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EX-POST EVALUATION REPORT

ON LOCAL DEMOCRACY MECHANISMS

December

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This Report satisfactorily meets the evaluation quality standards.

Signature:

EXECUTIVE SUMMARY

The Ex-Post Report on legal provisions regulating the legal democracy mechanisms aims to assess the implementation, compliance and results achieved during the implementation by municipalities of all local democracy mechanisms. The purpose of this evaluation is to inform the public policies of the Government of Kosovo in improving and advancing these mechanisms in the future, through reliable and official information. The Law on Local Self-Government (LLSG) entered into force in 2008, and there have been no amendments to this legal framework ever since. Therefore, an evaluation of the achieved results of the provisions regulating local democracy mechanisms is highly necessary.

The Working Group conducted an ex-post evaluation of the provisions of the Law on Local Self-Government (LLSG) in the Republic of Kosovo, focusing primarily on local democracy mechanisms, specifically Articles 68-73 and Article 34 of LLSG. The purpose of the evaluation was to determine the applicability of these provisions and the actions of the responsible institutions to improve their implementation. The Report is prepared based on the Manual on Ex-Post Evaluation of Legal Acts. The analysis focused on two types of evaluation: a. evaluation of implementation and compliance, and b. performance evaluation. The methodology followed has included the identification of the practical use of provisions, their integration into bylaws, and the analysis of mechanisms for effective implementation. To obtain a clearer overview of the application of LLSG provisions regulating local democracy, a questionnaire has been developed and distributed to municipalities, and reports, analyses, official and public data related to the implementation of legal provisions that are part of the ex-post analysis have been consulted.

The evaluation results indicate that LLSG provisions and related bylaws provide a solid legal basis for regulating transparency, public meetings, and municipal consultations in general. However, it is assessed that, despite efforts by municipalities to implement such legal provisions, citizen participation in public meetings remains low, and the use of various communication practices has not increased their interest.

In the area of petitions and citizen initiatives, there is a need for changes in the implementation of LLSG. The request for the removal of the Mayor faces challenges, with a high voter quota as a criterion, while there is still no sufficient legal basis for the mechanism of the initiative for the removal of the Mayor, despite the approval of the Administrative Instruction on the implementation of this initiative.

Regarding local referendums, there is a lack of a legal framework for their organization, and this democratic mechanism has not yet been utilized by municipalities. In the sector of consultative committees and local councils, a legal basis exists, but the effectiveness and transparency of their work remain very low. Only a few municipalities have consultative committees, and their role in formulating local policies is limited. Local councils fail to meet the legal criterion for annual meetings and high participation of women.

Concrete recommendations have been formulated for all findings. To improve transparency, meetings and public consultations, the advancement of best practices and citizen awareness through awareness campaigns and informative materials is recommended. Additionally, a more efficient use of electronic tools and platforms is recommended to increase citizen participation and interest in meetings and consultations.

Regarding petitions and citizen initiatives, there is a need for the supplementation of legislation and clear regulations for their review by municipalities. Reviewing the necessary quota for the procedures to remove the Mayor recommends improving this mechanism. On the other hand, efforts should be directed towards supplementing the legal framework that would enable and clarify the procedure for the initiative to remove the Mayor.

For local referendums, it is recommended to establish a legal framework and provide support to municipalities for the use of referendum mechanisms to consult citizens on specific issues.

In the area of consultative committees and local councils, it is recommended that municipalities establish these committees to support the work of the local authorities. Additionally, it is recommended to identify practices for diversified participation and representation of underrepresented groups, including women.

I. INTRODUCTION

I.1. Historical context of the legal regulation of local democracy mechanisms

The period of the development of local self-governance and the promotion of mechanisms of local democracy in legal terms following the war can be divided into two main parts: the period of international administration, namely under UNMIK (1999-2008), and the period after the enforcement of Law No. 03/L-040 on Local Self-Government (LLSG) (2008 onwards).

During the initial period, in the absence of a specific law, UNMIK regulations were used for the initial legal regulation of local government. This period is characterized by the presence of international municipal administrators in municipalities. The initial regulation for the functioning of municipalities was the Regulation on Self-Government of Municipalities in Kosovo, issued on 11 August 2000. According to this regulation, municipalities were interim autonomous institutions, gradually transferring competencies from UNMIK to local authorities. Regulation No. 2000/45 on the Self-Government of Municipalities in Kosovo defined them as the basic territorial units of local self-government.

In general, the legal acts that guided the activities of local authorities established the principles of transparency and local democracy. During sessions of municipal assemblies and other bodies, the participation of citizens and media representatives was guaranteed, except in cases where information could pose a risk to the disclosure of confidential, personal or judicially related data. The rules for public participation in the meetings of municipal bodies were detailed in the statute of municipalities.

Regarding local democracy, the primary mechanisms through which citizens directly expressed their power included public meetings and petitions. Each Municipality was required to organize public meetings at least twice a year, allowing the participation of citizens and providing them with information from municipal representatives. Additionally, any natural or legal person had the right to submit a petition regarding issues related to municipal activities. The reconsideration of the petition was conducted in accordance with the procedures stipulated by the statute and the municipal rules.

With the entry into force of the Law on Local Self-Government (LLSG) on 19 June 2008, another period of legal regulation for municipalities began. Through this law, the foundations of a local self-government system were established, where municipalities are the basic units of local self-government. In addition to defining the competencies of

municipalities, the law also sets out provisions that promote mechanisms of local democracy. Thus, LLSG specifies the following key local democracy mechanisms:

1. Public information and consultation;
2. The right to petition;
3. Citizen initiatives;
4. Referendum;
5. The procedure for the removal of the Mayor;
6. Consultative committees.

Since the entry into force of the Law on Local Self-Government (LLSG), a considerable number of bylaws have been drafted both by MLGA and the municipalities. These bylaws aim to regulate in detail various aspects related to municipal transparency and mechanisms for citizen participation in decision-making. In addition, MLGA and municipalities have built different mechanisms, either for monitoring the implementation of legal obligations in relation to local democracy, as well as in the implementation of mechanisms in practice.

I.2. Context of Ex-Post Evaluation

Since it entered into force, there have been no changes to this law, including the provisions falling within the scope of ex-post analysis. However, the legal framework has been supplemented by bylaws issued by MLGA and municipalities, to operationalize these mechanisms. On the other hand, efforts at the central and local levels, civil society organizations, media, the community, and international donors have been intensified to support the practical implementation of these mechanisms.

The lengthy period of implementing the LLSG, spanning over 14 years, provides an opportunity for a comprehensive and detailed assessment of the effects and outcomes of the law. This extended period is utilized to thoroughly analyze how the provisions of LLSG have been implemented and monitored in practice over time, creating a sustainable perspective on its development and impact on the local self-government system.

In conclusion, the ex-post evaluation of LLSG aims to use these reasons to provide a comprehensive and accurate analysis of the implementation of the laws, identify key issues, and propose recommendations for its improvement in the future.

I.3. Purpose and scope of the consultation

The Ex-Post Report on the Local Democracy Mechanisms in Kosovo aims to provide a thorough and concrete analysis of the implementation of legal provisions in the area of local self-government that regulate local democracy mechanisms. This analysis aims to assess the

effectiveness and impact of citizen participation mechanisms, transparency, and other democratic instruments in the functioning of municipalities. The Report aims to identify achievements, challenges, and opportunities for improvement in the use of these mechanisms, assisting in formulating recommendations for the advancement of local democracy in the Kosovo context. This evaluation will provide a significant contribution to the sustainable development of the local self-government system and the strengthening of citizen participation in decision-making processes.

Based on the Manual on Ex-Post Evaluation and preliminary data regarding the implementation of local democracy mechanisms, the Working Group has decided that the report will conduct two types of evaluations: 1. the implementation and compliance evaluation, and 2. the performance evaluation. It is important to clarify that these two evaluations have been appropriately tailored to the specific provisions within the scope of the Report. Consequently, for some provisions, a performance evaluation is not possible due to a lack of implementation by municipalities.

For the purpose of this ex-post analysis of the Law, the Working Group has defined the following legal provisions as the scope of analysis:

a. Public Information and Consultation(Article 68)

Article 68 of the Law on Local Self-Government (LLSG) establishes the right of citizens to be informed, to attend public meetings, and to actively participate in policy-making and decision-making processes. These provisions also specify the Municipality's obligation to conduct mandatory periodic meetings, as well as focused consultative meetings, guiding the issuance of bylaws that regulate the procedures and formats of these meetings. Furthermore, this article outlines the right of citizens to access official documents in reference to the Law on Access to Official Documents.

b. Right of Petition (Article 69)

Article 69 stipulates that "Any person or organization with an interest in the Municipality shall have the right to present a petition to the Municipal Assembly about any matter relating to the responsibilities and powers of the Municipality. The Municipal Assembly shall consider the petition in accordance with its Statute and Rules of Procedure".

c. Citizens' Initiatives (Article 70)

Article 70 stipulates the right of citizens to undertake initiatives and propose regulations within the municipality's competencies, with the criterion that the proposal must be "signed by 15% of registered voters". The municipal assembly is obligated to review the proposed regulation within 60 days of its acceptance.

d. Referendum (Article 71)

Article 71 stipulates the right of citizens to “request that a regulation approved by the municipal assembly be subjected to a referendum”. The request must be submitted to the chairperson of the Municipal Assembly within 30 days from the date of the approval of regulation and must be signed by 10% of registered voters. The Municipal Assembly is obliged to consider the proposed regulation and take action on it within 60 days of the receipt.

e. Recall of the Mayor (Article 72)

Article 72 recognizes the right of citizens to undertake an initiative to remove the Mayor, outlining two stages in this process: the initiation of the removal as a preliminary condition and the subsequent voting process.

f. Consultative Committees (Article 73)

Article 73 stipulates the Municipality’s right to establish advisory sectoral consultative committees with the aim of involving citizens in the decision-making process.

g. Villages, Settlements and Urban Quarters(Article 34)

Article 34 stipulates the right for villages, settlements and urban quarters, with the approval of the Municipality either individually or in a combined manner, to carry out activities falling within the responsibilities and competencies of the Municipality. This article also stipulates the forms of cooperation with the Municipality and instructs the ministry to regulate this area through secondary legislation.

The evaluation period includes the entry into force of LLSG up to the date of the preparation of this report. However, due to the lack of historical data on the implementation and effectiveness of the provisions under assessment, the evaluation is based on available data, covering the period from 2018 until the time when this Report was drafted.

II. DESCRIPTION OF THE LAW TO BE EVALUATED AND THE APPLIED METHODOLOGY

The Working Group has determined that the main purpose of the ex-post evaluation of the provisions of the Law on Local Self-Government, especially those related to local democracy mechanisms, is to ascertain whether these provisions are applicable and whether the responsible institutions for implementing the law have taken concrete steps to facilitate their implementation.

This evaluation has been conducted in accordance with the guidelines of the Government's Manual on Ex-Post Evaluation of legal acts in the Republic of Kosovo. The focus of the evaluation has been to identify how the provisions of LLSG have been implemented in practice and whether the bylaws necessary for the implementation of LLSG have been drafted. Furthermore, the construction of mechanisms enabling their effective implementation and monitoring has been analyzed.

After determining the provisions, the group has identified the measurement indicators and data collection methods to draw valid conclusions. In order to obtain a clearer overview of the implementation of the provisions of LLGS regulating local democracy, and the data from the municipalities, a questionnaire has been prepared and distributed to the municipalities. On the other hand, reports, analyses, and official and public data related to the implementation of legal provisions that are part of the ex-post analysis have been consulted.

Two types of evaluation have been used for this ex-post report: the implementation and compliance evaluation and the performance evaluation.

Regarding the implementation and compliance evaluation, the report focuses on the following questions: a. Have the specified provisions been implemented in the scope of the Report, b. If such provisions have not been implemented, what are the reasons for non-compliance and do those reasons relate to the legal basis, c. Are the provisions in accordance with the applicable legislation in Kosovo, and d. Have the necessary bylaws been issued to enable the practical implementation of the provisions?

To reach the answers to these questions, the Report has used official data from the Government and municipalities, reliable international reports, as well as a questionnaire with the municipalities.

Regarding performance evaluation, the report focuses on specific indicators for each individual indicator that is being evaluated. However, it is important to emphasize that

the expected outcomes have been formulated within the context of the area being regulated, in the absence of a document (concept document or other policy document) that has defined the objectives or expected outcomes before the approval of LLSG.

The main sources of data for these indicators are the official MLGA reports, including the Municipal Performance Report, which is a derivative of the MLGA Municipal Performance Management System. This mechanism constitutes a very important and robust means of monitoring the implementation of the current legislation on local self-government by municipalities. In particular, it covers many of the provisions that are part of the scope of this report. In addition to performance reports, other official reports from MLGA, municipalities, the European Commission, and civil society organizations in Kosovo have also been utilized.

III. RESEARCH OUTCOMES

III. 1. Identification of challenges or positive impacts during the implementation of provisions related to public information and public consultations

Local government in Kosovo diligently adheres to the principles of transparency, accountability, and citizen engagement in decision-making processes. Transparency, as one of the key principles of local government, brings numerous benefits, enhancing the accountability of local institutions, increasing public participation, improving the quality of decision-making and enhancing the overall effectiveness of administration.

LLSG, specifically Article 68, has outlined a variety of legal instruments for citizen participation in public life, including: Inclusive public meetings with citizens; Consultations on draft acts and policy documents; Other forms of consultations specified by bylaws. Similarly, this law mandates municipalities to regularly keep citizens informed of their activities, plans, or any important and publicly relevant programs.

The Report has conducted two evaluations of this provision: the implementation and compliance evaluation and the performance evaluation. The implementation and compliance evaluation focus on the following issues: 1. Have the specified provisions been implemented in the scope of the Report, 2. If such provisions have not been implemented, what are the reasons for non-compliance and do those reasons relate to the legal basis, 3. Are the provisions in accordance with the applicable legislation in Kosovo, and 4. Have the necessary bylaws been issued to enable the practical implementation of the provisions? Meanwhile, the performance evaluation is based on indicators in accordance with the relevant legal provisions.

Inclusive public meetings with citizens

The Law on Local Self-Government has established a minimum level of standards for the organization of inclusive meetings with citizens. This is done with the aim of maintaining continuous communication with citizens, considering the fact that the timeframe from taking office until the next elections is a relatively long interval. Another reason for conducting these meetings is to ensure that policies and decision-making processes are informed by current information, thereby ensuring that investments are distributed fairly and in areas where interventions are necessary and sustainable. The basic standard according to paragraph 1 of Article 68 is the holding of at least two (2) public meetings per year, where any individual or organization with an interest in the Municipality can participate.

This regulation is further elaborated through bylaws issued by the Ministry of Local Government Administration (MLGA), which specify the criteria for the time when these meetings should be organized, the notification rules, the necessary official representatives of the Municipality who must attend, the rules for their conduct, the method of receiving proposals, and responding to feedback from the Municipality, as well as the rules for documenting participants. Therefore, in relation to the implementation and compliance evaluation, this legal provision regulating public meetings indicates that the legal basis exists and clearly outlines the obligations of municipalities regarding the organization of public meetings.

In terms of performance evaluation, it appears that municipalities face challenges in fulfilling the obligations of holding two public meetings and encouraging citizen participation in these public events.

In general, municipalities adhere to the planning of public meetings with citizens; however, shortcomings have been identified regarding their effectiveness and low citizen participation in these events. The data indicates that not all municipalities manage to conduct the two required meetings as stipulated by law. Notification of these meetings is done through the Municipal Public Communication Office. To influence the full implementation of the relevant legal norm, this matter is also included as an indicator in the Municipal Performance Management System. According to the Performance Report for 2021, this obligation was fulfilled to a degree of 68% by the municipalities¹.

The lack of interest from citizens to participate in organized meetings, including those with specific topics, remains a challenge. According to official data, “participation remains low even despite the MPMS standard of 3% of the Municipality’s population, which in 2021 was fulfilled at a rate of 21.91%, compared to 16.45%² in 2020. This low participation is also confirmed by the responses of municipalities in the questionnaire prepared for this analysis. The majority of municipalities declare that there is low interest from citizens in public meetings organized by the Municipality. Some municipalities justify this by stating that the Municipality consistently addresses the citizens’ requests. On the other hand, some municipalities estimate that direct meetings between the Mayor and citizens, held frequently throughout the month, may result in lower citizen participation in other public meetings. Out of the 18 municipalities that participated in the survey through responses, 5 of them reported direct meetings with citizens as the most followed form of public meetings organized by the Municipality.

¹ MLGA, Municipal Performance Report for 2021, Prishtina, 2022, p. 44.

² Ibid. p. 28.

The format of public meetings requires the presence of the highest representatives of the municipal executive, including: The Mayor or his/her representative³. Furthermore, the Law obliges municipal representatives to inform participants of the Municipality's activities, and it grants participants the right to ask questions (Article 68, para. 3). This provision is expanded through the MLGA Administrative Instruction on Transparency, specifying additional obligations for the Municipality regarding the manner of responding. Thus, if municipal representatives cannot provide appropriate answers to posed questions, the regulations stipulate the written response within 30 days. The Administrative Instruction on Transparency mandates the keeping of minutes for every conducted meeting, along with a record of participants' attendance. All municipalities that participated in the survey for this analysis have declared that they maintain records of public meetings. However, on the municipal websites, in very few cases, a published record of public meetings can be found.

Based on the composition of municipalities in Kosovo, both geographically and demographically, the standard of two (2) mandatory meetings is not equally achievable and, moreover, not sufficient. This seems reasonable due to differences among municipalities, where for a Municipality with a large territory and a dispersed population, such as Podujeva, or Prishtina and Prizren with high population density in urban areas, two public meetings would not suffice to gather and address citizens' requests. In the event of an amendment to LLSG, it is beneficial for the norm of Article 68 to be reconsidered, taking into account geographical and demographic criteria. In elaborating on this, it is crucial for the provisions of Article 68 to take into account the differences between comprehensive public meetings and focused meetings for project activities, which, in some cases, are misunderstood and overlap.

Public consultation for draft acts and policy documents

The forms and methods of public consultations depend on the normative activity of the municipalities. For any normative draft act required by LLSG or sectoral legislation, the Municipality is obliged to organize public consultations with citizens.

Due to the importance of policy formulation where citizens and stakeholders can be actively involved, MLGA and other local and international institutions have ensured the quality of legal rules in line with the standards required by the European Union. In addition to the legal regulation of LLSG, the procedures for drafting normative acts and policy documents, such as Statutes, Regulations, or other documents like Municipal

³ Administrative Instruction (MLA) No. 03/2020 on Transparency in Municipalities, Article 10.5, last accessed at: <https://mapl.rks-gov.net/ep-content/uploads/2020/12/0-761-2020-03.12.2020.pdf>.

Spatial Plans, various Strategies, financial decisions such as Budgets, Medium-Term Expenditure Frameworks, etc., all have specific rules outlined in the MLGA Administrative Instructions, as well as municipal regulations on transparency.

Ten years after the implementation of LLSG, in December 2018, MLGA approved Administrative Instruction (MLGA) No. 06/2018 on Minimum Standards for Public Consultations in Municipalities⁴. Until the entry into force of this AI, there was no legal basis regulating public consultations for municipal acts.

The minimum standards for public consultations in municipalities were fully aligned with the principles of the European Commission (EC) for minimum standards for consulting stakeholders, approved in 2002⁵, as well as the EC's White Paper (2001)⁶, suggesting the establishment of a broad culture of consultation and communication with citizens. These norms aimed to address some of the key issues affecting citizen participation, with the goal of ensuring: a) Providing clear documents for consultation; b) Consulting with all relevant target groups; c) Allowing sufficient time for participation; d) Publishing the outcomes and informing participants of the overcomes of their comments.

The results of these regulations were positively assessed in the European Commission's Report on Kosovo (2020), and specific provisions were further strengthened by other institutions, such as the Office for Good Governance (OGG), as well as donor organizations through the Municipal Performance Grant. More precisely, OGG facilitated municipalities' access to the Government Platform for Public Consultations, creating a special menu for each Municipality. This allowed municipal project acts to be published on this platform where citizens could provide their proposals.

Based on the current rules, the public consultation process is divided into three stages: 1. Planning of Consultations; 2. Conduct of Consultations; and 3. Communication of Results.

The planning of consultations is anticipated to occur in the early stage during the drafting of the Municipality's work plan for the upcoming calendar year, as well as in the formulation of the public communication plan. The planning of consultations is based on timelines, financial costs, human resources, the identification of parties involved in the

⁴Administrative Instruction (MAPL) No. 06/2018 on Minimum Standards for Public Consultations in Municipalities, accessed at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18425>.

⁵ European Commission: *"Commission of the European Communities - Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission"*, Brussels, 2002, p. 21.

⁶ European Commission: *"European Governance A White Paper"* Brussels, 2001, p. 16.

public consultation process, as well as the formats and techniques of public consultation. Despite the drafter's intention to strengthen the public consultation process from the initial planning stage, these provisions have not found practical implementation.

The conduct of consultations is the key stage in implementing the public consultation plan. Procedural rules specify the obligation that "before approving a draft proposal, the proposing entity decides to initiate the public consultation process"⁷. The proposing entity or the relevant department of the municipality selects the formats and techniques of public consultation as outlined in the Administrative Instruction, including in every case the four mandatory formats: 1. Consultation in writing and electronically; 2. Publication on the Government Platform for Public Consultations; 3. Publication on the official website of the municipality; 4. At least one public consultative meeting with stakeholders.

All other organizational matters, including the publication of notifications, keeping minutes, community meetings, and communication with citizens, should be carried out by the officer/public communication office in cooperation with the officer responsible for drafting the draft act⁸. Regarding the implementation of mandatory forms and techniques of public consultations, besides holding direct meetings with citizens, other alternative formats are less frequently expressed. Although municipalities have been recommended to implement public consultations in accordance with Article 7 of AI No. 06/2018, apart from consultative meetings for draft acts, other forms and techniques of consultations have been practised much less. However, starting from 2022, municipalities began to apply electronic consultation through the Government Platform for Public Consultations, where access to this system was also facilitated. Currently, data on this platform show that the same has been utilized by 23 municipalities during the period 2022-2023⁹. Among the standardized forms of public consultations, direct meetings with citizens have been most frequently applied, while those through electronic communication are not yet at a standardized level.

Regarding the consultation of mandatory draft acts, the Municipality Performance Report for 2021 indicates a level of 67% of acts in the drafting process being consulted with the public. The municipalities perform better in budget hearings, where this year "36 municipalities held 280 meetings with citizens for the budget projects, averaging 8

⁷ Administrative Instruction (MLA) No. 06/2018 on Minimum Standards for Public Consultations in Municipalities, Article 13.

⁸ According to the Draft Administrative Instruction on Transparency and Citizen Participation in Local Government (2023), this responsibility belongs to the officer appointed by the Mayor.

⁹ From the direct tracking of the Government Platform for Public Consultation, <https://konsultimet.rks-gov.net/institutions.php>.

meetings per municipality”¹⁰. This report also emphasizes the low presence of citizens in these public consultations, with a total of 27,423 citizens reported to have participated in public consultation processes, averaging 760 citizens per municipality. However, for some municipalities such as Suhareka, Vitia, Skenderaj, Obiliq and Peja, the report highlights satisfactory participation compared to their population numbers. Nevertheless, in addition to the quantitative aspect of citizen participation, reports from credible institutions emphasize the poor quality of public consultations, including assessments provided by the European Commission in regular reports on Kosovo¹¹.

Communicating the results is the final stage of the public consultation process. Communication is crucial because it informs citizens of their comments, whether they have been considered, approved, or rejected by the decision-making authorities, including providing reasons for their rejection. Thus, based on the public consultation rules, “the municipality is obliged to announce the outcomes of the public consultation process, publish the report with all proposals offered by citizens, and provide necessary explanations regarding the reasons for rejecting citizens’ requests or other stakeholders”¹². Moreover, the proposing entity is obliged to present the public consultation report to the Municipal Assembly before approving the draft proposal, which means that the implementation of these standards is a procedural requirement for a municipal act to be deemed legal.

Communication of the results of the public consultation process is considered highly important. This process can be one of the motivating factors for citizens to be more active in these meetings. This issue has, therefore also been raised at the level of indicators of the Municipal Performance Management System (MPMS), even as a specific indicator in the Municipal Performance Grant Rules. However, the publication of the outcomes of public consultations through a feedback report is not being fully fulfilled by municipalities. Performance data in this indicator for 2019 shows a 0% implementation rate, while the report for 2021 yields a result of 4.65% fulfilment of this criterion.

Hence, different perspectives, including the comments received from participating municipalities in the survey for this analysis, provide reasons for the low participation of citizens in public meetings and consultation processes. Some of the most influential reasons for the low participation level may be considered:

- a. Lack of proper information to citizens about the importance of consultations;

¹⁰ MLGA, Municipal Performance Report for 2021, MLGA, p. 18.

¹¹ Progress Report 2019, p 10, <https://integrimievropian.rks-gov.net/raporti-i-progresit-2019>.

¹² Administrative Instruction (MLA) No. 06/2018 on Minimum Standards for Public Consultations in Municipalities, Article 5.

- b. Municipal authorities may not fully understand the importance and priorities of citizen participation;
- c. Unclear criteria as to who should be consulted;
- d. Inappropriate forms and techniques for public consultations may be applied, not adapting to the diversity of society;
- e. Municipalities may be under time pressure and, as a result, neglect or merely go through the consultation process formally;
- f. Consultation processes have budgetary costs, and require time and commitment from municipal staff for organizing meetings, collecting and reviewing comments, preparing reports, and communicating the results of consultations;
- g. Lack of better planning for consultations.

In analyzing the content of the legal provisions in this field, the assumption is that the legal framework is well-consolidated and in line with the rules and principles of the European Union. In the future, the desired effects of these norms can be influenced through affirmative policies at both the central and local levels, incentivizing measures such as the Municipal Performance Grant, citizen awareness, reorganization of resources, capacity-building, promotion of e-governance, etc. The latter is even highlighted in the EU Report on Kosovo for 2022, stating that "there has been some progress in conducting online consultations at the local level"¹³.

Information on municipal activities

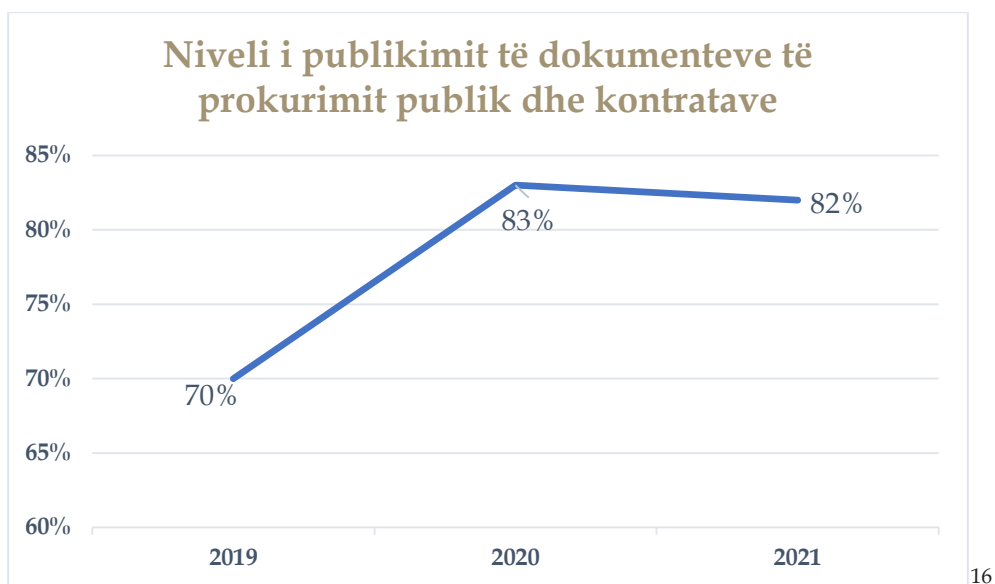
In addition to the obligation of at least two regular and inclusive meetings with citizens, LLSG, in the following paragraphs of Article 68, has stipulated the obligation to inform citizens of plans or programs of public interest. Administrative Instructions issued by MLGA, as well as sectoral legislation, have regulated that these forms of informing citizens should be facilitated through consultative public meetings, budget hearings, written and electronic communications, utilization of official websites, notice boards, social media networks, etc. It appears that these forms have been observed by the participating municipalities in the survey of this analysis.

Certainly, information and transparency are prerequisites for good and democratic governance. Municipal transparency implies the publication of information and the conduct of institutions' activities in an open manner to the public. Free access to information plays a key role in promoting transparency and preventing corruption. In this regard, municipal accountability is strengthened by utilizing online information

¹³ European Commission, *Report on Kosovo 2022*, Brussels, 2022, <https://integrimievropian.rks-gov.net/wp-content/uploads/2022/11/Kosovo-2022-Report-SQ.pdf>, p. 11.

platforms, with the official municipal website being the most crucial. Besides being a tool enabling the publication of official information and documents, municipal websites now allow the online streaming of municipal assembly meetings. Based on the Instruction on Transparency, municipalities are obliged to provide information and publish documents such as approved acts, regulations, decisions, plans, strategies, budgets, procurement activities, service information, municipal organization, service data, annual reports, daily activities, etc.

Monitoring in this area is more effective through the Municipal Performance Management System (MPMS), both in terms of the number of indicators and the data accuracy. According to official performance reports, municipal transparency is generally maintained at a higher percentage. According to data for 2019, municipalities achieved a 72.2% fulfilment rate of indicators¹⁴ in this field, while two years later, municipalities experienced a slight decrease to 66.92%¹⁵. From the key indicators in this field, online streaming of meetings was achieved in 45.95% of cases, the publication of documents for planning and budget spending reached 74.81%, the publication of procurement documents reached 82%, the publication of acts approved by the Municipal Assembly reached 86.04%, while the publication of acts by the Mayor reached 84%.



Specific provisions of the LLSG highlight the responsibility of municipalities to provide transparency during the activities of the Municipal Assembly and its committees. Paragraph 1 of Article 45 of LLSG stipulates “Meetings of the Municipal Assembly and

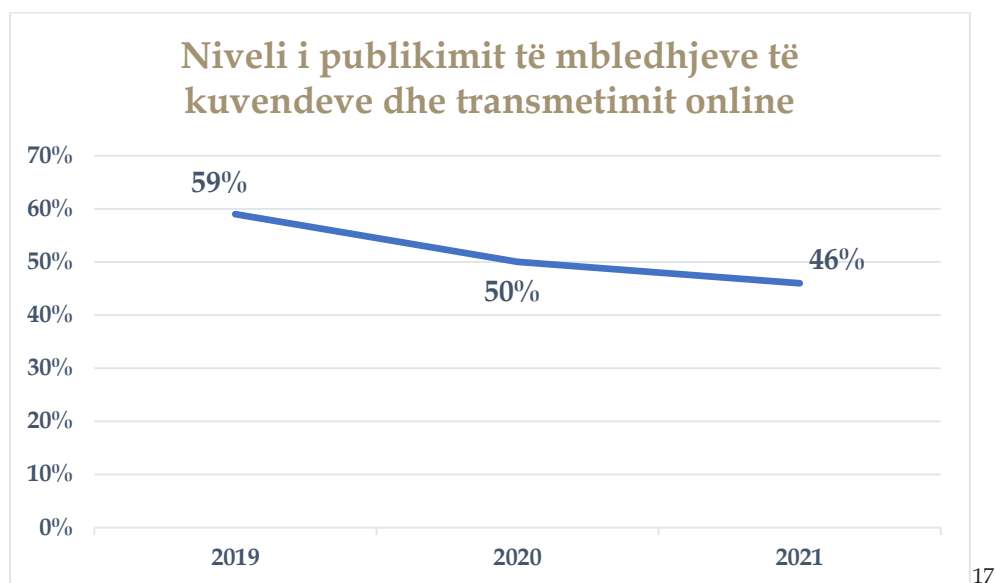
¹⁴ MLGA, Municipal Performance Report for 2019, MLGA, p. 16.

¹⁵ MLGA, Municipal Performance Report for 2021, MLGA, p. 19.

¹⁶ The data in the table are taken from the Municipal Performance Reports for 2019, 2020, and 2021.

all its committees shall be open to the public. Members of the public shall be allowed to participate in Municipal Assembly meetings, as envisaged in the Rules of Procedure". Furthermore, this article also specifies situations in which the public may be excluded from Municipal Assembly meetings, explicitly highlighting the circumstances that allow this (Article 45, para. 3).

In general, the legal framework adequately addresses this issue. Online streaming of Municipal Assembly meetings is also regulated by the Administrative Instruction on Transparency, while their monitoring by MLGA is governed by Administrative Instruction (MLGA) 01/2019 on Monitoring Municipal Assemblies Through Information Technology Equipment "Telepresence". These Administrative Instructions, along with official websites, guide the use of alternative tools such as social media networks. Although municipalities have started implementing these mandatory standards, real-time broadcasting remains at an undesirable level. According to performance monitoring data for municipalities for the period 2019-2021, online streaming of Municipal Assembly meetings in real-time was implemented at a level of 45.95%, while in 2019, it was expressed at 59.13%.



Although the websites were designed with a unique structure in 2018, the overall assessment of their functioning remains to be desired. Their function is mainly informative, lacking the interactive aspect as planned during the design phase. The idea of applying online for citizens to obtain various documents (permits, licenses) has never been implemented. Furthermore, problems arise with the organization of information on

¹⁷ The data in the table are taken from the Municipal Performance Reports for 2019, 2020, and 2021.

the websites. They are also deficient in document search tools, lacking search filters, while some are published in the PDF scan format, which prevents easy information processing.

The right to access official documents

The right to access public documents is a fundamental aspect of the democratic system, and in most countries, including Kosovo, it is guaranteed by the Constitution.

Many states have incorporated this right into their constitutions, allowing citizens, stakeholders, civil society, and other entities to have access to official documents, except in cases where such access is legally restricted. LLSG contains a provision regarding the citizens' right to access official documents. In this regard, para. 5 of Article 68 of LLSG stipulates that: "Any person may inspect any document held by the Municipality unless such disclosure is restricted in accordance with the Law on Access to Official Documents". Even in the Administrative Instruction on Transparency, this issue has been addressed, but comprehensive regulation has been made through Law No. 06/L-084 on Access to Public Documents.

In elaboration of this, this Law relies on Article 65 (1) of the Constitution of the Republic of Kosovo, which guarantees the right of every natural and legal person to have access, without discrimination of any kind, after a preliminary application, to official documents maintained, drafted or received by public institutions.

Based on this, the municipality, through the municipal public communication office, is obligated to allow access to its official documents for citizens without discrimination. In order to facilitate procedures for access to public documents, all public institutions, including municipalities, are obliged to appoint a unit or an officer responsible for receiving and reviewing requests for access to documents.

Citizens may submit a request for access to public documents in any way that enables the public institution to identify the document, and they are not obliged to provide reasons for seeking access to documents. Public institutions are obliged to, within a period of seven (7) days from the time of registration of the request, make a decision to permit access to the requested document or make a reasoned decision for complete or partial refusal and inform the requester of the right to request a review of the request and when

and where such a request¹⁸ should be submitted. In addition, through this Law, all public institutions are required to publish all documents and have an official email address for communication with the public.

The Law also elaborates the meaning of the term ‘public document’. According to Article 3, para. 1.3. “Public document” means any act, fact, or information in electronic or audio form, printed form, visual or audiovisual recordings produced or held by the public institution.

In principle, there is a significant connection between fulfilling the legal obligation of the municipality to publish documents and the right of citizens to access public documents of the municipality. The majority of municipal documents are of a public nature (meaning they can be accessed without a request), and as such, the municipality is obligated to publish them on the municipal website in accordance with the Law on Access to Public Documents and the Administrative Instruction on Transparency in Municipalities.

Nevertheless, official reports indicate notable progress by municipalities in allowing citizens access to public documents from year to year. Although the Report of the Information and Privacy Agency highlights that in 2022, 121 complaints were filed before this institution against municipal decisions regarding access to official documents¹⁹, the trend of reviewing and approving citizens’ requests for access to official documents has been consistently improving. This is because, according to official data in 2017, only 46% of submitted requests were approved²⁰. However, after just one year, this low trend significantly increased to 94% of requests with approved access²¹, and in 2021, it reached 99%²².

Thus, municipalities have made considerable progress in fulfilling legal obligations to provide public access to information, data and official documents. However, the right to access public documents, as defined in LLSG, also implies a proactive role for municipalities in the continuous provision of documents, data and public information about the municipality’s operations through interactive platforms. In this regard, municipalities have made more limited progress in the proactive publication of

¹⁸ Law 06/L-084 on Access to Public Documents, Article 12.1, accessed at: <https://gzk.rks.gov.net/ActDetail.aspx?ActID=2724>.

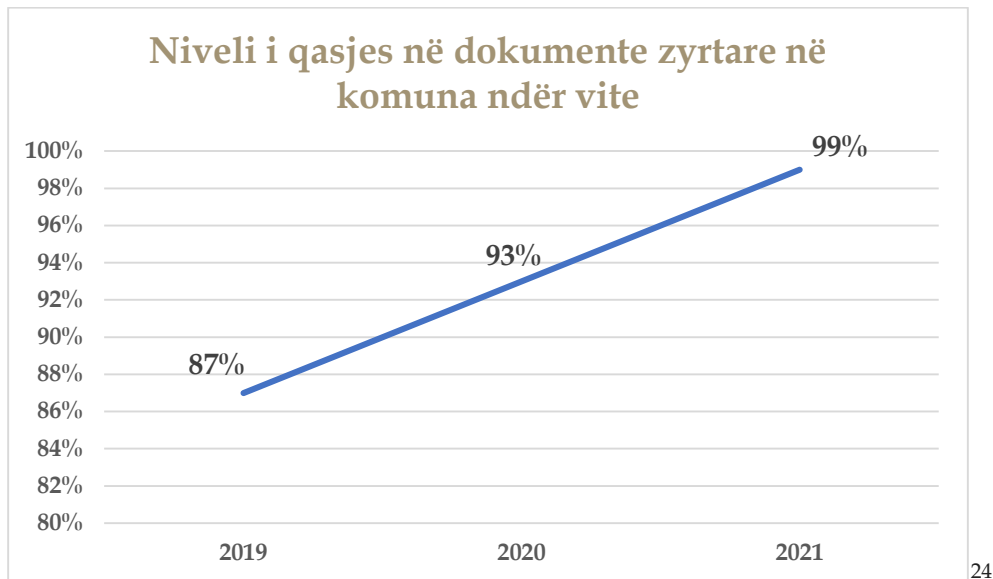
¹⁹ Annual Report 2022, p. 26, for more check: <https://aip.rks.gov.net/download/raporti-vjetor-i-punes-per-vitin-2021-2/?epdmdl=3442&refresh=6563323146bc01700999729>.

²⁰ MLGA, *Report on access to official documents of municipalities January-December 2017*, Prishtina, March 2018, p. 5.

²¹ MLGA, *Report on the operation of municipalities January-December 2018*, Prishtina, March 2019, p. 14.

²² MLGA, *Municipal Performance Report for 2021*, MLGA, p. 19.

information, documents or official data. Thus, MLGA data for 2022 shows a very high percentage of acts approved by Municipal Assemblies, with a rate of 97%²³.



However, on the other hand, 32 Municipal Assemblies have published the minutes of their sessions out of 38 municipalities.²⁵ A lower percentage has been observed in relation to the minutes of the Policy and Finance Committees of Municipal Assemblies. Only 26% of Municipal Assemblies have published minutes of Policy and Finance Committee meetings.²⁶ In relation to the municipal executive, only 77% of municipalities have published acts issued by the Mayor.²⁷ Even worse is the situation in publishing reports from the Mayor, where only 60% of municipalities have published the reports of the Mayor's work. A slightly better situation has been noted regarding the publication of financial documents, such as the budget plan, medium-term budget framework, etc.

In this section of the report, careful consideration has been given to other provisions of local democracy related to the right to petition, citizen initiatives, the right to local referendum, and the initiative to remove the Mayor.

The Law has a total of 4 Articles with a total of 11 paragraphs that regulate the aforementioned mechanisms. These 4 mechanisms have been superficially addressed in

²³ MLGA, *Report on the assessment of transparency in municipalities January - December 2022*, p. 10, accessed at: <https://mapl.rks-gov.net/ep-content/uploads/2023/04/RAPORTI-PER-VLERESIMIN-E-TRANSPARENCE-03.04.2023-Shq.-LEKTORUAR.docx>.

²⁴ The data in the table are taken from the Municipal Performance Reports for 2019, 2020, and 2021.

²⁵ Ibid, p 11.

²⁶ Ibid.

²⁷ Ibid, p. 19.

the MLGA Administrative Instruction, and consequently, their application has not been practised.

Approval of secondary legislation in the area of municipal transparency

Paragraph 4 of Article 68 of the Law on Local Self-Government grants the Municipality the right to approve regulations on municipal transparency with a scope to promote the work of the Municipal Assembly and executive. This paragraph gives the Ministry responsible for local government the right to issue Administrative Instructions in this area. Based on this legal basis, MLGA has regulated various aspects of transparency through the following Administrative Instructions: 1) Administrative Instruction (MLGA) No. 04/2018 on Transparency in Municipalities and Instruction (MLGA) No. 03/2020 on Transparency in Municipalities; 2) Administrative Instruction (MLGA) No. 01/2019n Monitoring Municipal Assemblies Through Information Technology Equipment “Telepresence”; 3) Administrative Instruction (MLGA) No. 03/2018 for the Functioning of Citizen Service Centers in the Municipality; 4) Administrative Instruction (MLGA) No. 03/2013 on Procedure for Drafting and Publishing Municipal Acts; 5) Administrative Instruction (MLGA) No. 01/2016 on the Procedure of Establishment, Organization and Competencie3s of the Consultative Committees in Municipalities; 6) Administrative Instruction (MLGA) No. 06/2018 on Minimum Standards for Public Consultations in Municipalities.

At the local level, the bylaws that regulate aspects of transparency are: The Statutes of Municipalities and Municipal Regulations on Transparency. Based on the data from the Official Gazette of the Republic of Kosovo, currently, transparency regulations have been drafted in 27 municipalities.

In line with strengthening transparency policies, in 2020, MLGA developed and published the guidance document - Handbook on Public Consultations at the Local Level²⁸. The aim was to guide municipalities on formats, procedures and methods to involve citizens in the public consultation process, ensuring their impact is more significant on public participation in all segments of local government. Furthermore, in 2022, MLGA also developed the Municipal Model Action Plans for Transparency, as stipulated in Article 15 of Administrative Instruction (MLGA) No. 03/2020.

In 2023, MLGA initiated the drafting process of a new Administrative Instruction on Transparency and Citizen Participation, which consolidates into a single document the provisions of the Administrative Instruction on Transparency, the Instruction on

²⁸ Handbook on Public Consultations at Local Level, MLGA, accessed at: <https://mapl.rks-gov.net/wp-content/uploads/2021/06/FINALEE-Manuali-ne-tri-gjuhet.pdf>.

Minimum Standards for Public Consultation, and specific provisions from other instructions.

III. 2. Identification of challenges or positive impacts during the implementation of provisions related to the right to petition, citizen initiatives, referendums and the initiative for the removal of the Mayor

To analyze the provisions related to the right to petition, citizen initiatives, referendums and the initiative for the removal of the Mayor, only the implementation and compliance evaluation has been used. This is because preliminary data indicate obstacles to the implementation of these provisions, and in practice, some of these mechanisms have not been applied at all.

The right to petition

The right of petition means a common way for citizens and organizations to present and request changes, actions or reactions from the municipal authorities. Article 69 of LLSG stipulates that “Any person or organization with an interest in the municipality shall have the right to present a petition to the Municipal Assembly about any matter relating to the responsibilities and powers of the municipality. The Municipal Assembly shall consider the petition in accordance with its Statute and Rules of Procedure”.

However, unlike the above-mentioned legal provision, the Administrative Instruction on Transparency ‘narrows down’ the right to petition by explicitly regulating it for matters within the power of the Municipal Assembly related to: the regulation of the city; Maintenance of order and infrastructure of the municipality/city; urban and rural urbanization; maintenance of the living environment; the implementation of self-control and issues important to the life of the local population²⁹

The competency for reviewing and deciding on a petition is reserved for the Municipal Assembly, as the highest decision-making authority in the Municipality. As for the deadline for reviewing the petition, this is not specified in the Law on Local Self-Government, making it determined by Administrative Instruction No. 03/2020 on Transparency. However, in this Instruction, the deadline is erroneously referred to Articles 69 and 70, which do not specify any deadline for petitions but recognize this deadline for the instrument of citizen initiatives. Based on this, the Draft Administrative

²⁹ Taking into account the ‘restriction’ of this right, different from what LLSG envisages, in the draft of the new Administrative Instruction on Transparency and Citizen Participation in Local Government (2023), this provision has been entirely removed. Additionally, terms such as city, self-control, etc., have been harmonized according to LLSG.

Instruction on Transparency (2023) reduces the deadline for reviewing a petition from 60 days to a shorter period of 30 days³⁰

Another unclear issue in the provisions of Administrative Instruction No. 03/2020 is the lack of conceptual differences between the petition as a specific legal instrument and the citizen initiative, which is specific for proposing regulations according to Article 70.1 of LLSG, causing confusion in their implementation. Given these ambiguities, their differentiation has been made in the Draft Administrative Instruction on Transparency, where they are treated separately.

According to the data reported by the municipalities participating in the survey of this analysis, only 7 out of 18 responding municipalities have reported that they received petitions during 2022/23 or previous years. These seven (7) municipalities have reported a total of 13 petitions received or less than two (2) petitions per municipality. The nature of these petitions is mainly related to property claims or the reorientation of public investments to other locations in the Municipality. Although these data are insufficient to have an accurate picture of the use of the petition tool by citizens to influence local decision-making, a careful conclusion can be drawn that this legal institute is used at a low level by citizens.

Citizens' initiatives

Citizens' initiatives represent specific instruments for expressing citizens' requests in bylaws, namely municipal regulations. According to Article 70 of LLSG, citizens have the right to “take the initiative to propose regulations within the competencies of the Municipality, for approval by the Municipal Assembly or by the vote of the citizens, in accordance with the applicable law. The proposers submit the draft of the proposed regulation to the Chairperson of the Municipal Assembly”. A prerequisite for activating this initiative is the “signature of at least 15% of registered voters to be considered by the Municipal Assembly” (para. 3 of Article 70 of LLSG).

In addition, LLSG stipulates that such regulations must be within the scope of the municipal competencies and in accordance with the applicable law. Procedures guide that citizens, as proposers, must submit the draft regulation to the Chairperson of the Assembly so that it can be considered within 60 days from the date of receipt.

Initially, there is an opinion that this legal institute is difficult to apply due to the high criterion required for obtaining signatures from citizens. Also, the administration of the

³⁰ Draft Administrative Instruction on Transparency and Citizen Participation in Local Government, Article 33, para. 5.

signature collection process is not clarified by any bylaws. The regulation according to Article 9, paragraph 5 of Administrative Instruction No. 03/2020 on Transparency remains unclear, which stipulates that “after the discussion in the Municipal Assembly, the Mayor or the relevant service, no later than 15 days from the date of consideration, notifies the submitter of the request or petition”. This provision does not differentiate between procedures for petitions and citizens’ initiatives and does not further elaborate on the verification and authenticity of signatures.

In the Draft Administrative Instruction on Transparency (2023), this issue is reserved for the Municipal Assembly, specifying that “the Assembly initiates the process of verifying the submitted signatures; after verification, citizens’ requests and initiatives are considered by the Municipal Assembly within a period of 60 days, as determined by Articles 69 and 70 of LLSG. The data, including the signatures of the initiative representatives, are stored and archived in accordance with the Law on Protection of Personal Data.

Based on the responses from the municipalities in the questionnaire of this Report, it appears that none of the 18 municipalities that have responded to the questionnaire have received any citizen initiatives during 2023 and the previous years. Consequently, this provision has remained unimplemented.

Initiative for the removal of the Mayor

Another modality of citizens’ initiatives is that of removing the Mayor. According to the LLSG (Article 72), “The citizens of a Municipality may take the initiative to remove a Mayor from the office. A request to this effect shall be signed by twenty (20) percent of the registered voters and shall be submitted to the Chairperson of the Municipal Assembly who shall refer the matter to the appropriate institution for the administration of voting. If the majority of the registered voters vote in favour of the Mayor's removal, new mayoral elections shall take place in accordance with the law on elections”.

Practically, the implementation of this provision is very challenging for two main reasons: first, the initiative for removal requires a quota of 20% of registered voters, which is quite challenging to achieve³¹The second, the removal voting procedure requires the approval of the majority of registered voters, which is unprecedented and may be based on the number of voters who participated in local elections. Consequently, the rigorous

³¹ MLGA, *Comprehensive Study of the Local Self-Government System in Kosovo*, Prishtina, December 2021, p. 57.

criterion for undertaking removal initiatives strengthens the position of the Mayor, which may be one of the factors for not initiating a removal initiative.

Since the entry into force of LLSG, the initiative mechanism for removing the Mayor has not been further regulated by secondary legislation. Following the elections held in April 2023 in four municipalities in northern Kosovo, North Mitrovica, Leposavic, Zvecan, and Zubin Potok, and the refusal of the Serbian community to participate in those elections, the need arose to identify possibilities for utilizing the initiative mechanism for removing the Mayor. As a result of public discussions regarding the events following the elections in northern Kosovo, actions intensified to determine a legal framework through the issuance of Administrative Instruction No. 02/2023 on Citizens' Initiative for the Removal of the Mayor from Office³². However, until the drafting of this Report, there is no information regarding the initiation of any initiatives to remove mayors based on this Administrative Instruction. Furthermore, it remains unclear whether this legal basis is sufficient to activate this important legal mechanism for municipalities. The Law on Local Self-Government, specifically Article 72, does not call for the adoption of bylaws to further regulate this mechanism. The only regulation for this mechanism is specified in LLSG. It remains to be considered whether such an initiative for the removal of the Mayor, a function decided by direct vote, can be further regulated by a bylaw or through separate legislation.

Local referendum

The referendum is a way of directly expressing the will of citizens regarding an issue or initiative undertaken. Although guaranteed by the Constitution, in some cases, referendums are not allowed, as legislation of vital interest (including LLSG) may not be subjected to a referendum.

At the local level, a referendum is recognized as a right but is limited only to the approved regulations of the Municipal Assembly. Additionally, the legal nature of this institution is not entirely clear, particularly whether it will be a consultative or obligatory type of referendum. LLSG specifies that "citizens of the Municipality may request that a regulation of the Municipal Assembly approved by the Municipal Assembly be subjected to a referendum". The procedure is determined in such a way that the request must be submitted to the Chairperson of the Municipal Assembly within 30 days from the date of the approval of the Regulation, and it must be signed by 10% of registered voters. The Municipal Assembly must consider the request within 30 days of receiving the petition, in accordance with the applicable law.

³² Administrative Instruction (MLGA) No. 02/2023 on Citizens' Initiative for the Removal of the Mayor from Office, accessed at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=80975>.

Other arguments emphasize that “Article 71 does not make it entirely clear whether it refers to regulations sought through citizens’ initiatives, petitions, or both”. Therefore, this is the only provision related to local referendums, implying that LLSG does not envisage citizens’ right to demand local referendums as a means of civic participation concerning any specific issue falling within the competency of municipalities³³.

Even the Constitution of the Republic of Kosovo, Article 65 defines the competence of the Assembly of Kosovo to "announce a referendum, in accordance with the law". However, so far no law has been drafted that regulates the announcement, participation criteria, organization and formalization of a referendum in Kosovo. Due to the lack of such a law, even the LLSG provision providing for the local referendum has no legal regulation that defines the referendum procedure at the local level. Furthermore, there is no bylaw that defines the procedures for organizing and holding referendums to make concrete the LLSG provisions. However, it is not clear whether, legally, the issue of the local referendum can be regulated at the level of an administrative act or another bylaw issued by MLGA, or by the municipalities within their competencies.

In the absence of a complete legal framework, so far this local democracy mechanism has not been used. From publicly available official data, it is evident that there has been no case of a referendum organized at the local level in Kosovo. Furthermore, based on the responses of municipalities to the questionnaire in this analysis, 17 municipalities have declared that they did not have any cases of referendums in their municipalities. Only the Municipality of Suhareka reported a case of the referendum, but it is not clear if it was confused with any case of petition or citizen initiative. According to the responses received from the Municipality of Suhareka, the reason for the referendum was a request to determine the location of a religious building.

The adoption of a law establishing the rules for organizing referendums, both at the local and central levels, would enable the implementation of the LLSG provisions regarding the organization of referendums at the local level. Until that moment, this provision remains unenforceable.

Consultative Committees

Within the legal mechanisms for citizen participation in the decision-making process, Consultative Committees are also present, as assisting bodies of the Municipal Assembly. These committees may be established for specific sectors such as education, healthcare, economic development, public services, etc. Their membership is reserved only for citizens

³³ MLGA, *Comprehensive Study of the Local Self-Government System in Kosovo*, Prishtina, December 2021, p. 57.

and representatives of NGOs. The main purpose of establishing these committees is to increase the active participation of citizens and stakeholders in the municipal decision-making process.

The legal framework regulating in detail the establishment, work, organization, and competencies of Consultative Committees exists and constitutes a solid basis for their functioning. For this purpose, Administrative Instruction (MLGA) No. 01/2016 on the Procedure for Establishment, Organization and Competencies of the Consultative Committees in the Municipalities³⁴ has been approved, which amended a previous Administrative Instruction that had been in force since 2008.

According to Administrative Instruction No. 01/2016 it is determined that proposals for the establishment of committees can be made by: a. the Mayor, b. members of the Municipal Assembly, and c. civil society. Furthermore, the establishment of ad-hoc committees for specific matters is envisaged, the mandate of which will expire upon the conclusion of the matter for which the committee has been established to address. The committee may consist of 5 to 7 members, and the composition must reflect gender representation. The selection of members of Consultative Committees is conducted through a competitive public process, which is announced by the Municipal Assembly and specifies the necessary criteria for candidates. The mandate of members of Consultative committees has a duration of 4 years from the moment the committee is established, and a committee member cannot hold more than two consecutive terms in this role.

Currently, there is no accurate official data on the number of Advisory Committees established in municipalities. The summarized data for 2019 reflect the establishment of these committees in 13 municipalities, with a total of 35 Consultative Committees. These committees have been established in local government sectors such as spatial planning, education, culture and sports, local economic development, urbanism, health and social welfare, human rights, gender equality, agriculture and emergencies³⁵. The only accessible data are those published by MLGA through annual reports. However, it is unclear whether these data reflect the total number of Consultative Committees established by all municipalities.

If the Report on the Functioning of Municipal Assemblies for 2022 is analyzed³⁶, it turns out that in 2022 only 11 municipalities established Consultative Committees. This information does not accurately reflect whether there are Consultative Committees established by other

³⁴ Administrative Instruction (MLGA) No. 01/2016 on the Procedure for Establishment, Organization and Competencies of the Consultative Committees in the Municipalities, accessed at: <https://gzk.rks.gov.net/ActDetail.aspx?ActID=12979>.

³⁵ MLGA, Report on the Functioning of Municipalities for 2019, p. 1. 10.

³⁶ MLGA, *Report on the Functioning of Municipal Assemblies 2022*, p. 13, accessed at: <https://mapl.rks.gov.net/ep-content/uploads/2023/07/Raporti-i-funksionimt-te-KK-2022-020-291-2023.pdf>.

municipalities during previous years, or only 11 municipalities have these committees established. Furthermore, there is no published data on the results of the work of these committees; therefore, an accurate assessment of the effect and results of their work cannot be drawn. Since the mandate of Consultative Committees is 4 years with the right to be re-elected for a second term³⁷, the above data on their establishment are relative.

Regarding the nature of these committees, LLSG makes room for interpretation as to whether they are mandatory or not. For this reason, not all Kosovo municipalities have established such committees. It is estimated that the establishment and functioning of these Committees in most municipalities of Kosovo has been challenging and their successful use as a mechanism for citizen participation in the decision-making process has not been achieved. Based on the data obtained from the municipalities through the questionnaires of this analysis, it is revealed that out of the 10 municipalities that have reported the establishment of Consultative Committees, only 7 of these municipalities have reported that the Consultative Committees have reported to the Assembly on the issues discussed by those committees. Furthermore, only 5 municipalities that have established consultative committees have reported that the municipal committees have published work reports.

Civil society organizations that monitor the work of municipalities have identified that some of the reasons for their non-functioning are related to “politicalization, lack of willingness, and lack of knowledge of legal rights, not only from citizens but also from municipal officers”³⁸.

Establishment of Village Councils, Urban Quarters and Settlements

Local Councils are elected bodies that represent the organized community of one or more villages, settlements and urban quarters. By secondary legislation, municipalities are required to establish a certain number of local councils depending on the number of residents³⁹. Further, the Administrative Instruction sets the standards for the composition of Local Councils (5-9 members). These Councils have a four-year mandate, while the Municipality's cooperation with the councils is determined by a separate agreement (Article 9), so it should focus on urban and rural planning; water supply, sewerage regulation, drainage; public health; environmental protection; tourism; public spaces and cemeteries; cultural and sports activities; etc. In this regard, the Mayor and the

³⁷ Supra 31, Article 9.

³⁸ Initiative for Progress - INPO, “Consultative Committees - in the function of good governance in Kosovo”, Ferizaj, August 2018, p. 7, accessed at: <https://inpo-ks.org/ep-content/uploads/2018/08/Komitetet-Konsultative-final.pdf>.

³⁹ Administrative Instruction (MLGA) No. 02/2019 on the Organization, Functioning and Cooperation of Municipalities with Villages, Settlements and Urban Quarters.

Chairperson of the Assembly are obliged to hold meetings with these Councils at least twice a year. The administrative instruction has also regulated the right to compensation for Council members, in an amount equivalent to that of mandatory Committees, but which cannot be compensated for more than 6 meetings held during the year.

Although the legal framework in this area regulates in detail the way of establishment, as well as the procedures and membership rights of local councils, the data on their activities indicate difficulties in functioning and achieving the purposes for which they were established. Firstly, official data show that these recommendations are not implemented in all municipalities. Referring to the data of 2019, Local Councils were established in 26 municipalities, so almost half of the municipalities had not established any councils. Furthermore, the reports argue that their activity is not in line with the minimum standard for holding meetings. Only during 2021, the legal criterion for Local Councils to hold 6 meetings within the year was reached at a rate of 37.58%⁴⁰. Regarding the composition of Councils, there is a noticeable lack of equal gender representation, where according to data from 2019, the majority of these Councils had no women in leadership roles. Whereas the data of the Municipal Performance Report for 2022 show that only 6.66% of Local Council members are women⁴¹. This information represents a disturbing situation regarding the representation of women in Local Councils, even though the function of these Councils is to involve the community in decision-making. Consequently, the majority of women remain not involved in local processes.

Regarding the implementation of the provision that defines the agreements of the Municipality with the Local Councils, it is found from the questionnaires with the municipalities that none of the 18 municipalities that have responded to the questionnaire have entered into agreements with Local Councils. Consequently, this provision has remained unimplemented.

⁴⁰ MLGA, *Municipal Performance Report for 2021*, p. 44.

⁴¹ *Ibid*, p. 35.

IV. SUMMARY OF FINDINGS

Transparency, public meetings and consultations

- The applicable legislation establishes a solid legal basis for regulating public meetings, public consultations for draft acts, and municipal transparency in general.
- The municipalities generally fulfil the obligation of organizing two meetings with citizens as required by the Law on Local Self-Government, but citizen participation in public meetings remains very low.
- Although the municipalities have started adopting different practices for meetings with citizens, including through electronic communication tools, citizens' interest in participating in these meetings has not increased.
- The implementation of legal obligations by municipalities regarding public consultations for municipal draft acts remains incomplete. Only 60% of municipalities have used the platform for publishing municipal acts for public consultation.
- The municipalities are very good in terms of organizing budgetary hearings with citizens. There is a very positive trend of increasing the number of budget meetings in all municipalities.
- Municipalities have a very low level of publication of the results of the public consultation.
- Municipalities have made considerable progress in fulfilling legal obligations to provide public access to information, data and official documents.

Petition

- LLSG does not set legal deadlines for the consideration of petitions, while bylaws do not specifically address the regulation of deadlines for the consideration of petitions.
- Municipalities have received a relatively small number of petitions in recent years.
- In regulation by bylaws, there is an unclear mix between petitions and citizens' initiatives.

Citizens' initiatives

- LLSG establishes the legal basis for citizens' initiatives but lacks specific regulation on the procedure for administering and reviewing them by municipalities.

- The management of the process of collecting and verifying signatures has not been clarified by any bylaw.
- Citizen initiative as a mechanism for citizen participation in decision-making is difficult to implement, due to the high criteria required to obtain signatures from citizens.

Initiative for the removal of the Mayor

- The initiative for the removal of the Mayor is practically unattainable, due to the quota of 20% of registered voters to initiate the procedure.
- Until 2023, there was no sufficient legal basis for the functionality of the mechanism for the removal of the Mayor, and this mechanism is not used in any Municipality.

Local referendum

- Although LLSG provides for the possibility of organizing local referendums for certain issues, there is a lack of legal framework for the organization of referendums.
- In the absence of a complete legal framework, so far this local democracy mechanism has not been used.

Consultative Committees

- The legal framework regulating in detail the establishment, work, organization, and competencies of Consultative Committees exists and constitutes a solid basis for their functioning.
- The transparency of the work of Consultative Committees is very low in all municipalities.
- According to available data, less than 30% of communes have established Consultative Committees.
- The role of Consultative Committees in drafting local policies is limited.

Local Councils

- The establishment, organization and functioning of Local Councils are regulated by a solid legal basis.
- The mechanism of village councils, urban quarters and settlements is not fully present in all municipalities.
- Local Councils established fail to meet the legal criterion of organizing at least six (6) meetings within a year.
- Women are severely underrepresented in Local Councils across municipalities.

V. RECOMMENDATIONS

Transparency, public meetings and consultations:

- Municipalities to advance good practices for raising awareness among citizens about the importance of public meetings and consultations through awareness campaigns and informative materials.
- Municipalities to increase the efficient use of electronic means to enhance citizens' participation and interest in meetings and consultations.
- The municipalities to advance platforms to proactively publish official information, documents and data in order to increase transparency and citizens' access to public information.
- The central level to provide continuous support and training to municipalities for the full implementation of the law and regulations on public consultations for draft acts.
- The municipalities to advance the use of the electronic platform for public consultations more actively and publish the results of the consultations.

Petition and Citizens' Initiatives:

- Complete the secondary legislation for setting the legal deadlines for reviewing petitions and improve clarity in the rules for their review by municipalities.
- Secondary legislation needs to address separately the mechanism of petitions and citizens' initiatives.

Initiative for the removal of the Mayor:

- Review the quota necessary for initiating the procedures for the removal of the Mayor to facilitate citizen participation.
- Develop a legal framework for setting the deadlines and procedures for the initiatives to remove the Mayor.

Local referendum:

- Develop a legal framework for the organization of local referendums and determine clear procedures for their use.
- The central government level to support municipalities to efficiently use the mechanisms of referendums to consult citizens on specific issues.

Consultative Committees and Local Councils:

- Establish mechanisms to support municipalities in establishing Consultative Committees and improve the transparency of the work of Consultative Committees.
- The Municipality to identify practices that stimulate diversified participation in Consultative Committees and Local Councils, including marginalized groups and other minority groups.
- The municipalities to establish mechanisms for administrative support of the work of Local Councils, in order to improve participation and fulfil the legal criterion for Local Council meetings.
- The municipalities to identify practices to stimulate diversified participation to increase the representation of marginalized groups, including women, in Local Councils.

VI. ANNEX 1 – Questionnaire with municipalities

Subject matter	Questions
Public information and consultation	<ol style="list-style-type: none"> 1. Do you hold periodic public meetings with citizens (at least twice a year)? 2. Which forms of meetings do you organize? Describe any specific form if you implement it in your Municipality and explain why that form is successful. 3. How do you inform citizens about public meetings? Describe the tools used for public notification. 4. Do you think that these methods/tools for public information are sufficient? 5. Is there any minutes taken at public meetings where the observations, requests and proposals of citizens are recorded? 6. How are the requests of citizens presented in public meetings organized by the municipalities? 7. Write a comment: Why do you think there is little interest of citizens in public meetings?
The right to petition	<ol style="list-style-type: none"> 1. Have you received any petitions from citizens during 2022/23 or the previous years? 2. If yes, how many petitions have you received? 3. If yes, what was their nature? 4. If yes, how were these petitions handled and within what timeframe were they handled?
Citizens' initiatives	<ol style="list-style-type: none"> 1. How many citizens' initiatives were there in your Municipality during 2022-2023? 2. In your estimation, do you think the proposed percentage is high or low? Describe the reasons for your evaluation or any recommendations you may have regarding this topic.
Referendum	<ol style="list-style-type: none"> 1. Have there been any cases where citizens of your Municipality have requested a referendum?

	<p>2. If yes, how many requests have you received and describe the requests for which a referendum has been requested.</p> <p>3. Do you think a separate Law on Referendum is necessary?</p>
Initiative for the removal of the Mayor	<p>1. Have you ever received a request for the removal of the Mayor?</p> <p>2. If yes, how has this request been handled?</p>
Consultative Committees	<p>1. How many active Advisory Committees are there in your Municipality?</p> <p>2. Are the work reports of these Committees published?</p> <p>3. Do these Committees report to the Assembly?</p>
Villages, Settlements and Urban Quarters	<p>1. Has your Municipality had an agreement in place with villages, settlements and urban quarters?</p> <p>2. If yes, how many of these agreements have been fully implemented and how many of them have not been implemented? Give more detailed descriptions if you deem it necessary.</p> <p>3. In what form has the Municipality provided support through these agreements?</p>

The municipalities that participated in the questionnaire of this Report are: Municipality of Deçan, Drenas, Ferizaj, Fushe Kosova, Gjakova, Gjilan, Graçanica, Kaçanik, Klina, Mamusha, Novoberda, Peja, Podujeva, Prizren, Shtime, Skenderaj, Suhareka and Lipjan.

VI. ANNEX 2 - List of references

Reports, analyses, and other documents:

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Administrative Instruction (MLA) No. 03/2020 on Transparency in Municipalities.

Administrative Instruction (MLGA) No. 02/2019 on the Organization, Functioning and Cooperation of Municipalities with Villages, Settlements and Urban Quarters.

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VI. ANNEX 3 - List of abbreviations

EC	European Commission
LLSG	Law on Local Self-Government
MLGA	Ministry of Local Government Administration
NGO	Non-Governmental Organization
MPMS	Municipal Performance Management System
UA	Administrative Instruction
UNMIK	United Nations Mission in Kosovo
OGG	Office for Good Governance