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## Citizen participation in municipal decision-making in the North of Kosovo/ Participatory governance in Kosovo's northern municipalities



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# Citizen participation in municipal decision-making in the North of Kosovo/ Participatory governance in Kosovo's northern municipalities

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## INTRODUCTION

Supporting citizen engagement in public decision-making has become a mainstream approach to fostering local governance, enhancing accountability of local institutions, forging of constructive links between citizens and their representatives, as well as improving the quality of public policies adopted by municipal bodies.

A large scale evaluation in 20 different countries over the course of 10 years confirms that increased citizen participation in public life has a positive effect on the levels of democracy and economic development.<sup>1</sup> This has been reflected in much of the activity of organizations working to support development across the world.

In the Kosovo context, focus on increasing citizen engagement in municipal decision-making has also been on the rise. The Kosovo Mosaic 2015 highlights its relevance - only 4.1% of Kosovars believe that local governments take fully into account the needs and concerns of citizens in their decision-making processes, while 49.7% believe municipalities take needs and concerns of citizens into account to some extent and 46.1% say local governments do not take into account concerns and needs of their citizens at all.<sup>2</sup> In addition, a majority of citizens in Northern Kosovo believe that their local government is not responsive - 55.2% in Kosovska Mitrovica, 55.9% in Leposavić, 59.7% in Zubin Potok and 63.8% in Zvečan.<sup>3</sup>

As a result of a focused support from some of the development agencies active in Kosovo, inclusion of citizen input into decisions adopted by municipalities has increased in certain areas. This can be illustrated by the increase of citizen requests for service improvements and projects that are included into municipal budget, growing from 2.8 million EUR in 2011 to 4.7 million EUR in 2012.<sup>4</sup>

Nevertheless, much needs to be done before full engagement of citizens into municipal decision-making becomes a general and accepted practice in Kosovo. This is particularly the case in the northern municipalities that have struggled to establish effective local institutions. As the process of the establishment of new municipalities and their administrations in the North is in progress, it is important that political representatives, public officials and citizens are aware of the mechanisms aimed at ensuring citizen engagement in municipal decision-making that are determined by the Kosovo law. Only armed with this knowledge civil society and citizens will stand a chance to successfully advocate for the municipalities to live up to their legal obligations and experience improvements in municipal governance, management and policies. In order to aid in this process, this document lays out the mechanisms enshrined in the Kosovo law that provide for inclusion of citizens into decision-making. It starts by defining the concepts of citizen engagement and participatory governance, highlighting their importance both to the municipal officials as well as the citizens themselves. The following section then presents the available mechanisms for participation of citizens in local level decision-making, including their purpose, legal basis and obstacles to their effective implementation in Northern Kosovo. The document concludes with a number of recommendations for municipalities and civil society in the North that seek to improve the level of participatory governance in the region within the existing political configuration.

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<sup>1</sup> Gaventa & Barrett, 2008, 'So What Difference Does It Make - mapping the outcomes of citizens engagement', IDS working paper

<sup>2</sup> Kosovo Mosaic 2015, United Nations Development Program

<sup>3</sup> Kosovo Mosaic 2015, United Nations Development Program

<sup>4</sup> Mid-Term Evaluation of USAID/Kosovo Democratic Effective Municipalities Initiative (DEMI), Final Report, 2013

## PARTICIPATORY GOVERNANCE

### What is participatory governance/citizen participation?

Municipal governments are in charge of numerous policy areas and decisions affecting the lives of citizens in profound ways. From the management of municipal resources to the provision of essential public services and setting of development goals, they shape the living conditions of local communities. To ensure that municipal policies and services reflect citizens' needs and serve their interests, mechanisms of participatory governance enable citizens to exercise their right to contribute to local decision-making. Whether individually or in organised groups, members of the public are thus able to pursue their interests and advocate for policy options and interventions that best respond to their preferences.

Contrary to a widespread perception, citizens' participation is not limited solely to the policy formulation phase. This is the phase that precedes taking of a decision by the municipality and involves deliberation on policy options, their consequences and alternatives. Mechanisms of participatory governance should make it possible for citizens to contribute to policy and decision-making at each point in the policy cycle. This includes 1) the setting of the agenda for issues that will be dealt with by the municipality 2) the formulation of policies addressing the given issues 3) the taking of decisions on issues at hand 4) implementation of adopted policies, legal acts or measures 5) monitoring and evaluation of the implemented policies and measures.

Municipalities should have established channels and means that allow citizens to contribute to the setting of priorities and goals, express their perspective, communicate information from their communities and highlight the problems and challenges they face, hold political representatives and officials to account for their behaviour in public office, monitor the implementation of policies and evaluate their outcomes.

The interaction between local governments and citizens can take place in different forms:

- information-sharing (one-way communication): local institutions and officials publish information on the functioning of the municipality
- public consultations (two-way interaction): citizens are invited to provide feedback on the different aspects of municipal functioning, including policy proposals, legal acts and other issues of public importance
- decision-making (active participation): citizens shape the policy dialogue by actively proposing policy alternatives that are reflected in a recommendation, strategy, activity, policy or legislation adopted by the municipal leadership<sup>5</sup>
- partnership (joint responsibilities): select issues are delegated to civil society organisations who may provide services, establish joint bodies, implement certain decisions, legal provisions or policies

Participatory governance therefore means that documents of public interest, policies, municipal legal acts and other policy products of municipalities take into account and include information, suggestions, feedback and proposals of residents of the municipality, and that the latter have a clear role in monitoring and holding municipal representatives accountable.

The Organisation for Security and Cooperation in Europe identifies three key elements to participatory governance, namely transparency, participation and accountability.

Transparency: municipal governments provide accurate, complete, accessible, up-to-date and easily digestible information on its work to the members of the public. Availability of ample information on

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<sup>5</sup> Forrester, S., Sunar, I., TACSO Manual: CSOs and Citizens' Participation, 2011

municipal functioning is a fundamental precondition for all other, more advanced, forms of participatory governance.

**Participation:** municipal government and citizens engage in collaboration in the planning and implementation of the mission, policies and activities of the municipality

**Accountability:** citizens hold local officials responsible for their decisions and actions through the “mechanisms of answerability and enforceability”<sup>6</sup>

Participatory governance also requires the municipal governments to fulfil a number of obligations:

- develop and respect procedures for citizen participation in local decision-making
- provide the necessary financial, administrative or physical resources necessary for effectively enabling the public to participate in municipal matters (e.g. secure the venue for public consultations, dedicate staff to maintain communication with citizens)
- ensure involvement of municipal representatives in communication and cooperation with citizens, and their responsiveness to citizen input

### **Why is citizen participation/participatory governance important?**

Besides being an essential part of a democratic functioning of public institutions, engagement of citizens in matters of public interest brings with it a number of benefits, both to citizens who exercise their rights and the decision-makers who represent them.

From the perspective of municipal officials and decision-makers, mechanisms of participatory governance:

- facilitate governing by helping them with identification of policy priorities based on citizen input
- enable officials and decision-makers to tap into the knowledge and expertise of civil society, local communities and other stakeholders that is needed for designing effective policies and measures
- enable formulation of solutions to local problems that are well targeted, responsive to the needs and concerns of the different citizen groups, and that deliver the highest value for money
- foster trust between local representatives and the population, which translates into electoral support and political clout to implement difficult and less popular decisions
- allow for a better use of municipal budgets and satisfaction of more demands on local public finances
- help allay fears of the local communities by allowing them to channel the fears towards positive actions such as sharing them in public meetings with the municipality, and avoiding negative social phenomena potentially resulting into public disturbances, tensions, unrest, criminal or violent actions, or taking of legal actions against municipal representatives
- enable municipal representatives to build strategic alliances and partnerships with external actors that make governing easier
- allow officials to win and maintain legitimacy among citizens
- enable citizens to develop understanding of the possibilities and constraints of the local government, thus softening potential unrealistic demands and expectations of citizens towards institutions
- create space for dialogue, mediation and peaceful resolution of conflicts between citizens and their representatives

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<sup>6</sup> Governance and Development Review, *Accountable Governance in the Age of Partnerships and Contracting Out*, 2002, available at <http://www.ids.ac.uk/gdr/re-views/review-15.html>

From the citizens' point of view, participation in local governance leads to:

- policies that respond to their needs and concerns
- provision of services that better matches the conditions of the community in which they live
- better and more efficient use of their resources collected through taxes and other local fees
- local representatives that citizens feel act in their interest
- better understanding of the possibilities and limits of local governments and more accurate expectations towards them
- sense of fulfilment as productive and valuable members of the society
- achieving concrete desired outcomes in matters of interest to them and steering the future and development of their communities in the preferred directions

However, a number of barriers may stand in the way of citizens effectively exercising their right to participate in the decision-making processes at the local level. Some of those applicable to the specific conditions of Northern Kosovo are the lack of publicly available information on the functioning of the municipalities, lack of political will to establish channels of regular communication with citizens, failure of municipalities to fulfil their legal obligations with regards to citizen engagement, institutional underdevelopment of newly established municipalities, lack of community confidence and capacity to advocate for their interests, and underdevelopment of municipal rules and frameworks on municipal transparency.

Many of these barriers can be eliminated through the fulfilment of legal obligations that are set out in a number of laws and legal acts adopted by the Assembly of Kosovo and other institutions. The next section reviews the applicable rules and offers guidelines for citizens for a full exercise of their rights with regards to their participation in the municipal public life.

## **MECHANISMS OF LOCAL PARTICIPATORY GOVERNANCE IN NORTHERN KOSOVO**

### **General Legal Framework**

The principles that lay the foundations for participatory governance in Kosovo's municipalities are enshrined in a number of general legal acts, including the Constitution of Kosovo and the Law on Local Self-Government. The Articles 40 and 41 of the Constitution of Kosovo guarantee the rights of citizens to access documents of public institutions and organs of state authorities, thus providing a legal basis for transparency of municipal bodies and their obligation to share information about their functioning with the citizens.

The Law on Local Self-Government sets out the rules governing the organisation and functioning of local governments. Specifically, Chapter IX of the law addresses direct democracy and citizen participation mechanisms in relation to the municipal institutions. It outlines the framework for citizen participation through access to public information and consultation, right of petition, citizens' initiative, referendum, recall of the Mayor and creation of consultative committees.

Furthermore, in addition to the standards spelled out by the Law on Local Self-Government (LLSG), every municipality has an obligation to adopt a statute that specifies in concrete terms the way and procedures for the citizens of the municipality to become engaged in matters of public interest and municipal decision-making. The rules and procedures have to be in line with the basic principles as stipulated both in the LLSG and the Constitution. In addition to the statute, municipalities are required to adopt a Regulation on Municipal Transparency (LLSG Article 68.4) and Regulation on Organising and Functioning of Consultative Committees in the municipalities.

The absence of a publicly available municipal statute in the Northern municipalities of Kosovo constitutes a fundamental hurdle to citizens being able to exercise their rights and to local institutions fulfilling their

responsibilities towards the citizens they serve. The basic precondition for citizen engagement in decision-making i.e. access to accurate, complete and easily accessible information, is not in place. This stands in the way of the more advanced forms of interaction, cooperation and engagement of citizens with municipal representatives on matters that affect the lives of communities. The additional legal documents deriving from the statute and the general legislation mentioned above are similarly not in place.

The following sections outline the purpose, legal basis and obstacles to effective implementation of the different mechanisms of participatory governance in municipalities foreseen by Kosovo's legislation.

## **Access to Public Information and Official Documents**

### **Purpose**

Availability of accurate, complete and easily accessible information on the functioning and developments in municipal governance is the necessary precondition for participation of citizens in the public life of the municipality. Without knowing what the municipal representatives are dealing with at any given point in time, citizens are unable to formulate their views and positions towards the current issues. In a similar vein, without information on the procedures for reaching out to, communicating and cooperating with municipal administrators, their views and needs cannot be channeled towards leaders who can act on them. The municipal data should primarily be seen as owned by the community and administered by officials who exercise their duty to maintain it for the use by the local population.

Access to official documents of the municipality enables citizens to hold local representatives and officials accountable for their actions when on public duty. It promotes transparency of legislative, executive and administrative bodies of municipalities.

It should be noted that ensuring full access to public information and official documents as prescribed by the law is only a foundation for municipal officials fulfilling their legal duty in terms of inclusion of citizens into decision-making processes, and they should in no way limit themselves in fulfilling all the other obligations as set out by law and presented later in this document.

### **Legal Basis**

There is a great volume of public information that municipalities should publish as per the related legal acts.

Firstly, based on Article 68.3 of the Law on Local Self-Government, municipalities have an obligation to inform citizens of any important plans or programs of public interest. Exact modalities related to the form, channel to be used or timing of the information are not specified in this law as it assigns the responsibility to define the rules to the Municipal Statute.

Another obligation of the municipalities arising from the law is the requirement to adopt "a municipal regulation promoting the transparency of the legislative, executive and administrative bodies of the municipality, enhancing the public participation in the decision-making at the local level, and facilitating the public access to official documents of the municipalities" (Art 68.4, LLSG). Additionally, the Administrative Instruction on the Web pages of Public Institutions defines the characteristics of web pages of public institutions, alongside the information they should contain, as well as the use of both official languages and English for their content.

The box below recounts the information that should be made available to the public by the municipalities as enshrined in the different legal acts.

In addition to the information made available by the municipality, “any person may inspect any document held by the Municipality”.<sup>7</sup> There are a number of exceptions specified in the Law on Access to Official Documents, in which case information can be withheld in order to protect legitimate interests of life or other legitimate private interests. Access to an official document can be denied if its disclosure undermines or may undermine: 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; state Economic, monetary and exchange policies; equality of parties in court procedure and efficient administration of justice; environment; and the deliberations within or between the public institutions concerning the examination of a matter. These exceptions can be overridden if there is an overriding public interest in disclosure.

The right of access to public documents is guaranteed by the Institution of Ombudsperson, to which citizens can turn if their right has been denied to them.

Box 1: Obligation of municipalities to publish information on municipal functioning

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<sup>7</sup> Law Nr. 03/L-040. ON LOCAL SELF GOVERNMENT, Article 68.5

Law on Access to Public Documents foresees financial penalties for institutions and officials who restrict the realisation of the rights of citizens to access public documents. This transgression is punishable with a fine ranging from 500 to 10.000 Euros.<sup>8</sup>

Publication of information by the municipality and access to public documents are related in so far as the more complete the information provided by the municipality about its functioning, programs and plans, the lesser the need for citizens to file requests for access to public documents. In order to minimise such number and limit the administrative burden that this poses, municipalities would be advised to make

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| <p>The website of the municipality should contain information on:</p> <ul style="list-style-type: none"> <li>- mission and functions of the municipality</li> <li>- organisational chart of the municipality</li> <li>- basic legislation on organisation, functioning and functions of the municipality</li> <li>- updated data on public activity of the municipality, data on policies</li> <li>- policy strategies and documents adopted by the municipality</li> <li>- detailed list of services rendered to public by the municipality, including the procedures and conditions for their acquisition, the necessary documentation and service cost</li> <li>- the application form for any service and guidelines how to fill it</li> <li>- mandatory time limit to receive a reply to requested service</li> <li>- time limit and the authority, where an appeal can be filed in case of rejection to reply or failing to render a service</li> <li>- date of the last update of the webpage</li> <li>- email address for communication with the public</li> <li>- decisions, conclusions, reports, and other documents of units of municipal administration (Law No. 03/L-215 on Access to Public Documents, Article 16)</li> <li>- address and phone number</li> <li>- organisational scheme</li> <li>- records of its operations</li> <li>- strategies and other documents</li> </ul> | <ul style="list-style-type: none"> <li>- CVs of senior managers</li> <li>- names, official phone numbers and e-mails of the heads of units</li> <li>- link for request to access to public documents</li> <li>- detailed list of services offered, including procedures, cost, required documentation, application forms and deadlines for receiving of requested services</li> <li>- working plans and records</li> <li>- budget and records on revenues and expenditures</li> </ul> <p>(Administrative Instruction on the Web Pages of Public Institutions, Article 7)</p> <p>Additional information that should be published by the municipality:</p> <ul style="list-style-type: none"> <li>- quarterly expenditure report</li> <li>- final budget reconciliation report of the municipal budget for the previous fiscal year and no later than March 31 of the current year</li> <li>- report of the Auditor General on the municipal budget for the previous fiscal year</li> </ul> <p>(Law No. 03/L-048 on Public Financial Management and Accountability, Articles 45.4, 46.2, 47.1)</p> <ul style="list-style-type: none"> <li>- municipal budget document</li> </ul> <p>(Administrative Instruction for Transparency in municipalities, Article 4)</p> |
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available maximum of the information they hold.

<sup>8</sup> Official Gazette of the Republic of Kosovo, Law No. 03/L-215 on Access to Public Documents, Article 27

Information may be presented in diverse formats, including the website, brochures and newsletters, municipal information board, local media, social media, fact-sheets, briefings, public information campaigns, municipal information counter and many other.

- applications need to be submitted to the public communications officer or unit in the municipality who accepts it and conducts an initial review
  - applications can be submitted in any form that allows the official to identify the requested document and do not have to provide reasons for which the document is sought
  - public communications officer or unit identifies the institution/body/department that should be in possession of the requested document
  - municipality is obliged to issue a decision on access to the document(s) within 7 days of receipt of the request, or to justify full or partial refusal in a written reply
  - in case of refusal, the applicant may within 15 days of the receipt of the response submit a request for review of the decision
  - request for re-examination of the issue should be reviewed within 7 days of registration of the request
  - rejection of the applicant's request and non-response are considered as negative responses
  - in case of rejection, the applicant has the right to turn to the Office of the Ombudsperson of the competent court
- (Administrative Instruction for Transparency in Municipalities, Article 8 and Law no. 03/L-215 on access to public documents)

Box 2: Procedure for requesting access to public documents

Obstacles to effective implementation in Northern Kosovo

- failure of the newly established municipalities to publish information required by law (as detailed in Box 1 above)
- absence of clearly identifiable public information officials or another body responsible for receiving and administering requests for public information and documents in the newly established municipalities
- limited public awareness of the rights and rules related to access to public documents

### **Municipal meetings and public consultations**

Purpose

The municipal meetings serve to ensure direct interaction between citizens and their municipal representatives. The legal requirement to hold at least two meetings each year is to guarantee a minimum standard for access to public decision and policy-making. They enable citizens to ask questions, discuss issues and propose solutions to matters of local concern. For the municipality, they are an avenue for sharing information of importance with the community and gather feedback on the direction in which the development of the municipality is headed.

The municipal meetings are thus a mechanism for safeguarding a certain, basic, level of public consultation at the local level. Further measures and mechanisms to involve citizens in the matters of the municipality through public consultations should be defined by the municipality in the municipal documents, above all the Municipal Statute. The municipal meetings are a form of public consultations that are prescribed by the law.

Public consultations constitute a deliberative form of citizen engagement - as opposed to public information, public polls or municipal elections all of which entail one-way communication, public consultations are two- and often multi-way exchanges between the public and municipal representatives, as well as among citizens. Public consultations enable policy and decision-makers to collect opinions, ideas and suggestions of citizens. They are a useful platform for gaining a deeper insight into the motivations, priorities, needs and concerns of the different parts of the public that drive their attitudes towards policies and measures. This is particularly important as the in-depth understanding is a foundation for designing policy solutions that respond to the needs of the maximum of citizens from different communities. Public consultations are also a useful tool for drawing on the grassroots knowledge of local communities, particularly for policies and decisions that affect them, when success of policies depends on the communities' acceptance and /or active involvement. Finally, public consultations serve as a space for sharing views among citizens and developing a convergent attitude towards the issues at hand.

Public consultations can take numerous forms, including: public hearings, citizens advisory groups and panels, focus groups, written consultations, conferences, workshops, interviews, street booths, online consultations and many others. In principle, the form of the consultations is not predetermined and should always be tailored to the circumstances - population affected, reachability of population, online literacy of citizens and access to internet etc.

### Legal basis

The legal basis for municipal meetings and public consultations can be found in article 68 of the Law on Local Self-Government.

Holding of public meetings is prescribed by the law; municipalities in Kosovo are required to hold a minimum of two public meetings every year. (LLSG Article 68.1) The meetings are open to anyone, individual or an organisation, 'with an interest in the municipality'. In order to ensure that anyone wishing to participate is informed about the opportunity to do so, the municipality should publicise the date and place of each meeting two weeks or more in advance of the meetings. It is the duty of the chairperson of the Municipal Assembly, through the municipal information officer, to inform the public of regular and extraordinary meetings of the Assembly through public announcements in the most frequented places, electronic and print media and the official municipal website.<sup>9</sup>

The law also stipulates that at least one of the two compulsory meetings takes place in the first six months of the year. However, as the municipality is likely to produce more than two documents or policies of public interest a year, the number of consultations should be higher. The chairperson of the Municipal Assembly is responsible for providing the necessary materials and securing the physical conditions for public participation in the place of the meeting.<sup>10</sup> The meetings should be attended by the Mayor, Chairperson of the Municipal Assembly, Heads of Directorates and other officials. Feedback and recommendations from the participating citizens should be recorded by the Director of Administration and reviewed by the Municipal Assembly no later than fifteen days after the meeting.<sup>11</sup>

Besides the two required municipal meetings, municipalities should also hold meetings on issues related to municipal budget, local economic development, use of municipal property, spatial planning, investments, municipal revenues.<sup>12</sup>

In addition to the municipal meetings, the municipality should also alert citizens to any "important plans or programs of public interest." Such plans or programs should be included in and regulated by the Municipal Statute of each municipality.

Finally, the law (LLSG Article 68.4) obliges the municipalities to adopt a regulation that promotes transparency of municipal legislative, executive and administrative bodies with a view to "enhancing the public participation in the decision-making." The ministry of local self-governance may also issue administrative instructions related to municipal transparency. (68.4)

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<sup>9</sup> Ministry of Local Government Administration, Administrative Instruction No. 05/2013 for Transparency in Municipalities

<sup>10</sup> Ministry of Local Government Administration, Administrative Instruction No. 05/2013 for Transparency in Municipalities

<sup>11</sup> Ibid., Article 6

<sup>12</sup> Ministry of Local Government Administration, Administrative Instruction No. 05/2013 for Transparency in Municipalities

## Obstacles to effective implementation in Northern Kosovo

- failure of municipal administrations to inform the public and fulfil the legal obligation to hold regular municipal meetings
- lack of dedicated human resources for ensuring engagement with citizens through public consultations
- reluctance of citizens to participate in public affairs of the municipality in the complex political environment of Northern Kosovo
- limited understanding of legal rights of citizens and obligations of municipalities by all stakeholders - municipal officials, civil society, citizens
- failure of municipal administrations to use cost-free modern technologies for communication with citizens, such websites and social media

## Open Assembly Meetings

### Purpose

Open meetings of the Municipal Assembly and its committees are an essential part of the participatory governance toolbox. They allow citizens, civil society and other interested parties to follow the Assembly sessions and monitor current developments, thus enabling them to make the important judgment on whether the Assembly and its elected members act in the interest of citizens and the community they represent. The openness of the municipal meetings also makes it possible for citizens to get acquainted with the workings of the Assembly, understand its internal legislative and decision-making processes and facilitate formulation of demands by the public in a way that is most likely to effect a tangible change on the decisions taken (e.g. how does agenda setting take place, what is the legislative cycle and how long is it, during which phases exerting influence on representatives has the greatest potential to yield the best results etc.). Besides exerting direct influence on the decisions adopted through diverse forms of advocacy, open Municipal Assembly meetings indirectly contribute to improving the quality of decision-making of the Assembly by making the deputies aware of the public scrutiny of their actions and representation of citizen interests. Finally, they enable voters to make more informed choices at the time of local elections by unveiling who does and who does not defend their interests in the Assembly.

### Legal basis

The legal basis for openness of meetings of Kosovo municipal assemblies can be found in Article 45 of the Law on Local Self-Government. According to the latter, meetings of the municipal assemblies as well as of all of their committees are open to public participation. The municipal assemblies are obliged by law to notify citizens of the municipality of the time of Assembly and committee sessions, at least seven working days in advance in the case of regular meetings and three working days in the case of extraordinary meetings. Under certain circumstances, the Assembly can exclude the public from the whole meeting or its part, namely if keeping the meeting accessible to the citizens "might lead to public disorder or violence, would threaten to disclose information disclosure of which is restricted in accordance with the Law on Access to Official Documents, would threaten to disclose personally or commercially sensitive information, or would threaten to disclose information about actual or imminent court proceedings." The Assembly should inform the public if such a situation occurs.

## Obstacles to effective implementation in Northern Kosovo

- reluctance of citizens and lack of awareness of the Municipal Assembly meetings being open to the public

- lack of coordination among civil society organisations in monitoring the work of the assemblies in specific expert areas and lack of citizen-friendly output that could be utilised for mobilisation of citizens on specific issues

## **Consultative Committees**

### **Purpose**

The consultative committees are another mechanism that policy- and decision-makers have at their disposal for enabling citizens to participate and contribute to municipal development and tackling of local issues. They usually pool representatives of diverse groups who have specialised knowledge, special interest or community credibility to contribute to the resolution of a particular matter of public significance. Consultative committees are particularly useful when the municipality lacks human resources and expertise to adequately address a local problem and when consensus among main stakeholders needs to be achieved in order to allow for a successful implementation of a policy.

For work of consultative committees to bear fruit, the municipal officials need to share ample information on the issue at hand so as to create the necessary conditions for meaningful engagement of citizens.

### **Legal basis**

The Municipal Assembly is responsible for the establishment of consultative committees in order to enable citizens to partake in the decision-making process (Article 73.1 LLSG). The committees can be set up in different areas covering the work of the Assembly and should include citizens and members of local civil society. The consultative committees are designed to foster interaction between the public and the municipal leadership, through the conduct of research, communication of opinions and submission of proposals on Municipal Assembly initiatives. Membership in consultative committees is reserved for citizens and civil society representatives. The precise modalities of the functioning of the consultative committees should be defined by the Municipal Statute.

### **Obstacles to effective implementation in Northern Kosovo**

- lack of information and clarity on the existence and functioning of Assembly committees in the newly established municipalities
- reluctance of municipal officials to interact with and receive feedback from citizens and civil society
- limited understanding of and willingness to enforce the requirements of the Kosovo's Law on Local Self-Government
- lack of coordination and pooling of expertise and effort of civil society organisations on specific issues
- reluctance of citizens to participate in public affairs

## **Right of petition**

### **Purpose**

The right of petition enables citizens to take public decision-making into their own hands by drafting and submitting a concrete proposal for consideration by the Municipal Assembly. As opposed to the consultative committees, this mechanism of participatory governance does not depend on the decision by the Assembly, but should be an expression of a wider societal demand. The right of petition allows to channel a strong public interest towards decision-makers.

## Legal basis

The right of petition in municipalities is regulated by Article 69 of the Law on Local Self-Government. Any person or organisation which has an interest in the municipality has the right to present a petition to the municipal assembly regarding any matter that is related to municipal competencies. The petition should be considered by the municipal assembly in accordance with municipal statute and rules of procedure, which further determine the modalities of application of the right of petition in municipalities.

### Obstacles to effective implementation in Northern Kosovo

- lack of publicly available municipal statute that sets out clear rules governing the application of the right of petition in municipalities
- reluctance of citizens to publicly participate in addressing issues of the newly established municipalities
- lack of clarity regarding the functioning of the Municipal Assembly
- limited coordination and pooling of resources among civil society organisations on particular issues

## Citizens' initiative

### Purpose

Similarly as in the case of right of petition, the citizens' initiative is a mechanism of participatory governance that enables expression of the collective demand of citizens in regards to a particular issue. As it entails submission of a proposal of a municipal regulation, it requires preliminary discussions on the issue among the public. Citizens' initiative thus requires and encourages interaction between citizens and a certain degree of consensus-building.

### Legal basis

Citizens of municipalities can propose new regulations to be adopted by a citizen vote or by the Municipal Assembly, if they fall within the latter's competencies.<sup>13</sup> Citizens should submit the draft proposal of the new regulation to the Chairperson of the Municipal Assembly, signed by at least 15% of the registered voters. The Municipal Assembly has up to 60 days to consider the proposed regulation.

### Obstacles to effective implementation in Northern Kosovo

- reluctance of citizens to publicly participate in addressing issues of the newly established municipalities
- lack of clarity regarding the functioning of the Municipal Assembly
- limited coordination and pooling of resources among civil society organisations on particular issues

## Referendum

### Purpose

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<sup>13</sup> Law Nr. 03/L-040, ON LOCAL SELF GOVERNMENT Article 70.1

Referendum is a mechanism of citizen participation intended for special circumstances, such as questions that affect the future of the municipality. It allows citizens to decisively shape the development of municipal governance within the given municipality.

#### Legal basis

According to article 71 of the Law on Local Self-Government, “the citizens of a municipality may request that a regulation of the Municipal Assembly adopted by the Municipal Assembly, be submitted to a referendum by the citizens”. The request signed by a minimum of 10% of voters should be submitted within 30 days of the adoption of the regulation to the Municipal Assembly’s Chairperson. The municipal assembly is obliged to consider and act upon the request no later than 30 days since the receipt of a valid petition.

#### Obstacles to effective implementation in Northern Kosovo

- reluctance of citizens to publicly participate in addressing issues of the newly established municipalities
- lack of clarity regarding the functioning of the Municipal Assembly
- limited coordination and pooling of resources among civil society organisations on particular issues in order to encourage wider community mobilisation

### **Recall of the Mayor**

#### Purpose

Similarly to the right of petition, citizens’ initiative and referendum, the possibility to recall a municipal mayor constitutes an instrument of direct democracy. It allows citizens to make a decisive intervention into the very leadership of the municipality, thereby exercising a strong influence over the future of decision-making. The recall of the mayor is typically intended to be used in situations of serious doubts that the mayor is no longer capable of leading the municipality in a way that serves the interests of the citizens.

#### Legal basis

The basic rules for the removal of the mayor are enshrined in Article 72 of the Law on Local Self-Government. Citizens can submit a request for the removal of the mayor to the Chairperson of the Municipal Assembly, that must be signed by a minimum of 20% of registered voters. The Chairperson then refers the request to the institutions responsible for voting administration. The mayor is removed if he/she receives less than 50% of the votes, which is followed by new mayoral elections.

#### Obstacles to effective implementation in Northern Kosovo

- low levels of citizen engagement with the newly created municipal institutions
- reluctance of citizens to participate in politically oriented actions due to the particular political environment and potential repercussions for their employment opportunities
- limited potential for citizen mobilisation against municipal leadership that is seen as Belgrade’s representative

## RECOMMENDATIONS

Given the complex political environment, many of the mechanisms aimed at ensuring participation of citizens in local level decision-making processes are not functional in the municipalities of Northern Kosovo.

In order to move towards fulfilling the legal requirements set out by the Kosovo legislation in relation to citizen engagement and to enable citizens to maintain meaningful interaction with their municipal representatives, it is recommended that:

- municipalities adopt the Municipal Regulation for Transparency as prescribed by the law, accompanied by the Action Plans for Transparency
- municipalities publish their municipal statutes that contain further details on modalities and rules of procedure for some of the mechanisms of participatory governance
- municipalities appoint a public information officer who will act as a contact point for all interactions with regards to citizen participation in decision-making i.e. receiving and processing requests for official documents, receiving feedback from citizens and CSOs on different policy issues, disseminating information on municipal meetings, assembly sessions, public consultation activities, monitoring the content of the municipal webpage and ensuring it is up-to-date and complete as per the applicable legislation etc.
- municipalities fill the gap in their expertise, human, technical and professional resources, by establishing regular cooperation with civil society organisations and effectively outsourcing initial phases of policy formulation to those specialised in the given fields
- municipalities leverage the use of new technologies to reach out to the highest possible number of citizens in an effective and efficient way without budgetary repercussions
- civil society representatives educate themselves on the principles of participatory governance as laid out in this document, as well as on the legal and other remedies that exist to correct the failure of municipalities to cooperate (e.g. submitting a decision to end access to public documents for review to the Ombudsperson of Kosovo)
- civil society organisations in Northern Kosovo create a joint working and advocacy group for improving the functioning of municipal mechanisms for participatory governance
- civil society establishes an alternative online platform for citizen interaction and participation so as to gradually build culture of participation among the citizenry, with the ultimate goal of eventually transferring the platform to the municipalities
- civil society organisations from the North work on building trust with local institutions, emphasising the benefits for institutions from civil society input
- civil society increases its capacities so as to be able to actively contribute to the drafting of legislation, regulations and strategies



- civil society organisations offer assistance to the municipal administrations in activities contributing to meeting the obligations related to citizen participation as specified by the law
- civil society disseminates information about the possibilities to influence decisions taken at the municipal level