



**KCSS**  
Kosovar Centre for Security Studies

# Job Security in Civil Society Organizations in Kosovo: Implementation of Labour Legislation



BALKAN  
CIVIL  
SOCIETY  
DEVELOPMENT  
NETWORK





# **Job Security in Civil Society Organizations in Kosovo: Implementation of Labour Legislation**



This publication was supported by  
the Balkan Civil Society Development Network (BCSDN).

**Publisher:**

Kosovar Center for Security Studies

**Author:**

Donika Marku and Valëza Mjeku

**Editor:**

Donika Emini

**Internal review:**

Florian Qehaja and Mentor Vrajolli

**Peer review:**

Shpend Kursani

December , 2015

---

© All rights reserved by Kosovar Centre for Security Studies. Intellectual property rights are protected under the Law on Copyright and Related Rights 2011/04-L-065

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical or otherwise, without prior permission of the publisher.

The views expressed in this study are those of the Kosovar Centre for Security Studies and do not necessarily represent the views of its donors and partners.

The views expressed in this study are those of the Kosovar Center for Security Studies and do not necessarily represent the views of the Balkan Civil Society Development Network (BCSDN).

---

# CONTENTS

---

|                                                                                                                   |    |
|-------------------------------------------------------------------------------------------------------------------|----|
| LIST OF ABBREVIATIONS.....                                                                                        | 6  |
| 1. EXECUTIVE SUMMARY .....                                                                                        | 7  |
| 2. METHODOLOGY.....                                                                                               | 8  |
| 3. INTRODUCTION.....                                                                                              | 9  |
| 4. A COMPARATIVE ANALYSIS OF THE LEGAL DEFINITION REGARDING CSOS: CASES OF KOSOVO AND SLOVAKIA .....              | 10 |
| 4.1 Comparing the Key Aspects of Legal Framework in Kosovo and Slovakia .....                                     | 11 |
| 4.2 CSO income, donations and taxes – “know how” from the case of Slovakia.....                                   | 14 |
| 5. IMPLEMENTATION OF CURRENT LEGAL FRAMEWORK – IN THE CASE OF KOSOVO .....                                        | 15 |
| 6. ELABORATION OF CHALLENGES OF CSO EMPLOYEES BASED ON SURVEY CONDUCTED CIVIL SOCIETY ACTIVISTS .....             | 16 |
| 6.2 Challenges to Law Enforcement .....                                                                           | 17 |
| 6.3 Maternity leave: challenges in the implementation of the law on labour in the CSO sector .....                | 17 |
| 7. WHAT IS THE FUTURE? ALTERNATIVES FOR BETTER INVOLVEMENT OF CIVIL SOCIETY IN THE LEGAL FRAMEWORK IN KOSOVO..... | 19 |
| 8. CONCLUSIONS AND POLICY RECOMMENDATIONS .....                                                                   | 21 |
| BIBLIOGRAPHY .....                                                                                                | 22 |

---

## LIST OF ABBREVIATIONS

---

- CSOs** Civil Society Organizations
- KCSS** Kosovar Center for Security Studies
- NGOs** Non Governmental Organizations
- KCGS** Kosovar Center for Gender Studies
- KCSF** Kosovar Civil Society Foundation
- LFAN** Law on Freedom of Association, Non-Governmental Organizations

---

## 1. EXECUTIVE SUMMARY

---

Civil Society in Kosovo has been developed in the past fifteen years. Starting from scratch, this sector has been mainly a project led by the international community. Consequently, foreign donors are one of the biggest financial supporters for Kosovo's civil society organizations (CSOs), contributing around 74 percent of the total funds that go to the CSOs<sup>1</sup> (KCSF, 2013). Being a recently developed sector, the legal framework regulating the structure, work and other relevant details is still being put in place.

A sector financed mainly by the international donors and based on projects has been a centre of debate mainly focused on the sustainability of the CSOs in Kosovo, and the persons working in this sector. Job consistency and security became the most crucial challenges facing the CSO sector in Kosovo, mainly those related to medical leave, maternity leave and payment of inactive staff due to the tight budget planning and workload planned within the organization. As the survey conducted for the purpose of this project show, almost half of the CSOs in Kosovo believe that the foreign donors are not flexible enough in budget allocation, and the required standards of reporting, since the strict rules they apply allow little room to support the staff that need to be on maternity leave, for instance. The local donors are perceived by the CSOs even as more inflexible. Accordingly, 45 percent of the organizations perceive the implementation of the Law on Labour in such instances to be quite challenging.

Nonetheless, this has not led to any particular breach of job contracts, working hours, and payment – issues that are the main concern in Kosovo's labour market. Nevertheless, issues such as the maternity leave for many CSO employees have remained a challenge given that the donor inflexibility has led to job inflexibility as well. Many women are 'forced' to 'voluntarily' leave their job due to lack of funds. Negotiating with the donors about potential extra funds to cover for the employees on maternity leave and the additional labour to substitute those on maternity leave is perceived as challenging, since most of the CSOs fear of being rejected. This happens, especially when applying for new projects, in which the maternity leave has to be planned, due to fear that the donor might reject such applications with the possibility of the potential funds to go to other CSOs. Henceforth, in order to respect the Law on Labour, the CSOs have to find creative, and many times cumbersome, ways to cover for such gaps. These include: (i) using or creating a reserve fund; (ii) dividing the workload between other employees in order to avoid hiring additional staff; (iii) covering the workload using internships, and so on. This affects CSO negatively both in terms of the quality of work, as well as administratively.

---

1 Kosovo's local and central public institutions funds provided for the CSOs activities represent around 20 percent of the total of what they receive.

---

## 2. METHODOLOGY

---

The research for the purposes of this paper has used a combination of qualitative and quantitative methods amalgamated into 'tailored' methodology for the purpose of analysing the treatment of the CSOs in the current legal framework. Moreover, it has also included the review of current policy documents, laws, policies, strategies, and regulations in Kosovo and Slovakia. Furthermore, interviews have been conducted with a number of decision and policy makers, relevant experts in the field, and members of the CSOs in Kosovo.

An online survey has also been employed in order to get the view of larger number of CSOs, at least, and especially in some key areas that this research has covered. The survey's questionnaire consisted of 16 questions with 14 multiple choice questions, and 2 open ended questions. The survey stayed active online for a period of 30 days, starting from 10 of August to 9 of September. The targeted sample included the list of NGOs under the "CiviKos Platform<sup>2</sup>" and those that were found in the Ministry of Public Administration database of CSOs in Kosovo. The survey was sent to 150 CSOs existent in the CiviKos database, there were 35 responses to the online survey, or in other words around 5% of the CSOs have participated in the survey. The nature of the questions in the online survey included those relating to the organization itself and its structure, questions related to Law on Labour, unions and status of workers in Kosovo's CSOs.

The paper is divided in two parts; the first part covering the assessment of the legal framework, with particular focus on Law on Labour and as it relates to the CSOs. The second part of this paper analyses the challenges in the implementation process of the legal framework. Furthermore, the paper takes a comparative turn, and provides a comparative analysis between the case of Kosovo and that of Slovakia, with particular focus on the CSOs treatment within their respective Laws on Labour and regulations on Maternity Leave. The case of Slovakia has been selected for the following reasons: (i) Slovakia is considered to have a developed Law on Labour and maternity leave, moreover it would be a tangible model for Kosovo; (ii) the CSOs in Slovakia are mostly financed by public funds; (iii) it has an optional tax which allows corporations, various domestic legal entities, and individuals to donate up to 2 percent of their monthly income to the CSOs in form of donations (similarly to some countries when the certain amount of money goes for charity or religious institutions). In the end, this paper concludes with some recommendations in order to properly address these issues and find some way forward for the CSOs in Kosovo.

---

2 CiviKos was supported by the Kosovo Foundation for Open Society (KFOS), and followed with the participation of many CSO members and government officials, this initiative was officially launched in July 2007. CiviKos Platform currently has a membership of 150 organizations of which is constantly growing. CiviKos also has well established Rules of Procedure for the implementation of activities, CiviKos Strategy, Code of Conduct, and other documents that are relevant to the mission and work of the Platform. For the purpose of this research we will use only "CiviKos".



---

### 3. INTRODUCTION

---

This report aims to analyse how the civil society sector works based on the broad human security concept. Respectively, it aims to analyse sustainability of the engagement of civil society based on how secure the civil society activists feel for their job position and which is its impact for consistency in their work.

Hence, the report aims to present the key findings on job security in the civil society sector in Kosovo. Law on Labour and development of civil society sector in Kosovo have been listed as priority by the EU Commission in Kosovo. The latest country report on Kosovo in 2015 shows that there is a serious challenge in implementing the current legal framework tackling the labour rights in Kosovo. In spite of lack of implementation the law should also be implemented properly, and the mechanism to implement and oversee the implementation of this law should be increased. Moreover, one of the key recommendations in relation to the civil society development was *“Public funding for civil society organisations has to be provided in a transparent way using clearly defined criteria”* (Country Report 2015, Kosovo, EU Commission).

The correlation between the Law on Labour and the civil society development is of crucial importance as the law does regulate the public and private sector, one raises the question in which one of these falls the civil society sector? It is indeed known that this sector in Kosovo has been developed by the international community, and has been mainly promoted by international donors. Hence, this sector has been mainly regulated by the rules set up by the donors instead of the legal framework in Kosovo.

The control posed by the donors has improved the regulation of working contracts and payments, nevertheless it did not regulate internal issues such as maternity leave, treatment of employees in this sector, and other important issues related to this sector. As research has shown, maternity leave represents one of the key challenges to the CSOs and job security for the workers in this sector, as it will be elaborated in the paper.

---

## 4. A COMPARATIVE ANALYSIS OF THE LEGAL DEFINITION REGARDING CSOS: CASES OF KOSOVO AND SLOVAKIA

---

The non-governmental sector in Kosovo is regulated by the Kosovo Law on Freedom of Association, Non-Governmental Organizations (LFAN)<sup>3</sup>. It should be noted, however, that this Law does not regulate the status of employees or activists working in this sector; it solely deals with regulating the mandate of non-governmental organizations as legal persons, their establishment, and their scope of involvement. The regulation of the status employees is regulated with another law, which is the Law on Labour. As it is provided in its general provisions, the purpose of the LFAN is to regulate the establishment of CSOs, their organization, their internal functioning, and their public benefit status. The LFAN also regulates the financial reporting, suspension, termination, and cancellation of the CSOs, as well as the cooperation between and support of CSOs.

Among the most crucial aspects regulated by this law is the freedom of association in non-governmental organizations (Law No. 03/L-134 .Art. 1). According to the Article 3 of the Law, every person shall enjoy the right to association and to establish an NGO; however, it also states that no person may be forced to be a part of the organization unwillingly or involuntarily and no person shall be discriminated against because of their decision to associate or not to associate (Ibid, Art.3).

According to this law, the work of an NGO can be extinguished with a voluntary decision by its highest governing body in accordance with its statute. An NGO legally stops working also in other cases; for instance, when the NGO becomes insolvent as defined by applicable law or when the deadline for which it is established is over. Another case when the competent body does not recognize the NGO is when the organization fails to submit the annual declaration or statement (ibid, Art.5).

The Slovak Republic distinguishes four primary forms of non-governmental organizations: (i) Associations; (ii) Foundations (iii) Non-Investment Funds; and (iv) Non-for-Profit Organizations Providing Publicity Beneficial Services. An organization can be created by citizens to pursue common interest. One or even more citizens are required to found an organization and the organization's membership may include legal entities. No limitations are placed on the ability of foreign natural or legal persons to participate as members of organizations (Labour Code, Act No. 311/2001 Collection of Laws – “Coll.”, 2011).

---

3 Law No. 03/L-134 adopted by the Parliament, been in force since 29 August 2011, in support of the article 65 (1) and the article 44 (1) of the Constitution of the Republic of Kosovo, concerning the freedom of association

## 4.1 Comparing the Key Aspects of Legal Framework in Kosovo and Slovakia

In the case of Kosovo, the labour contract represents an individual act concluded between the employer and the employee in order to regulate the rights, duties, and responsibilities deriving from employment relationship in compliance with this Law, Collective Contract, and the Employer's Internal Act (Employment Contract derived from Law on Labour No. 03/L-212, Art 10). A contract for a fixed period may not be concluded for a cumulative period of more than ten (10) years (Ibid, Art 11). A contract for a fixed period of time that is expressly or tacitly renewed for a continued period of employment of more than ten (10) years shall be deemed to be a contract for an indefinite period of time. A contract for a specified task may not be longer than one hundred and twenty (120) days within a year. A person who has concluded an employment contract for a fixed term or a specified task has all the rights and duties stipulated in this Law, except where it is foreseen otherwise by Law (Ibid, Art 10). The employee for specific task does not enjoy the right to annual leave and other rights stipulated in the Collective Contract and Employment Contract. Moreover, the Collective Contract and the Employer's Internal Act define the cases of establishment of employment relationship with the employee for definite task and period of time in accordance with the Law on Labour (Ibid, Art 11).

In the case of Slovakia, the amendment of the Law on Labour continues to be at the top of the agenda. One good example of the developments in Law on Labour legislation in the last 10 years is the legal regulation of the fixed-term labour contract, its duration, and the possibility of further extensions or renewals of such contracts (Labour Code Act 311/2001, Art 47-48). Until 28 February 2010, a fixed-term employment relationship could last, at most, three years. After 1 March 2010, a fixed-term employment relationship could last, at most, two years and could not be extended or renewed more than twice within that two-year period. Since 1 September 2011, fixed-term contracts were, once again, fixed back to three years term. Accordingly, Article 48/2 of Slovakia's Law on Labour states that, a fixed-term employment relationship may last, at most, three years. A fixed-term employment relationship may be extended or renewed, at most, three times within the three-year period (Ibid, 48). The proposal for the new regulation is that a fixed-term employment relationship can last, at most, two years and cannot be extended or renewed more than twice within that two-year period.

| Republic of Kosovo<br><b>Law No.03/L –212 On Labour</b><br><b>Article 49 - Maternity Leave</b>                                                                                                                                                                                                                                                                                                               | Slovak Republic<br><b>Law No. 311/2001 – On Labour</b><br><b>Part Seven - Maternity Leave</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. An employed woman is entitled to twelve (12) months of maternity leave. The couple can decide whether on the paternity leave.</p>                                                                                                                                                                                                                                                                      | <p>1. In connection with the childbirth and care for a new born child, the woman shall be entitled to maternity leave for the duration of 34 weeks. A single woman shall be entitled to maternity leave for the duration of 37 weeks, and a woman who gave birth to two or more children simultaneously shall be entitled to maternity leave for the duration of 43 weeks. In connection with the care for a new born child, the man shall also be entitled to parental leave from the birth of the child, in the same scope, provided he cares for the new born child.</p> |
| <p>2. Upon presenting a medical certificate, the woman may commence the maternity leave for up to forty-five (45) days before the expected date of birth. In the period from twentyeight (28) days before expected childbirth, the employer, with consent of the pregnant women, may request her to begin the maternity leave if the employer finds that the woman is not able to perform her functions.</p> | <p>2. To deepen the care for the child the employer shall be obliged to provide a woman or a man upon their request with parental leave until the day the child turns three years old. Where a child with long-term unfavourable health state is involved requiring special care, the employer shall be obliged to provide the woman and the man, upon their request, with parental leave until the day the child turns six years old. This leave shall be provided for the length requested by the parent, as a rule for not less than one month.</p>                      |
| <p>3. For the first six (6) months of maternity leave, the payment shall be done by the employer with the compensation of seventy (70) percent of basic salary.</p>                                                                                                                                                                                                                                          | <p>3. The parents/ spouses shall give their employer at least one month notice in advance of the expected date of proceeding on maternity leave and parental leave, the expected date of suspension, termination and any changes regarding proceeding on, suspension, and termination of maternity leave and parental leave.</p>                                                                                                                                                                                                                                            |
| <p>4. The following three (3) months, the maternity leave shall be paid by the Government of Kosovo with the compensation of fifty percent (50) percent of the average salary in Kosovo.</p>                                                                                                                                                                                                                 | <p>4. An employer may agree with an employee that parental leave pursuant to paragraph (2) can be provided at most until the child's fifth birthday and, in the case of a child with a long term unfavourable health condition requiring individual care, until the child's eighth birthday, and in an extent not exceeding the undrawn part of leave of the period specified in paragraph (2).</p>                                                                                                                                                                         |
| <p>5. The employed woman shall have the right, according to this Law, to extend her maternity leave also for another three (3) months without being entitled to any payments.</p>                                                                                                                                                                                                                            | <p>§167<br/>1. In general, a woman shall commence maternity leave at the beginning of the sixth week prior to the expected day of childbirth, at the earliest from the beginning of the eighth week prior to such a day.</p>                                                                                                                                                                                                                                                                                                                                                |

|                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>6. If the puerperal does not want to use the right in maternity leave from paragraph 4 and 5 of this Article, they shall notify the employer at latest fifteen (15) days before the end of the leave, from paragraph 3 of this Article.</p> | <p>2. If a woman has drawn less than six weeks from maternity leave prior to giving birth, for reason of the birth occurring earlier than was determined by a physician, she shall be entitled to maternity leave from the day of commencement up to expiry of the period as stipulated in § 166, paragraph (1). If a woman has drawn less than six weeks of her maternity leave before confinement for another reason, she shall be provided maternity leave from the day of confinement until the completion of 28 weeks; a lone woman shall be provided maternity leave until the completion of 31 weeks and a woman that has given birth to two and more children simultaneously shall be provided maternity leave until the completion of 37 weeks.</p>                                                                                                                                                                                                                                                                                        |
| <p>7. The father of the child may assume the rights of the mother if the mother dies or abandons the child before the end of the maternity leave.</p>                                                                                          | <p>§168</p> <p>1. If for reasons of health a child was taken into the care of a nursing institution or other treatment establishment, and the female and male employee in the meantime appears to work, maternity leave and parental leave shall be interrupted by such, at the earliest from expiration of the sixth week following the day of childbirth. The woman and man shall be provided with the undrawn part of maternity leave and parental leave commencing from the day they take the child from the institution back into their own care and therefore stops working, not however longer than to the child's three years of age.</p>                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>8. The rights from paragraph 4 and 5 of this Article may be conveyed to the father of the child in agreement with the mother.</p>                                                                                                           | <p>woman and a man who have stopped caring for a new born child and whose child for such a reason was taken into care surrogating the care of parents, likewise a woman or man whose child is in the temporary care of a foster home or similar institution for reasons other than health, shall not be entitled to maternity leave and parental leave for the period during which they do not care for the child.</p> <p>If a child is born dead, a woman shall be entitled to maternity leave for a period of 14 weeks.</p> <p>Maternity leave in connection with childbirth may never be shorter than 14 weeks and may not in any case whatsoever be terminated or interrupted prior to the elapse of the sixth week from the day of giving birth.</p> <p>If a child dies in the period when a woman is on maternity leave or a woman or man on parental leave, they shall be provided such leave for a further two weeks from the day of the child's death, at the longest till the time when the child would have reached one year of age.</p> |

## 4.2 CSO income, donations and taxes – “know how” from the case of Slovakia

Since 2004, laws regulating the civil society sector in Slovakia have undergone significant changes, mainly in how they regulate the finances, taxes, and donations for the CSOs. The CSOs income from donations and inheritance is generally exempt from income tax. Other income from statutory activities, including membership fees, is also generally exempt. After the financial reform, grants covered by international agreements that are binding on the Slovak Republic are also exempt from income tax (USAID, 2012, p 1-3).

Certain CSOs are generally exempt from tax on donations, including those whose statutory activities relate to health care, humanitarian assistance, social care, protection of environment etc. Although taxpayers generally cannot deduct their donations to the CSOs, natural and legal persons assign up to 2percent of their income tax to certain CSOs engaging in activities that are beneficial to the publicly (USAID, 2014, p 191-192). The Law on Income Tax in Slovakia provides donors with deductions for donations to qualifying CSOs, through a special procedure set forth in Section 50 of the law. The special procedure allows every natural or legal person resident in Slovakia to allocate part of their paid income tax directly to one or more CSOs of their choice (Labour Code Act 311/2001, Art 50).

For natural persons, the donor allocations to a particular NGO may be increased to up to 3 percent of the paid tax if he or she can prove that he or she has been involved in voluntary work for more than 40 hours during the tax period. Similarly, a legal person is generally limited to allocating 1.5 percent of its paid tax, but may allocate up to 2 percent if it can prove that it donated to CSOs an amount equal to or more than 5percent of its paid tax to CSOs during the tax period. It is worth mentioning that an NGO may not be established for the primary purpose of carrying out economic activities (Council on Foundations, 2015, p 14).

---

## 5. IMPLEMENTATION OF CURRENT LEGAL FRAMEWORK – IN THE CASE OF KOSOVO

---

As the research shows that legal gaps and non-treatment of the CSO sector particularly have seriously challenged implementation of Law on Labour, especially regarding the maternity leave in Kosovo. Operating based on projects, without the support from the public funds, the CSOs in Kosovo have limited capacities to guarantee payment during maternity, medical leave or the payment of inactive persons within the organization. Henceforth, job security for the workers in this sector remains one of the main debates among CSOs in Kosovo.

Financial wise, Kosovo continues to be heavily relied on the foreign donors who continue to remain the only reliable financial source which enables civil society to exercise its mandate independently. However, as has been witnessed in the other countries in the region over the past few years the international funding of civil society has been shrinking rapidly. As a result, the search for alternative funding has become the main topic of the civil society sector. However, the only reliable alternative funding which has been identified by the international community is the state itself.

In Kosovo the funds provided by public funds to the civil society sector continue to remain very low. What makes the situation further problematic is that there are no mechanisms either which guarantee impartial granting by Governmental institutions. On the contrary, CSOs which are being funded by Governmental funds continue to be labelled as political affiliation. Therefore in order to keep their impartiality the CSOs continue to avoid being funded by public funds. There are some serious attempts from CSOs which are attempting to improve the situation when it comes to funding of the civil society sector. One of such initiatives is also CiviKos. However, this platform is still in the negotiation stage with the Governmental institutions about the best modalities which are going to adopt and which are going to guarantee impartial funding for civil society.

Hence, in order to develop a sustainable civil society sector, the report finds out that there is a need for various improvements in the civil society sector. These changes should include the change of legislation, including the law on labour which should include specific provisions that reflect the situation of employees in the civil society sector. However, they should also include structural ones, which means that new well-defined funding mechanisms should be established in order to provide domestic long-term financial sustainability to CSOs.

---

## 6. ELABORATION OF CHALLENGES OF CSO EMPLOYEES BASED ON SURVEY CONDUCTED CIVIL SOCIETY ACTIVISTS

---

To further understand the structure, donations, financial aspects of the CSOs in Kosovo, and challenges in working mainly on project based and comply with the legal framework, the KCSS, with the support of the CiviKos has conducted an online survey. Furthermore, the aim of the survey was to understand whether the CSOs share the same challenges with regards to the implementation of the Law on Labour, and whether the changes in the current law, more specifically the treatment of the CSOs should be put into the agenda. The online survey was conducted in order to gain more information from a larger number of CSOs in Kosovo. The survey aimed at looking how the CSOs in Kosovo believe they are treated within the Law on Labour and employment programs, what the difficulties and problems were while working in this sector and finally, their ideas on how to improve these problems of the sector.

To find out more information regarding particular organization's structure, the CSOs were asked to provide the number of workers divided by gender. The results show that 42percent of CSOs which participated in the survey, have reported to have from 2 to 5 workers. Correspondingly, the sector is mainly dominated by small organizations, which implies more challenges in financial sustainability; hence, less ability to pay the inactive workers such as those who are in the maternity leave. The CSOs with 5 to 15 employees make up to 30 percent of the sector; however, around 12 percent of the CSOs are found to have more than 20 employees. The average percentage of female workers in this sector is 27.5 percent though; almost half of the CSOs whom participated in the survey stated to have 10-25 percent of female employees. According to the survey's results, around 25 percent of the organizations have around 10-25 percent of female employees. Unfortunately, there is a problem with not having a much updated database of the current CSOs operating in Kosovo, since it makes it impossible to identify the exact number of CSOs in Kosovo, especially the active ones, along with the total number of their employees and the number of female employees (Demolli, 2015).

The results of the survey show that the sector is mainly supported by the foreign donors which represent the biggest financial support to Kosovo's CSOs. When asked about the biggest financial source, around 74 percent of funds come from foreign donors; followed by local and central institutions which provide around 20percent of civil society funds in Kosovo. On the other hand, only 0.2 percent of CSO funds are provided from the organizations' own funding themselves (KCSF, 2013). CSO's employees are paid from the donors according to their work on specific projects to the donor who either commissioned or contracted the project and the moment the project ends their payment ends too. So there is an aspect of sustainability. In addition to this, the majority of CSOs have difficulties paying any employee not working actively in a particular project due to the nature of the contracts which are signed on project basis a not on more long term basis. This leads to CSOs being unable to guarantee the rights of the employed women who might need maternity leave (KCSF, 2013), or inactive employees unable to work due to medical problems.



Almost half of the surveyed CSOs believe that the foreign donors are the main funding source which guarantees sustainability when it comes to the long-term employment in this sector including planning the maternity leave. In contrast, only a small percentage (12 percent) see the foreign donors as being flexible in their budget planning when it comes to maternity leave. The sector perceives even higher inflexibility when it comes to local donors. Four out of 7 surveyed CSOs have responded that they see local donors as inflexible and not giving space to inactive staff within the organization in their budget planning. Only 6 percent of the respondents expressed that the local donors are flexible as required. The low percentage of flexibility of the foreign donors shows that the CSOs in Kosovo do not see “negotiations” with the donors as a solution to this situation, donors in most of the cases have their own regulations in the project finances whilst leave a rather small portion of the budget for human resources.

As there is a little chance that such challenges will be solved by the donors, the CSOs in Kosovo sought solutions within the amendments and special categorization within the Law on Labour. When asked if they consider that the challenges of the civil society must be addressed specifically within labour legislation, due to their specific character, funding and objectives, around 45 percent of the surveyed CSOs considered as a positive alternative. Whereas, one in five surveyed organizations believed that the existing legal framework only partially supports the work of civil society in Kosovo. However, 12 percent of the respondents stated that they think that the existing legal framework fully supports the work of civil society in Kosovo. On the other hand, 66 percent of the surveyed organizations believe that the development of civil society is not being supported by the government employment programs whilst 9 percent see the government as supportive to the civil society.

## 6.2 Challenges to Law Enforcement

The Law on Labour in Kosovo has been a debatable issue for a long time. The implementation of the law has been challenging for the private sector and for the CSOs, while the public sector was not reported to face challenges in this regard (Representative from MOL). Around 50 percent of the surveyed CSOs reported to think that the implementation of the current Law on Labour is being challenged in the sector of civil society; moreover, 21 percent of the CSOs stated that they perceive the current Law on Labour as partly challenging for the sector of civil society. This large percentage of organizations that perceive the Law on Labour as challenging to be implemented in this sector while highlighting the maternity leave and labour contracts as the highest challenges of the sector.

## 6.3 Maternity leave: challenges in the implementation of the law on labour in the CSO sector

As elaborated in the first section of the research paper, the Law on Labour entitles women to twelve months of maternity leave, whereby the first six months are paid directly by her employer amounting to seventy percent of her salary, with the following three months being paid by the government of Kosovo amounting to fifty percent of the average salary in Kosovo (Republic of Kosovo. Law on Labour 2010). According to the Kosovar Civil Society Foundation KCSF, “challenges of CSOs in Kosovo in regards to the implementation of the provisions of the Law on Labour was

maternity leave". The maternity leave is a much more important issue for this sector due to its specific character and funding schemes (KCSF, 2013). When women go on maternity leave, another employee is hired to replace her for the period when the employee on maternity leave is actually away. This is quite different from the private and other sectors which do not have such problems, either because of accumulation of profit (something NGOs do not and cannot do) or because of public funds that can be funnelled to public intuitions. (KCSF, 2013). There are also cases when the media have reported that maternity leave has not been paid by CSOs and women have been fired (Ballazhi, 2013).

Moreover, around 60 percent of the surveyed CSOs claimed that they did not experience any cases where new mothers have used the right to maternity leave; while, 27 percent of the surveyed CSOs have reported to have had cases where pregnant women went on maternity leave. Furthermore, our interest was to study how these organizations paid for the maternity leave. Three of the organizations confirmed that they have paid the maternity leave based on the Law on Labour. Of these three organisations, two of them declared to have used their organizations' reserve funds, whereas one of them mentioned to have divided work between the other workers in order to avoid hiring someone else. Numerous organizations chose to pay for maternity leave in order to obey the law; however, they did not have funds to hire a new employee to replace for the period when the female employee was away. These organizations decided to divide the work between the other workers in order to avoid hiring a new employee; this would lead to overload among the staff for a considerably long period of time (Focus Group 1, 2015). One surveyed organization explained that it has had three cases where women have gone on maternity leave. In two cases they have asked the donors to pay for the female employees' maternity leaves and they have divided the work between other employees; conversely, in the third case they have asked the donor to use their contingencies funds and hired a new worker.

Talking to the donors in order to provide the funds to pay for maternity leave and to hire another employee is highly challenging for the organizations (Focus Group 1). CSOs are afraid that if they ask for additional funds, in order to respect the Law on Labour, they will be rejected and someone else might acquire the grant instead, since the competition for winning the grants and projects in this sector is extremely high. Women see the public sector as more stable job sector than the civil society; therefore, they are led to find jobs in the public sector, because they are more secure that the Law on Labour, especially when it comes to maternity leave will be implemented (Focus Group 1). Half of the surveyed organizations declared that the payment of non-active workers within the organization is not included in their budget planning; and only one in four organizations confirmed that payment of the non-active workers is included within their organizations' budget planning.

---

## 7. WHAT IS THE FUTURE? ALTERNATIVES FOR BETTER INVOLVEMENT OF CIVIL SOCIETY IN THE LEGAL FRAMEWORK IN KOSOVO.

---

It is quite clear that there is space for improvement of this sector; the CSOs would best identify the difficulties of being part of this sector if they were involved more in legislative planning and provided better ideas for a more suitable legal framework regarding their work.

The number of international donors has decreased in the last years, since they find other areas in the world which they need to support, so the funds in general in Kosovo are much less than they used to be earlier. (Focus Group 1, 2015). In addition, it may be the case in the future that after a period of time, the CSOs will not be financially supported through foreign donors' grants and projects; therefore, this sector will weaken even further over time (Focus Group 2, 2015). Given the economic difficulties through which Kosovo has passed immediately after the war and the transition phase, the role of donors in the development of civil society was crucial; consequently, the removal of the expected large numbers of donors seriously undermines the function and sustainability of the sector. In this regard, the CSOs have already begun to seek alternative sources of finances, which are expected to be channelled mainly through public funds (Office on Good Governance 2013).

The CSOs in Kosovo should be mobilized and ask to be covered by public funds, since the other countries successfully do the same. The Office on Good Governance has pointed out that in 2003, the CSO funding by the public funds varied from 30 percent in Sweden and Norway to 70 percent in Ireland and Belgium, while in the case of Eastern and Central Europe with 20 percent in Slovakia to 40 percent in the Czech Republic (2013). In 2013 the Government of the Republic of Kosovo in close cooperation with CiviKos platform has drafted the Government Strategy for Cooperation with Civil Society. The strategy's aim is to recognize and to value the role and work of civil society in building a democratic society, to create a supportive and conducive environment for the development of civil society, and to establish mechanisms that will enable a structured cooperation between the Government and the civil society (Office on Good Governance, 2013). The third Strategic Objective of this strategy is to form 'A system built and a defined criterion for financial support to CSOs' which aims to create a public fund by 2017, which will financially support the CSOs (Focus Group I, 2015). Additionally, the CSOs should request to hold meetings with the organizing council of this strategy, through the CiviKos platform, in order to find a solution for cases of maternity leave within the sector (Focus Group 1). Furthermore, these meetings should be obligatory to the council, since the maternity leave is the exact case which refers to the third objective of the strategy. More than half of the surveyed CSOs agree that the unions of CSOs improve lobbying for special treatment in the context of the Law on Labour in Kosovo. Only 15 percent of the participants did not see unions as helpful. Another alternative is for the citizens to decide where one percent of their taxes go; for example to an NGO which they see as highly functional or as in the case of Slovakia where citizens decide where 5 percent of their taxes go. In addition to this, CSOs create funds which help them to remain active and productive without needing to be supported by donors (Focus Group I, 2015).

In addition, the questionnaire requested the CSOs to provide ideas of their models for improvement of the sector and its legal framework in order to get a broader observation. The surveyed CSOs presented various ideas for the models and how they see improvement of this sector's treatment in the Kosovo's legal framework.

One of the various ideas was that the Republic of Kosovo's institution, associations and mechanisms in accordance with the laws should cooperate in helping the CSOs by giving grants. Furthermore, these projects and grants should not be given to the biggest and most known organizations, in order to give space to smaller organizations to advance. All the CSOs should be treated equally in order for the Law on Labour to be functioning correctly. Accordingly, we might consider that the CSOs feel that smaller and not infamous organizations have lower chances to win grants and projects. Another belief is that an independent monitoring body of civil society in terms of compliance with current Law on Labour should take place by the relevant ministry or department, in order to ask for accountability from civil society for possible violations of the law. In contrast, another CSO representative mentioned that the CSOs should work on voluntary basis; therefore, everyone should work without requesting to be paid. Hiring interns in order to replace workers has been reported as a possible solution to maternity leave and to non-active employees, in order to pay mothers and to hire staff that is not to be paid.

---

## 8. CONCLUSIONS AND POLICY RECOMMENDATIONS

---

Foreign donors are the biggest financial supporters for Kosovo's CSOs, since 74 percent of funds come from foreign donors; followed by local and central authorities which provide 21 percent of civil society funds in Kosovo. Almost half of the surveyed CSOs believe that these foreign donors are not flexible enough in their contracts to allow for planning maternity leave. Furthermore, they perceive the local donors as even more inflexible. The majority of organizations perceive the Law on Labour as challenging for this sector, and 45 percent of the surveyed CSOs consider that the civil society must be addressed individually within labour legislation. Maternity leave and labour contracts are perceived as the biggest challenge for the sector.

Talking to the donors in order to provide the funds to pay for maternity leave and to hire another employee is highly challenging for the organizations, since they mostly fear to be rejected and the possibility exists that the grant is given to another CSO since the competition is getting tougher while the number of foreign donors is getting lower. There are CSOs that pay for maternity leave in accordance with Law on Labour; however other organizations manage to employ different methods in order to pay for their employees' maternity leave in cases when they cannot strictly observe the Law on Labour. These methods include payment from their reserve funds or dividing work between other employees, in order to avoid hiring another employee who needs to be paid.

Among the key recommendations are:

- Due to the fact that the number of international donors has decreased in the last years, the CSOs should begin seeking to be funded through public funds. The Kosovar CSOs should be mobilized and ask to be covered by public funds, which is a central goal of the Government Strategy for Cooperation with Civil Society. The CSOs should request to hold meetings with the council of this strategy through the CIVIKOS platform in order to prepare for maternity leave situation more rapidly.
- Funding through donations of the Kosovo citizens following the case of Slovakia in which the citizens can decide to donate to the CSOs when paying for the taxes and contributions.
- The CSOs to be treated specially within the Law on Labour, due to its unique status, there should be a middle category between the public and private sector. This will facilitate the implementation of the Law on Labour in the sector and will still keep the sector attractive for those who in a foreseeable amount of time are on paid leave.
- Relevant institutions in Kosovo should consider financial reforms, as such following the case of the Slovak Republic on the optional tax which allows corporations, various domestic legal entities, and individuals to donate up to 2 percent of their monthly income to the CSOs in form of donations (similarly to some countries when the certain amount of money goes for charity or religious institutions).

---

## BIBLIOGRAPHY

---

### Legal Documents

Office on Good Governance (2013) STRATEGJIA QEVERTITARE PËR BASHKËPUNIM ME SHOQËRINË CIVILE 2013 – 2017. Prishtinë, Office of the Prime Minister. [Online] Available from: [http://www.kryeministri-ks.net/repository/docs/Strategjia\\_ qeveritare\\_per\\_bashkepunim\\_me\\_shoqerine\\_civile\\_drafti\\_perfundimtar2.pdf](http://www.kryeministri-ks.net/repository/docs/Strategjia_ qeveritare_per_bashkepunim_me_shoqerine_civile_drafti_perfundimtar2.pdf) [Accessed 4th October 2015]

Republic of Kosovo (2010) LaborLawLaw on Labour [Online] Available from: <http://www.kuvendikosoves.org/common/docs/ligjet/2010-212-alb.pdf> [Accessed 4th October 2015]

Labour Code of Slovak Republic

<http://www.ilo.org/dyn/eplex/docs/50/labour-code-full-wording-january-2012.pdf>

### Online Documents:

Foundations, C. o., 2015. Council on Foundations. [Online]

Available at: <http://www.cof.org/sites/default/files/Slovakia-201509.pdf> [Accessed 13 December 2016].

USAID, 2012. The 2012 CSO sustainability index for central and Eastern Europe and Eurasia, s.l.: USAID.

Ballazhi, N (2013) “Clard” nuk paguan pushimin e lehonisë [Online] Available from: <http://old.zeri.info/artikulli/19769/clard-nuk-paguan-pushimin-e-lehonise> [Online] [Accessed 4<sup>th</sup> October 2015]

KCSF (2013), Sfidat e organizatave të shoqërisë civile në Kosovë në zbatimin e

dispozitave të Ligjit të Punës për pushimin e lehonisë [Online] Prishtinë. Kosovo Civil Society Foundation.

Available at: [http://www.kcsfoundation.org/repository/docs/03\\_03\\_14\\_143538\\_03\\_03\\_2014\\_8487956\\_KCSF\\_Komentari\\_i\\_Pushimi\\_i\\_Lehonise\\_ne\\_sektorin\\_joqeveritar\\_ALB.pdf](http://www.kcsfoundation.org/repository/docs/03_03_14_143538_03_03_2014_8487956_KCSF_Komentari_i_Pushimi_i_Lehonise_ne_sektorin_joqeveritar_ALB.pdf). [Accessed 4<sup>th</sup> October 2015]

### Interviews:

Demolli, L., 2015. KGS Cennter [Interview] (8 June 2015).

Begaj, M. 2015. Ministry of Labour [Interview] (19 June 2015).

Ibrahmi B. 2015, Labour Inspectorate [Interview] (16 July 2015).

Focus Group I, KCSS, 2015

Survey with CSOs operating in Kosovo

Katalogimi në botim – (CIP)

Biblioteka Kombëtare e Kosovës "Pjetër Bogdani"

368(496.51)

Marku, Donika\Mjeku, Valëza

Emini, Donika

Job Security in Civil Society Organizations in Kosovo: Implementation of Labour Legislation / Donika Marku, Valëza Mjeku. – Prishtinë : Kosova Center for Security Studies, 2015.- 22 f. ; 24 cm.

Bibliography : f. 22

**ISBN 978-9951-679-33-6**

ISBN 978-9951-679-33-6



9 789951 679336

[www.qkss.org](http://www.qkss.org)