

The notion of civil society has often been taken out of context and not clearly understood in Kosovo, while there have been cases when its role was misunderstood by various parties, especially from the side of state institutions. This guideline therefore aims to explain the role and functions of civil society in democratisation of the Kosovo institutions, with particular emphasis on security institutions. Generally, civil society is defined as a bridge between citizens and public institutions, whereby citizens have the right to create groups and organisations to articulate their attitudes collectively and influence public policies on various issues. Even though when referring to the civil society, the automatic connection is often made to non-governmental organizations (NGOs)¹, although the concept of civil society in itself is much broader. Civil

1 Caparini, M., & Fluri, P. (2005). Civil Society Actors in Defence and Security Affairs. In M. Caparini, P. Fluri, & P. Molnar (Eds.), *Civil Society and the Security Sector*. LIT Verlag, p. 2.

Among the key functions of civil society is the contribution to democratic development of security institutions through oversight in various forms of its activities.

society includes any voluntary participation of citizens to exert influence on matters of general interest with non-profitable goals. In addition to NGOs, civil society organisations are considered to be various community organisations, religious communities, professional associations, trade unions, student organisations, cultural societies and so on. Among the key functions of civil society is to contribute to the democratic development of security institutions through oversight in various forms of its activities².

Civil society in Kosovo started with its first steps after the collapse of communism in Eastern and Central Europe, namely with the beginning of the dissolution of former Yugoslavia and the installation of a parallel system in the country as a counter-reaction to the violent Serbian measures. Thus, in the late 1980s and early 1990s, Kosovar civil society organisations exercised their activities in the field of humanitarian and human rights³. However, after the end of

2 Loada, A., & Moderan, O. (2015). *Civil Society Involvement in Security Sector Reform and Governance*. Geneva: DCAF, p. 15.

3 Government of Kosovo – Office of the Prime Minister/Office on Good Governance. (2013). “*Government Strategy for Cooperation with Civil Society 2013-2017*”, p. 7.

The purpose of the guideline is to establish cooperation between civil society and security institutions to develop integrity, especially but not limited to, within the Kosovo Police and the Kosovo Security Force.

the war in 1999 and with the establishment of international missions in Kosovo, civil society was radically transformed and adapted to the new circumstances. As such, the development of civil society in the contemporary sense can be divided into two stages: (i) the early beginning of 1999, when the international administration in Kosovo (led by UNMIK) had an executive role, whereas the role of civil society was very limited; (ii) the second stage begun with the declaration of Kosovo's independence on 17 February 2008. Alongside the development of the principle of local ownership of local institutions and the transfer of responsibilities from internationals, the voice of civil society in Kosovo becomes stronger in influencing public policies and the democratic construction of state institutions⁴.

Given the purpose of the guideline to establish mutual cooperation between civil society and security institutions in Kosovo, the emphasis of this policy document is in particular to build cooperation between the Kosovo Police (KP) and the

4 Ibid, p. 8-9.

Good governance in the security sector is considered democratic only if it respects and applies the principles of rule of law, as well as those of democracy.

Kosovo Security Force (KSF), without being limited to these security institutions in the process.

The KP, based on its constitutional mandate, is responsible for preservation of public order and safety throughout territory of Kosovo⁵. This institution is a public service within the scope of the Ministry of Internal Affairs (MIA) of the Government of Kosovo and operates through a unified chain of command throughout the territory of Kosovo.⁶ Although functioning under the authority of the MIA, the minister's authority does not include the operational management of the police. Meanwhile, the KP Director General exercises control and supervision on the functioning of the police and directly report to the Minister of Internal Affairs for administration and management of the police.⁷ The general duties and police powers are to protect the life, property and offer safety for all people; to protect the human rights and fundamental freedoms for all citizens; to prevent the risk to citizens and maintain the public order and safety; to detect and prevent criminal acts and offenders; to investigate criminal acts

5 Article 128, Constitution of the Republic of Kosovo (with amendments I-XXIV).

6 Article 4, Law No. 04/L-076 on Police.

7 Article 5, *ibid.*

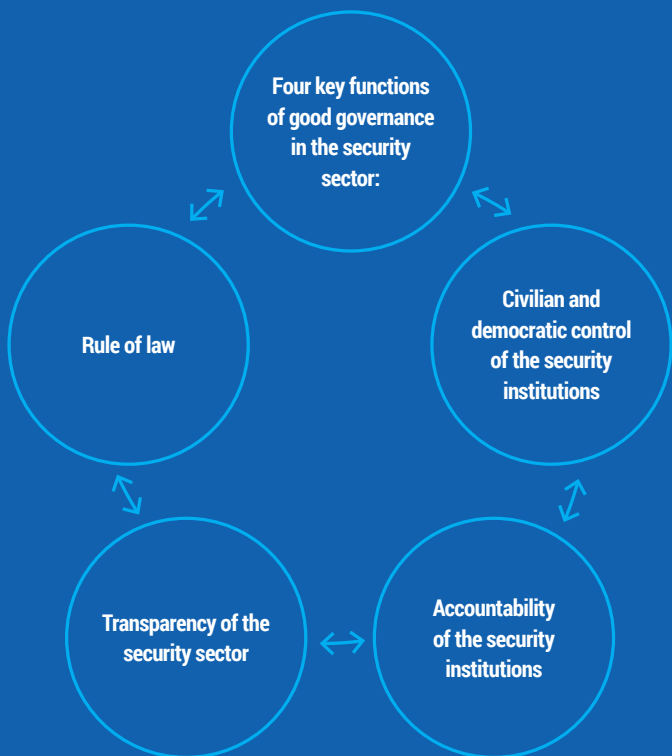
and offenders; to supervise and control for traffic safety; to manage and control the state border as well as to provide assistance during natural disasters and other emergencies⁸. On the other hand, the KSF is a national security force for Kosovo and may send its members abroad in full conformity with its international responsibilities, while the constitutional mandate of the KSF includes the protection of the people and communities in Kosovo. The KSF is consisted from among the Kosovo citizens and is subject to control by democratically elected civilian authorities, namely the Kosovo Assembly, the President and the Prime Minister⁹. This security institution is designed and prepared to fulfil security functions that do not pertain to the police or other law enforcement organizations¹⁰. The KSF, according to the legal provisions in force, is lightly armed and possess no heavy weapons, such as tanks, heavy artillery or offensive air capability. In this regard, its initial tasks include to participate in crisis response operations, namely peace-support operations, to assist civil authorities in responding to natural disasters and emergencies in the country, but also as part of any regional or international response effort, to conduct explosive ordnance disposal and to assist civil authorities through civil protection operations¹¹.

8 Article 10, *ibid.*

9 Article 126, Constitution of the Republic of Kosovo (with amendments I-XXIV).

10 Article 9, Law No. 03/L-046 on the Kosovo Security Force.

11 Article 10, *ibid.*



Modern security sector governance is a broad concept where the security institutions are not seen only in a traditional way, but also in providing public security for all citizens and the society in general. While security institutions have the right to use force to fulfil their functions, in democratic countries it is an issue regulated through stringent rules and procedures¹². Consequently, good governance in the security sector is considered democratic only if it respects and applies the principles of rule of law as well as those of democracy. Knowing that good governance is a prerequisite for the democratisation of the security sector, the sector itself must meet four key functions: (i) civilian and democratic control of security institutions so that the latter do not interfere in political or other affairs, but also other institutions do not interfere in internal independence of the security sector; (ii) the accountability of security institutions which need to be held accountable in relation to different decisions, namely oversight by the following external bodies, such as the Assembly, other institutions and civil society, that must be guaranteed in the function of security sector accountability; (iii) transparency of the security sector, with institutions overseeing this sector, as well as civil society and citizens need to be timely informed on the activities and decisions taken by security institutions; (iv) rule of law is a key part of the democratic functioning of the security sector; security institutions should in no way abuse their power or use it

12 Caparini, M., & Fluri, P. (2005). *Civil Society Actors in Defence and Security Affairs*. In M. Caparini, P. Fluri, & F. Molnar (Eds.), *Civil Society and the Security Sector*. LIT Verlag, p. 5.

arbitrarily in the exercise of their functions¹³. In this regard, the role of civil society is very important as it can affect the democratisation of the security sector through the active participation of citizens in defining the security policy priorities and in the oversight and monitoring of security institutions by positively influencing transparency and accountability of the institutions of this sector.

13 Loada, A., & Moderan, O. (2015). *Civil Society Involvement in Security Sector Reform and Governance*. Geneva: DCAF, p. 11.

2

Legal Framework

The legal framework that defines the area of activity and the functioning of civil society in Kosovo includes various legal acts. Firstly, the topic is generally regulated by the Constitution of Kosovo and international documents, including the Universal Declaration of Human Rights, Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe and other international documents. Although Kosovo is not a member of the Council of Europe, it nevertheless unilaterally applies its documents in the field of human rights, rule of law and democracy. Meanwhile, the accompanying legal framework includes Law No. 04/L-057 on Freedom of Association in Non-Governmental Organisations, Law No. 03/L-215 on Access to Public Documents and Law No. 03/L-040 on Local Self Government. Furthermore, other sublegal acts and documents adopted by the Kosovo institutions have regulated the activity of civil society as well as its involvement in public consultations, such as Regulation (GRK) No. 05/2016 on Minimum Standards for Public Consultation Process, Administrative Instruction No. 02/2012 on the Procedures, Criteria and Methodology for the Preparation and Approval

of Strategy Documents and Plans for their Implementation, Guidelines on the Public Consultation Process (2011), Regulation of Rules and Procedure of the Government of the Republic of Kosovo No. 09/2011, Regulation No. 03/2011 on the Public Communication Service of the Government as well as Code of Good Practice for Civil Participation in the Decision-Making Process, adopted by the Conference of INGOs at its meeting on 1st October 2009.

Since 2016 when the Government of Kosovo adopted the Regulation on Minimum Standards for Public Consultation Process, the Office on Good Governance/Office of the Prime Minister within the Government created an online platform providing the opportunity for all stakeholders to be invited and involved in the public consultation process on legislative initiatives as well as in the policy and decision-making process. The purpose of the platform is to assist the ministries and bodies of the Government of Kosovo to facilitate the public consultation by involving public and non-governmental authorities, civil society organisations and other relevant partners in the policy and decision-making process¹⁴. Civilian and democratic control over security institutions in Kosovo is constitutionally guaranteed, while the Kosovo Assembly

14 Government of Kosovo – Office of the Prime Minister/Office on Good Governance, “About Platform”. Available at: <<http://konsultimet.rks-gov.net/about.php>>. Accessed on 30 March 2017.

oversees the budget and policies of the security sector institutions.¹⁵

The online public consultation platform provides the opportunity for all parties, including the civil society, to be invited to public consultation processes on legislative initiatives, policymaking and decision-making processes.

15 Article 125, Constitution of the Republic of Kosovo (with amendments I-XXIV).

3

Fields
of Cooperation

The purpose of enhancing integrity in the security sector in Kosovo is to fight irregularities, corruption, nepotism, lack of accountability, misuse of authorisations and other informal phenomena.

Given that good governance is the cornerstone for democratisation of the security sector in Kosovo, Kosovar Centre for Security Studies (KCSS) considers that the focus of the guideline on civil society cooperation with security institutions is the building and development of integrity in this sector. The development of integrity in security institutions is a new concept not only in Kosovo, but also in the countries in the region and beyond. The aim of enhancing integrity in the security sector in Kosovo is to fight irregularities within this sector, not limited to the current approach of combating corruption, but also address other issues such as nepotism, lack of accountability, exceeding authorisations as well as other informal phenomena through strengthening of internal mechanisms within the respective institutions. The concept of integrity seeks to achieve this by approximating the values that promote security institutions with the legal, ethical and cultural rules of the society in general.



In addition, the very purpose of strengthening the security integrity is concerned with increasing the trust of citizens towards security institutions. Although security institutions in Kosovo, especially the KP and the KSF, continue to be among the most reliable institutions in the region, the increased trust does not always indicate the real situation within the institutions. Oftentimes, the high trust of citizens in security institutions is due to the respect of citizens for the uniform and symbolism of the security sector, but also other issues that may affect public safety. Despite this, the contact of citizens with security institutions is low and the perceptions of citizens towards these institutions is shaped on the basis of observation rather than direct contact. Since credibility, internal governance and integrity are key principles for the sustainable functioning of security institutions in Kosovo, civil society in Kosovo, namely the KCSS aims to continuously monitor, report and advocate on issues related to the integrity of the security sector through this guideline. Furthermore, it is essential for civil society to provide support in building capacity within the security institutions in order to achieve the necessary standards in the area of integrity and good governance¹⁶.

With the aim of strengthening the institutional integrity in this sector, the KCSS has consolidated the Kosovo Security Sector Integrity Program and has identified key pillars in the

16 Inputs collected from the KCSS workshop on the topic "Good Governance in the Security Sector – the Role of Civil Society", Durrës, 18-19 March 2017.

area of institutional integrity of the security sector, being: (i) transparency and accountability; (ii) human resource management; (iii) public procurement; (iv) internal control, and (v) prevention of conflict of interest. These integrity pillars are directly related to the reform of security institutions, which would also affect the democratic functioning of the institutions and ultimately in building a genuine partnership of civil society with the security sector in Kosovo.

3.1. Transparency and Accountability

In regards to transparency and accountability of security institutions in Kosovo in relation to the public, the latter's cooperation with civil society can be extended to several areas. Building and strengthening cooperation between both parties can first be done through sharing of information which are necessary for citizens, the media, non-governmental organisations, research institutes and other civil society actors. Security institutions should share comprehensive and correct information with civil society in a timely manner. As such, the provision of superficial information could weaken building of genuine and mutual cooperation, and therefore security institutions should make existing mechanisms more functional and decentralised to efficiently handle information requests from different parties, including the civil society. This does not mean that civil society and the media should abuse the ability to access sensitive security sector information, considering that not all information can be shared with the

The information and documents from security institutions that constitute public interest should be freely shared with the civil society, a process which would increase the transparency of those institutions.

public. Furthermore, classified information and documents of security institutions cannot be offered to third parties and there should be an understanding about this among civil society. Nonetheless, the information and documents that make up public interest should be shared with civil society, which would in itself increase the transparency of security sector institutions.

Cooperation between civil society and the security sector should also include accountability. To strengthen this cooperation, civil society should be invited to participate actively in drafting the legislation and strategic institutional security sector policies through participation in debates, public meetings and access to the online platform for public consultations. In addition, civil society should also be involved in the public discussions before and following the publication of the annual reports of security institutions with the aim of assessing and reporting the progress achieved by relevant institutions and their shortcomings over a given period of time. This should be done through continuous monitoring of the activities of this sector. An important mechanism of civil

society is the organisation of public opinion polls on the topic of trust and satisfaction of citizens with the work of security institutions. Measuring the public perception of the Kosovo citizens on security institutions (such as the Kosovo Security Barometer of KCSS) aims to highlight what citizens think about security and good governance in the security sector, which can serve to enhance integrity and professionalism in the public interest of the security institutions. The contribution of civil society in this area would be very important, whereas mutual cooperation with security institutions is key to informing citizens and the public about the support of security institutions in order for the institutions to carry out their duties and responsibilities, in addition to promoting accountability towards citizens through civil society.

3.2. Human Resource Management

When considering human resource management, civil society can cooperate with security institutions in two important processes in this sector, namely recruitment and promotion. In fact, civil society can contribute through monitoring, research, and publications about the promotion process of members of security institutions and accepting new recruits when institutions announce vacancies in cases of recruitment of young candidates. Regarding the recruitment process, civil

society could be actively involved and regularly monitor with the aim of observing whether the process of accepting new candidates for security jobs has been done in accordance with applicable laws. Moreover, civil society should advocate as much as possible in strengthening the principle of merit in recruitment by security institutions.

In cooperation with relevant security sector institutions, through monitoring, publication and research activities, the civil society would see whether the principles of human rights, freedoms and non-discrimination during the recruitment process were respected. Consequently, the participation of civil society in monitoring the recruitment and promotion processes would have a positive impact on increasing the transparency of security institutions, with better management and governance of human resources. In this regard, civil society will be serving the best for the citizens and all other interested parties in getting acquainted with recruitment and promotion in the security sector, while

The civil society should advocate as much as possible to strengthen the principle of merits in human resources management of security institutions.

civil society recommendations from these processes would promote democratic reforms in the security sector and further development of human resource integrity in the sector.

3.3. Public Procurement

Public procurement in Kosovo is considered to be the main are of misuse of public funds in the country. Furthermore, combating and preventing potential misuse in this sector is a very difficult process, given that many different factors and parties are involved in public procurement procedures¹⁷. Accordingly, civil society should be directly involved in overseeing the security institutions' public procurement procedures (especially when evaluating tenders) and budget spending in public procurement activities. In this regard, the role of civil society would be to require, through recommendations and the provision of alternatives, that budget spending to be conducted in a transparent manner and to examine whether public procurement criteria are being respected to avoid cases of conflict of interest and potential misuse in this process.

The civil society should be directly involved in overseeing public procurement procedures of security institutions and budget spending in public procurement activities by these institutions.

17 Përteshi, S. (2014). *Accountability or not? Managing the public funds in Kosovo Security Sector*. Prishtina: Kosovar Centre for Security Studies, p. 14.

Apart from this, civil society in cooperation with security and public procurement institutions in Kosovo could contribute to explaining to citizens and companies (economic operators) the ways of applying for tenders. In this case, the principle of equality, non-discrimination and free competition for all parties in the public procurement process should be promoted. Additionally, civil society should be included as an observer even in cases (within the security sector) when different requests or complaints of economic operators or contracting authorities are considered by public procurement institutions in Kosovo.

The establishment of institutional integrity is manifested through the fight against corruption and the strengthening of internal control mechanisms against corruption risk or through the reduction of corruption and other negative phenomena. The civil society should be involved in monitoring the implementation of integrity plans by security institutions.

3.4. Internal Control

Internal control mechanisms have a key role to play in strengthening integrity, good governance and rule of law within security sector institutions in Kosovo. Thus, building institutional integrity is manifested through the fight against corruption and the strengthening of internal mechanisms against corruption risk or reduction of corruption and other negative phenomena. The integrity plans¹⁸ of the security institutions and their implementation should be closely monitored by these mechanisms and civil society should be involved in regular monitoring of the implementation measures of these plans by relevant institutions.

Particular importance should also be given to the various complaints and cases that internal control mechanisms examine and deal with regarding the disciplinary violations of members of security institutions. Moreover, the decisions of these mechanisms should be made public and not treated solely as institutional internal issues, taking into account the public interest of the security sector. In this case, civil society, as well as other institutions overseeing the activities of this sector, should monitor the work of internal control mechanisms and implement the decisions or recommendations of the latter in order to mark improvements

18 So far (April 2017), the only security institution in Kosovo that has drafted and approved the integrity plan is the Ministry for the Kosovo Security Force in 2016. Other institutions (such as the Kosovo Police) are in the process of drafting these plans.

within the security institutions. Finally, civil society should oversee the level of implementation/non-implementation of recommendations that other institutions (such as the Parliamentary Committee on Internal Affairs, Security and Oversight of the KSF, the Police Inspectorate of Kosovo, the National Audit Office, the Ombudsman, Anti-Corruption Agency, etc.) address to security institutions.

3.5. Prevention of Conflict of Interest

Security institutions in Kosovo should strengthen internal or external mechanisms to prevent conflict of interest. They should cooperate closely with the Anti-Corruption Agency (ACA) in denouncing and reporting all cases of conflict of interest within the security sector as not to undermine the public interest from the private interest. Taken into account that prevention of conflict of interest is one of the categories of integrity plan for the security sector, civil society could

Security institutions shall cooperate closely with the Anti-Corruption Agency in reporting all cases of conflict of interest within the security sector so as not to undermine the public interest from the private one.

also contribute to overseeing the implementation of this issue and provide recommendations for strengthening the security sector mechanisms and ACA, when it comes to prevention of conflict of interest. Moreover, among the challenges related to conflict of interest is the secondary employment of members of security institutions outside these institutions¹⁹. Civil society in cooperation with ACA and the security institutions should through joint advocacy seek the implementation of the legal provisions in force, investigate and take legal measures in cases of secondary employment when this causes a conflict of interest. In the framework of prevention of conflict of interest, ACA should strengthen its institutional capacities to verify the asset declaration of senior security sector officials.

19 Ministry for the Kosovo Security Forces. (2016). *Integrity Plan (2016-2018)*, p. 14.



Civil Society Instruments

Civil society in Kosovo can affect security sector institutions, more specifically building and strengthening this sector's integrity through various mechanisms. By maintaining autonomy in their work, civil society has at its disposal the instrument for capacity building of security institutions. Knowing that state institutions in Kosovo, including the security ones, are being consolidated, then civil society can help and advise them through various expertise. It can do so by participating directly in drafting and preparing security strategies, documents and legislation by providing knowledge in the service of public interest. In the course of capacity building within the security sector, KCSS as a civil society actor has made a concrete contribution in drafting and commenting on legislation and strategies of the Kosovo institutions on specific security-related matters, thus affecting policy-making.

The concept of civil society is as old as the concept of the state and it can thus share its experiences in building the capacity

of security institutions, which are still lacking in Kosovo²⁰. Consequently, among the most important instruments are advocacy, namely conferences, workshops and various seminars organised by civil society within the security sector. Their purpose is to openly discuss with all relevant security stakeholders and institutions about issues in this sector and the challenges the country faces in terms of security. Also, civil society aims to influence the strengthening of good governance and the rule of law in security institutions through advocacy.

Various publications as well as qualitative and quantitative research reports are another form in which civil society is constantly influencing security sector's policy-making. Impartiality and independence in the preparation of research reports and analyses on various security sector issues, as well as the issuance of civil society recommendations and policies, serve security institutions to address certain challenges. Furthermore, civil society prepares and publishes quantitative research, namely through public opinion surveys that measure citizen's perceptions of credibility in security institutions. This research method paves the way to understand the integrity of security institutions from the point of view of the interviewed citizens and depending on their public opinion, relevant institutions can undertake necessary reforms to strengthen integrity. The organisation

20 Inputs collected from the KCSS workshop on the topic "Good Governance in the Security Sector – the Role of Civil Society", Durrës, 18-19 March 2017.

of focus groups and interviews with representatives of security institutions is an additional opportunity to extend the influence of civil society in these institutions and to develop sound discussions between civil society and the security sector.

In fulfilling its mandate to democratise and reform the Kosovo security sector, civil society cooperates with other institutions overseeing this sector. These institutions play an important role through external oversight, they influence transparency, accountability and strengthening the integrity of security institutions. The oversight mechanisms include the Parliamentary Committee on Internal Affairs, Security and Oversight of the KSF, the Police Inspectorate of Kosovo, the Anti-Corruption Agency, the Ombudsman, etc. The interaction of civil society with these institutions will influence the proper oversight and monitoring of security institutions by promoting integrity and good governance in the security sector.

