HOW TO ENGAGE TOGETHER IN A POLICY DIALOGUE?

Brief Manual on Public Consultations for civil society in the area of

education and rule of law

Prishtina

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These manual for consultations in education and rule of law have been prepared from the Kosovar experts in the framework of the project “How to engage together in a policy dialogue?”. The descriptions, analysis and recommendations present the views of the individual authors and are not always considered as the official positions of the Kosovar Civil Society Foundation, nor of organizations the experts work for or represent.
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About the Project: How to engage together in a policy dialogue?

How to engage together in a policy dialogue?
Objective: Building a consultation platform between NGOs and government in the area of education and rule of law i.e. anti-corruption in Kosovo using the Czech experience.
Partners: EUROPEUM Institute for European Policy (Czech Republic) and Kosovo Civil Society Foundation (KCSF)

Timeline: January until December 2010
Supported by: Transition Program of the MFA of Czech Republic and East-East Partnership Beyond Borders Program (OSI)

Outputs:
- 10 Kosovo experts familiar with the Czech experience (the methods and mechanisms) of shaping public policies and conducting a structured dialogue between the non-governmental actors and public institutions on the central level (government, ministries and parliament).
- At least 15 experts (NGOs, think tanks, government representatives) trained by the Czech experts from NGOs in the issues of developing structured and sustainable consultations of the civil society in the public policy process in two areas: a) reform of the educational system and b) enforcing the rule of law (anti-corruption, independent judiciary etc.).
- Partnerships established between Kosovo and Czech NGOs working in the areas of education and rule of law as well as in coordinating the policy dialogue
- Establishment of two experts’ working groups (task forces) comprising 6 to 10 experts from NGOs, think-tanks, state institutions (government, parliament) and journalists active in the two areas
- Two methodologies developed on conducting the structured dialogue between the representatives of the NGOs and public institutions as well as consultations in formulating and implementing public policies in the area of education and rule of law. Long-term and sustainable cooperation between NGOs and institutions on the central level established (Ministry of Education, Ministry of Justice and Ministry of Interior; related parliamentary committees).
- At least 20 representatives of NGOs, public administration and journalists trained in conducting the structured political dialogue between NGOs and public administration institutions and participating on the establishment of a consultation mechanism
I. Guidance on Public Consultations

1. Introduction

This manual aims to be a guidance document for Government Civil Servants and staff of all public institutions to familiarise themselves with the consultation process. The manual outlines the basic principles of consultation, provides practical advice on the different stages of the consultation process, as well as highlighting some of the benefits of undertaking a consultation.

In general, there are number of reasons to undertake a consultation process before a draft law is sent by the Government to the Parliament for discussion. An effective consultation can lead to:

- Improved law making
- Increased Government transparency and accountability
- More responsive and effective Government

This manual aims to provide an easy to use and practical guide for those who are asked to undertake a consultation process and outlines some of the different mechanisms and methods that can be used to undertake such a process.

The manual does not cover the need for inter ministerial consultation within the Government structures but rather covers consultation with the general public and stakeholders outside of the Government. The manual outlines the different stages of the consultation process from the planning stage to the implementation stage to the final stage of using the consultation responses. Although there are many different techniques and mechanisms for consultation, the most common are written consultations and public meetings, and this manual will concentrate on these issues.

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1 This guide has been prepared as part of the ‘Developing Civic Participation in Kosovo’ project of KCSF
2. What is Consultation?

Although the need for Government to consult with society on a number of issues including the development of draft laws is often raised, there can be little guidance as to what exactly consultation is, what a consultation process includes and how to undertake a consultation.

In basic terms, consultation is a process by which the Government and other public institutions seek the opinions of the general public on the draft laws that they wish to develop.

In practical terms, consultation means that Government Ministries will need to:

- Provide information to the general public, or specific stakeholders / groups within society on draft laws;
- Seek their views and comments on the proposed draft law;
- Decide whether to change the content of the draft law when they know the views and opinions of the general public / stakeholders on the content of the proposed law.

Consultation can also be used as a verification process once a decision has been taken by the Government in order to ensure that the information included in the Government proposals is verified by stakeholders or the general public. For example, if the Government is planning to introduce new regulations on the way in which small businesses operate, a consultation can be useful to verify the Ministry’s own estimates of impact against the estimates of those who will have to implement or conform to the new regulations.

Consultation is already used both formally and informally by many ministries in Kosovo, but the practice can vary from Ministry to Ministry and there is little practical guidance available to assist those in the Ministries who have been asked to undertake a consultation.
3. Why Consult?

The consultation process can add to the workload of civil servants and employees of public institutions and can also be a time-consuming process for staff many of whom already have many other duties and responsibilities. It is therefore important to clarify the importance of consultation and the benefits for the Government of undertaking a consultation exercise.

Undertaking a consultation on draft laws can actually lead to better quality policies and laws for the following reasons:

- Consultation helps to identify effective solutions to problems;
- Consultation can lead to new policy ideas and provide the Government with a wider range of options;
- Consultation is a valuable and inexpensive source of data for policy-making because consulting those affected by the proposal is likely to be able to provide data on costs and consequences of the draft proposal;
- Consultation can be used to verify the assumptions and analysis on which the proposals are based. Comparing the theory or the Government proposal with the real-life experience of those to be affected by the proposal may lead to changes to the draft proposal;
- Consultation can highlight potential problems with a draft proposal early in the process which gives the Government time to amend the draft proposal;
- Consultation can identify unintended consequences;
- Consultation can help the Government discover better implementation methods.

The consultation process allows the Government to improve the quality of laws whilst they are being developed and before they are passed onto the Parliament for their consideration. Consultation can therefore reduce potential administrative problems by poorly drafted legislation which in the medium to long term would need to be amended or revoked.
The consultation process also makes the Government more open and transparent as the general public and stakeholder groups in society are made aware of the draft laws that the Government is developing and this increased openness and transparency can lead to greater trust in the Government.

As well as improving the content of the final draft law which the Government passes onto the Parliament in Kosovo, the consultation exercise itself is a useful part of the policy-making process. However, it is important to note that the consultation process does not replace the broader policy-making processes within the Government. The consultation process aims to seek the views and opinions of the general public on the proposed two draft law but, it is a qualitative exercise and not a quantitative exercise. It is not a referendum to decide on the merit of the proposed draft law. Consultation is not binding on the Government.

Consultation allows the Government of Kosovo to know the opinions of the general public and organisations. These views can inform the Government but are not binding on the Government.
4. When to Consult

Ensuring that consultation takes place at the right time is a key element of an effective consultation process. In general terms, the consultation exercise can take place at two different points of the policy development process. The consultation can either take place at an early stage which allows for increased input as the policy is being developed or formulated by the Government, or at a later stage which allows the consultation process to verify the proposals that the Government has developed.

Formative consultation to help develop ideas and policies can:
- Help identify all dimensions of the problem or issue;
- Help identify new options for addressing the perceived problem;
- Help work out the full consequences of the different possible options;
- Ensure that stakeholders feel part of the policy development process and that their views will be taken into account by the Government when developing the final policy.

Verification consultation to test views or policies already developed can:
- Help identify unintended effects or problems of the policy;
- Provide information on the draft law to the public and stimulate public debate;
- Allow the Government to assess public reaction to the proposal;
- Identify potential problems with implementation.
5. Who to Consult

An important part of planning any consultation exercise is to decide who to consult on the proposed draft law. In general, the Government can either consult only with key stakeholders within the sector for example Doctors’ Associations and Nurses’ Unions if the draft law relates to hospitals, or they can decide to undertake a more general consultation which includes all members of the public. The method that the Government will select will largely depend on the issue under consideration and also on the time and resources available to the Government.

Consulting

- Only stakeholders active in the sector the draft law covers, e.g. Professional Associations, Trade Unions, Civil Society Organisations, etc;
- General public consultation which allows any member of the public to respond to the consultation;
- Both stakeholders and the general public.

Consultation with key stakeholders

This means consulting groups and organisations outside the Government structure that may be directly affected by the proposal and to discuss the proposed content of the draft law with these key stakeholders. This is a limited but focused consultation process and is usually most effectively used when the draft law proposed is a technical issue which is of limited public interest or if a draft law is at a very early stage of policy development. There are a number of benefits of consulting with key stakeholders as part of the consultation process:

- It is an inexpensive way of gathering information;
- It helps the Government identify the key issues that need consideration in policy-making;
- It helps identify potential solutions;
- It ensures that the responses received are more focused on the specific content of the draft proposal than would be the case in a general public consultation.
**Full public consultation**
A full public consultation means consulting all people who are likely to be directly or indirectly affected by the draft proposal including the general public and a whole range of civil society organisations. A full public consultation is usually undertaken by the Government for verification reasons after it has developed specific proposals or draft laws.

There are a number of benefits of conducting a full public consultation as part of the consultation process:
- It allows all members of the public to feel part of the process;
- It ensures that the policy making process is seen to be more open and transparent;
- It allows for views and opinions which may be different to the narrower group of stakeholders who are directly affected by the draft legislation;

Although it is possible to use both methods at the policy development and policy verification stages of the policy-making process it is often more practical and effective to consult with a smaller group of stakeholders at the policy development stage and to conduct a full public consultation during the verification stage.

### 6. How to Consult

Key to any successful consultation process is the use of the most effective consultation mechanism in order to gather the views of the general public or the stakeholders that the consultation exercise is targeting for each consultation. There are many different consultation mechanisms that can be used to gather views and opinions, and the Government needs to decide which will be the most effective mechanism to use under any particular circumstance.

There are a number of traditional and new ways to gather the opinions of civil society and the public on policy issues including draft laws. Some of these different consultation methods and techniques include:
- Written Consultations
- Public Meetings
- Conferences
- Focus Groups Meetings
- Workshops
- One on one interviews / meetings
- Opinion Polls or Surveys
- Deliberative Polling
- Citizens Panels
- Street Stalls
- Video Box Initiatives
- Use of Theatre
The most commonly used methods are those of **written consultations** and oral consultation exercises which include **public meetings and conferences with key stakeholders**.

**What is a written consultation?**

Undertaking a written consultation exercise is the most common method of engaging stakeholders and ascertaining their views on particular draft proposals. In most written consultation exercises, the Government will produce information on the proposals they are developing and seek feedback from key stakeholder groups as to whether they agree or disagree with the different aspects of the proposals. During the development stage of the legislative process, written consultation will often take the form of asking key questions on specific policy issues rather than presenting detailed information. However during the verification stage of the legislative process, a written consultation can be undertaken which covers key questions on the legislative text. Guidance is needed to explain the content of the legislation and just providing the draft law is not sufficient.

**What are stakeholder meetings / public meetings?**

During the consultation process it is often beneficial for the Government to conduct face-to-face meetings with civil society organisations working in the sector, or/and with the general public. Stakeholder meetings can be informal meetings between the Government Ministry and organisations working in the sector or can be formal conferences or meetings.

Public meetings are meetings which are widely publicised and are open to any member of the public to attend in order to allow them the opportunity to input into the consultation process and make their views known to Government on the content of the proposed law.

Whilst written consultations may provide more focused and specific answers, the use of stakeholder meetings and public meetings can stimulate discussion and often lead to alternative proposals that may not have arisen during written consultations.
7. The Consultation Process

It is important to consider consultation as part of a wider process of developing draft laws by the Government. It is also important for the Government to plan the consultation in an effective manner and during the consultation process a number of factors need to be taken into consideration. The below diagram outlines some of the key points that need to be considered and decided as the consultation process develops.

Planning
- Agreeing who is responsible
- Agreeing the purpose and scope of the consultation
- Agreeing the key consultation questions
- Agreeing the timeframe
- Agreeing how to manage expectations
- Agreeing rules of confidentiality and transparency
- Agreeing the resources need and where they will come from

Conducting Consultations
- Writing the consultation documents and information
- Conducting the written consultation exercise (if there is one)
- Conducting stakeholder meetings (if there are any)
- Conducting public meetings (if there are any)

Using the Responses
- Analysing the responses
- Producing a consultation report
- Contacting all consultation respondents to inform them of the process

The next sections will cover some of the details and the main points that need to be considered when planning a consultation, conducting a consultation and how to use the responses received during the consultation period.
8. The Planning Stage

It is important to draw up a plan for the consultation exercise. Often, during the legislative process there can be time constraints and therefore it is important to develop a plan and to get the plan for the consultation process agreed as soon as is practically possible.

The plan should cover a number of key issues including:

**Key Issue 1: Who is responsible for conducting the consultation?**

- It is beneficial to have one specific individual or a group of individuals within the Ministry responsible for the consultation in order for other Government Ministries and external stakeholders to be fully aware of the responsible person and to ensure a smooth flow of information.

**Key Issue 2: What is the purpose and scope of the consultation?**

- It is important that all those involved in the consultation process are aware from the very beginning the purpose and scope of the consultation. It is important to decide whether the consultation is for formative purposes (that is to help develop the analysis of the issue or the situation) or for verification purposes (that is to test the acceptability of proposals once they have been formulated by the Government). This will help the Government to decide at what stage of the policy development process the consultation should take place.

- It is also important to clarify at the beginning what form the consultation is likely to take in order to achieve the objectives, that is would a written consultation be more effective than meetings with stakeholders or the general public, or should both be undertaken. Although on occasion it is possible to revisit this issue as the consultation process proceeds and more information about the views of stakeholders becomes apparent to the Government, it is important to cover this point in the planning phase.

**Key Issue 3: What are the key consultation questions?**

- In order to have an effective consultation, the Government has to be clear as to what questions they want answered. In many cases, open ended consultations with little guidance as to the questions they want answered are ineffective and do not assist the Government with the policy development. Therefore, during the planning stage the key questions have to be identified and developed in a manner that is easy for stakeholders to understand and respond to.
Key Issue 4: What is the timeframe for the consultation process?

★ It is important that the consultation occurs at an early enough stage in the development of a law to allow for the consultation to have an impact on the final proposed law. If the law has already been drafted and there is no scope to change the content of the law then stakeholders will feel frustrated that their views can have no impact and will see little purpose in the consultation process.

Key Issue 5: Has enough time been allocated for the consultation process?

★ One of the main issues with the consultation process in many countries is the lack of time available to undertake the consultation. It is important that during the planning stage the Government Ministry outlines in detail how long each stage of the consultation process will take, and to be realistic in terms of timeframes and resources available to deliver the consultation plan.
★ It is also important to remember that the consultation phase is only one section of the policy development phase, and therefore the time it takes to draft initial ideas for a law, and the time it takes to make amendments to the final draft of the law must also be taken into account.
★ Some of the actions that need to be considered in the timeframe are identifying stakeholders, developing a publicity campaign for the consultation process, drafting the consultation document, printing and distributing consultation materials, a minimum of 4 to 6 weeks to allow for stakeholders and the general public to respond to consultations, and time to analyse the responses and feed any conclusions into the decision-making process in terms of revising the draft law or policy.

Key Issue 6: How will the consultation process manage expectations?

★ It is important during the planning stage to consider how the Government will manage the expectations of those who are being consulted. At this stage it is important for stakeholders to know during the consultation process which aspects of any draft proposals are being consulted upon. For example, the Government may have definitely made up its mind on some issues but is more open-minded and open to discussion on other ideas. On another issue, the Government may have already decided to implement the policy and is therefore only seeking to gather opinions on how or when to implement the policy. All of these issues need to be clearly defined in the planning process.
Key Issue 7: Are the rules of confidentiality and transparency clear?

★ During a consultation process individual organisations will be giving their views on the issues under consideration. It is important that the Government is clear at the very beginning of the consultation process whether the views given during the consultation phase will be published and how freedom of information laws are related to requests for information on consultation responses.

Key Issue 8: What resources are needed for the consultation process?

★ Consultation requires resources and therefore it is important to clarify during the planning phase how much the consultation is likely to cost and how the consultation will be funded.
★ The main financial costs associated with written consultations are printing costs, postage costs, and publicity costs, but staff time will also need to be considered when looking at the issue of resources.
★ If the consultation will hold stakeholder meetings or public meetings some of the likely additional costs will include venue hire, presentation equipment, refreshments, and travel and subsistence costs for those undertaking the consultation or if the Government Ministries will be paying the costs of those attending the meetings.
★ As a general principle the Ministry should assess the most cost-effective way to gather the information needed but should also balance the cost against the quality of the information that will be generated. For example, holding meetings with stakeholders can yield better quality information and deep insights than written responses alone might do.

Key Issue 9: How will the consultation responses be managed?

★ More detail guidance on how to manage consultation responses is provided in section 10, but during the planning stage it is important to decide who will be responsible for collecting and analysing the responses, what format the output of the consultation will take, how will there be feedback to the people who provided consultation responses and how will the consultation process be monitored and evaluated for effectiveness.
Key Issue 10: How will stakeholders be identified?
★ It is important that consultations are able to reach out to people that currently have limited involvement in the legislation making process and therefore identifying stakeholders is important.
★ It is important to consider the overall impact of a proposed law and try to involve as many stakeholders as possible in the consultation process, for example a draft agriculture law will affect farmers but might also have an environmental impact and therefore consultation with Environment NGOs may be useful.
★ Whilst it may be easier to work only with large and established stakeholders such as national Civil Society Organisations or well resourced Business organisations, it is also important to try to reach beyond organisations that are currently involved in the political process.
★ Traditionally, many groups in society are excluded from decision making processes and therefore consultation will provide an opportunity to pro-actively reach out to some of these groups. These groups can include:
  o Children and Young People
  o Women
  o Disabled people
  o Non-majority communities
  o Older people
  o People in rural / peripheral areas
  o People on low incomes
  o Refugees or displaced people
  o Small business

Key Issue 11: How will people be informed about the consultation?
★ In order to hold an effective consultation exercise a crucial part of any strategy will be to ensure that the Ministry provides information to a wide range of stakeholders. In most cases, the Government Ministry will want to ensure as many responses as possible and therefore maximum publicity is needed. In a small number of cases, the Government Ministry may wish to only target certain stakeholders and therefore will only need to provide information to a small group of people.
★ There are a number of mechanisms available to the Government to publicise the consultation process including:
  o The Ministry website
  o Press releases
  o Letters and e-mails to key stakeholder groups
- Letters and e-mails to umbrella organisations such as civil society organisations
- Paid advertising in the media, for example a radio advertisement, or a newspaper advertisement

The Ministry can also create a notification list. Any organisation or person who wishes can be placed on the list and would receive automatic notification when the consultation exercise starts. For example, a Youth NGO can be asked to be placed on this notification list, and when the Ministry of Youth undertakes a consultation on any new policy or draft law the NGO would automatically receive an e-mail with full details of the consultation and how they can respond to the consultation exercise.
9. Undertaking the Consultation

With the plan for the consultation process finalised, the Government Ministry can then move to implement the agreed plan. In general, the Government will usually conduct either a written consultation or meetings with the general public and all stakeholders or both mechanisms. This section outlines some key points to remember when undertaking written consultations and public or stakeholder meetings.

**Written Consultations**

The effectiveness of any consultation will depend on the information that the Government makes available and the quality of responses will often depend upon the quality of the consultation documents developed by the Government. Any written consultation needs to be based on an explanatory document published by the Government which explains the details of the law, and not just a text of the draft law itself.

The Government consultation document should use clear language which is easily understandable to the general public and stakeholders, should set out the issues as simply as possible and avoid using technical language.

Ideally, each Government consultation document should contain the following:

- a brief summary
- a description of the issue, proposal or problem which is being addressed
- the purpose of the consultation
- separate sections for each policy option which is being proposed including an outline of the present situation, an outline of the proposed option, and the likely effects benefits and costs of each proposal
- an explanation of what decisions have already been taken and what is open for consultation and discussion
- an explanation of who is likely to be affected by the proposals

**Key Points for Written Consultation**

- Provide clear and simple information
- Don’t only send a copy of the draft law
- Include a list of key questions that respondents can answer
- Avoid using technical language or acronyms
- Allow enough time for people to respond
- Explain how the consultation process works
- Explain how the information the respondent provides will be used by the Government of Kosovo
The most important part of any consultation document is a summary of the key questions on which the Government is seeking views and a request that those being consulted structure their responses by answering those key questions. Therefore, a commonly used consultation technique in written consultation documents is for there to be a question with a box underneath for participants to provide their answers to the question.

In addition to the content, there needs to be clear practical information for respondents on the consultation process on how to respond for example:

- the deadline for responses
- contact details for the person in the Ministry conducting the consultation
- a list of those being consulted
- a request that those responding should explain in what capacity
- a statement on whether responses will be treated as confidential
- an explanation of the next steps of the legislative process and how the Government will use the responses received in this consultation process

**Stakeholder Meetings**

Stakeholder meetings allow the opportunity to bring different interested organisations together to discuss the draft law that the Government is consulting on. These meetings can be formal meetings or conference or can be more informal ‘round table’ meetings. The format will depend on the content and complexity of the draft law and the number of stakeholders or interested organisations.

When organising a stakeholder meeting, it is useful to consider a number of points:

- Consider which Civil Society organisations will be interested in the content of the draft legislation. It is not always clear cut as many draft laws will have far reaching consequences for many sectors.
- Arrange a suitable venue for a meeting. Using a Government building may be the most cost effective option but if a draft law is very controversial then it may be more appropriate to meet in a neutral venue such as hotel. It is also important to consider whether Pristina is the best location or is it more suitable to meet in an area away from the capital city.
- Invite the stakeholders to the meeting by e-mail or letter and follow up with a telephone call.
- Ensure that all participants have received information about the issue being consulted on well in advance of the meeting. Many organisations will want to consult their members on the issue before the meeting.
- The format of the meeting should be focussed but should be flexible enough for the stakeholders to raise the points they wish to make but should be focussed enough to ensure that the key questions are discussed.
• At the end of the meeting, the Government needs to know the opinions of the stakeholders on the key issues that have been identified during the consultation planning phase.

Public Meetings
A public event is an opportunity for individuals and unorganised civil society to engage in the consultation process. These are groups that are often left out of more formal processes and can provide a useful input into the consultation. However, public meetings are also often the most difficult events to organise and manage. There are a number of steps that need to be followed to hold a successful event:

• Choose a venue, time and date that will allow for maximum participation. This is not always easy as there are often conflicting demands, e.g. holding a public meeting during the day will mean that many people with jobs will not be able to attend, but holding a public meeting in the evening means that people with young children may find it more difficult to attend.

• Make sure that you check that there are no other major local events taking place at the same time as your planned meeting.

• To ensure good participation, the key will be to publicise your event. This can be in a number of different ways including:
  o Paid publicity: posters and media advertisements.
  o Direct mail: issuing invitations to local groups (including the obvious stakeholder groups) and/or individuals by email or post.
  o Advance news coverage: getting local news media to run stories about the consultation exercise in advance, and asking them to end the news story with details of when and where the meeting will be held.
  o Asking local groups - CSOs, social groups, etc – to publicise the event at their own meetings.
  o Specifically targeting ‘hard to reach’ groups, especially if they might be affected by the proposals e.g. youth groups on proposals relating to education or sport.
  o Using community facilities to distribute information, e.g. libraries, community centres, schools, etc.
  o Enlist the help of local CSO networks and prominent local figures to get people to attend.
10. Using the consultation responses

The analysis of consultation responses is much easier if the consultation document has been well structured and respondents have structured their answers. If the consultation document is structured in this manner, and if public or stakeholder meetings have followed a similar format, it is far easier for those who are tasked with analysing the consultation responses to produce a coherent and structured report.

For the purposes of record-keeping, it can be useful to write a response analysis grid. An example of an analysis for a draft law on the way in which schools operate might look similar to the table below:

<table>
<thead>
<tr>
<th>Respondent</th>
<th>Teacher</th>
<th>Trade Union</th>
<th>Parent</th>
<th>Teacher</th>
<th>Community Group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contact name</td>
<td>Contact details</td>
<td>Contact name</td>
<td>Contact details</td>
<td>Contact name</td>
</tr>
</tbody>
</table>

The responses to a consultation need to be collated into a report which summarises the issues raised, and the responses received. This report should not be a chronological account of the process but should be based on the responses received to the key questions asked. A suggested outline to the report is:

- Brief details of consultation undertaken;
- The number of responses received and an outline of the type of respondents, e.g. where they individuals or Civil Society Organisations;
- A general outline of the responses received in terms of whether they are generally supportive or opposed to the key issues raised;
- A more detailed analysis of the responses to each individual key consultation question outlining the views given, any new arguments and any relevant new evidence on the practicalities of implementation;
- Any other substantial issues that were raised.

It is up to each individual Government Ministry that has undertaken a consultation to decide how best to use that consultation response report that has collated the views and responses of stakeholders and the general public. However some guidance for the ministries could be to ask some key questions including:
• Do the responses challenge the premise on which the Ministry’s analysis and recommendations are based?
• Has the consultation generated data that needs to be added to the analysis?
• Has the consultation led to new arguments?
• Has the consultation allowed the Government to assess how easy or difficult implementation of the proposal will be?
• Has the consultation provided an insight into the likely reaction of stakeholders and the general public on the proposed implementation?
• Following the consultation, does the draft law need to be changed?
# 11. Consultation: A Checklist

The following checklist outlines some of the main points that need to be considered when undertaking a consultation. This is not an exhaustive list and different issues will arise when planning and implementing consultations depending on a number of factors.

<table>
<thead>
<tr>
<th>Planning a Consultation</th>
</tr>
</thead>
</table>
| Has the Ministry agreed that there needs to be a consultation? | ✔️  
| Has the Ministry agreed what form the consultation will take? | ❌  
| Has the Ministry agreed the scope of the consultation?       | ❌  
| Is the person or group of people in the Ministry responsible for the consultation been identified? | ✔️  
| Have the key consultation issues / questions been agreed?    | ✔️  
| Is the timeframe for the consultation realistic and clear?   | ✔️  
| Is the Ministry clear how they will manage the expectations of the stakeholders and / or general public? | ✔️  
| Are the rules of confidentiality / transparency for consultation responses clear? | ✔️  
| Has a draft budget for the consultation been developed?      | ✔️  
| Is it clear who will fund the consultation process?          | ✔️  

### Conducting a Consultation

<table>
<thead>
<tr>
<th>Question</th>
<th>✓</th>
<th>✗</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have the consultation documents been drafted in a clear and concise manner?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has the list of stakeholders to be consulted been clearly agreed in line with the purpose and scope of the consultation?</td>
<td></td>
<td></td>
</tr>
<tr>
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### Using the Responses

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II. Experience from Kosovo: Using know how and Czech Republic experience

1. The Legislative Initiatives in Education: A long way to be effective (Melinda Mula)

1. Introduction

Since the end of war in the 1999, the educational system in Kosovo has undergone substantial reforms. These reforms were primarily aimed at recovering the damages in the education system caused by a decade of operating under extremely difficult, in fact clandestine circumstances during the 1990-ties. The other essential goal of the reforms has been to construct a modern education system compatible and comparable to other successful examples in the region and further in Europe. After 1999, the UNMIK Department of Education and Science (DES), the predecessor of the Ministry of Education and Science and Technology (MEST), made successful efforts to mobilize international donors to contribute to rebuilding and reforming the educational system in Kosovo. Owing their support, as well as to the efforts of local and international NGOs, the reform of the education system has been feasible.

Besides managing the educational sector, DES was responsible for setting up the legal framework in this area through its departments and sections, composed from both local and international experts. The local and international experts worked together in proposing and designing policies and regulations. Before it entered into force, the final draft of any regulations had to be approved by the legislative office of UNMIK and afterwards promulgated by the Special Representative of Secretary General in Kosovo.

MEST was established following general elections in 2001 together with other ministries of the Kosovo Government, as the primary responsible body in the area of education, except for the limited access concerning the education of communities. However, apart

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2 Prepared by Melina Mula, KEC
from the Kosovo Serb and Gorani communities, MEST was rather successful in integrating other communities in the Kosovo educational framework. The Bosnian, Turkish and RAE communities recognize the MEST and respect its legal framework, whereas the Serbian and Gorani communities has been following instructions of the Serbian Ministry of Education. In 2009, the MEST established the Independent Commission for Reviewing Curricula and Textbooks in Serbian Language (Administrative Instruction 35/2009) in order to ease the integration of Serbian community into the education system and thus ensure unified legal infrastructure and a unified system of education for all school-age children in Kosovo.

2. The structure of the education system

The Department of Education and Science (DES) within UNMIK built a two-layer administration system of the pre-university education, the central and municipal level, while the higher education remained administrated by DES. In the pre-university education, the central system consisted from DES and regional Education Development Offices (EDO) that served as DES mechanisms for implementing the educational policies in schools, whereas on the local level, the Municipal Education Directorates (MED) were appointed to ensure an efficient education infrastructure such as maintenance of school buildings, providing of transport, employing staff, etc. This administrative structure was inherited by MEST. The only change done by MEST is the transformation of EDOs into the regional inspection offices with the same responsibilities. For almost a decade, MEST has been attempting to design the Kosovo educational system so that it better fits to the needs of the labor market in Kosovo. As a result, the structure of the education system in Kosovo is as following:
Currently, the introduced system operates through a network of 42 pre-school institutions, 985 primary and low secondary schools, 108 upper secondary schools, 2 public universities and around 20 institutions of private higher education. The number of Serbian schools is not included into these statistics, because there are no officially publicized statistics from MEST regarding the number of schools and students of the Serbian community in Kosovo.

3. The legal framework

The education system in Kosovo is regulated by 11 Laws and a number of Administrative Instructions (AI) that makes these laws operational, which are:

1. Law on Primary and Secondary Education in Kosovo,
2. Law on the Higher Education in Kosovo,
3. Law on Education Inspection,
4. Law for Adult Education and Training,
5. Law for Vocational Education and Training,
6. Law on Scientific Research Activity,
7. Law on Preschool Education,
8. Law on Publishing School Textbooks, Educational Teaching Resources, Reading Materials and Pedagogical Documentation,
9. Law on Education in the Municipalities of the Republic of Kosovo,
10. Law on final Exam and State Matura Exam,
11. Law on National Qualifications.

The first two laws are crucial, since they regulate the system of education in Kosovo. The Law on primary and secondary education approved in 2002 regulates the overall pre-university education, defines its aims, organizational structure, responsibilities of MEST and MEDs, as well as the administration of the educational institutions. This law stipulates the leading role of MEST in developing policies on all substantial aspects of educational system including curricula, teaching standards, professional development of teachers and students examinations. The Law on higher education approved in 2003 specifies the objectives of higher education, MEST responsibilities in this regard, obligations of Higher Education Institutions (HEI) in offering quality education, as well as the autonomy of the HEIs and their financing. Both laws are undergoing a process of revision. As part of the decentralization process launched in 2008 emerged a new Law on education in the municipalities that re-confirmed the role of MEST in designing the policies and standards at the national level, however delegating some responsibilities in their implementation to the MEDs, mainly those related to local administration. Furthermore, this law foresees the decentralization in managing the budget administration up to the school-level.

The above listed laws have been further interpreted into more than 150 AIs regulating the details of some general formulations in the laws and enable practical implementation. The AIs cover a large scope of the education sector from infrastructure, curriculum content, textbooks, etc. up to the teachers’ licensing and their graduation.
Law on Local Self-Government delegates to the municipalities the right to design regulations based on the local needs and conditions in line with laws and administrative instructions approved on the central level. The decentralization of competences goes further to the school level, where according to the Law on primary and secondary education, the School Boards consisted from 3 parents’ representatives, 5 school teachers’ representatives and 1 students’ representatives elected from and among school students are entitled to draft and approve regulations related the everyday management of a school.

All these documents regulate different aspects of the education system and play an important role in its functioning. These are normative acts that regulate the system of education, which is a dynamic system that evolves with time.

4. Legislative initiatives

Based on the Regulation of the Assembly of the Republic of Kosovo (2010), the proposal for a legislative initiative comes from the President of the Republic of Kosovo based on his/her area of expertise, the Government, the Deputies of the Assembly, Parliamentarian Commissions, Parliamentarian Groups and at least 6 deputies, 10 000 citizens, that follow rules determined by law (article 53).

The Government’s Rules of Procedures no.1/2007 regulates the conduct of the work of the Government of Kosovo, including rules governing the procedures for the ministries and the government for drafting laws and amendments. A Minister is as well entitled to initiate drafting of a new law, regulation or general legislative acts (article 10), whereas within a Ministry the initiative can be launched by the Minister, Permanent Secretary, Heads of Execution Agencies, Heads of Departments and Head of Department of Law (article 25).
At the Ministry of Education, the Minister’s cabinet prepares the concept document explaining the necessity of any law that the Ministry plans to start drafting, which is consecutively sent to the Legal Department and a department, which is in charge of the agenda addressed by the planned legislative initiative. Afterwards, the Permanent Secretary of MEST establishes a working group. The composition of a working group is not firmly defined, but it is usually composed from 5 to 7 members representing from both departments. It is up to the MEST to decide, if they want to consult certain NGO in the drafting process. In case they decide to do so, the Ministry invites one of its representatives to join the working group. The selection of NGO is neither regulated and the decision depends on MEST’s consideration, which usually invites an NGO with most extensive expertise in the given issue. The working group prepares the first draft of the law and other documents including Evidence of European Legislative Resources, Project for assessing the legal and financial impact, and so on. The Ministry’s Legal Department is responsible for assisting and coordinating the working group and organizing public consultations, which start upon completing the first draft, usually by organizing round table discussions with relevant stakeholders to collect feedbacks for the draft. The final version of the initial draft jointly with other documents listed above is sent to the MEST’s Secretary, who checks all documents and forwards them to the Minister for approval. Upon the Minister’s approves, the draft and other documents are sent to the Office of Legal Support Services (OLSS) within the Government for following further procedures. If the Minister has some objections to the draft, he asks the working group to review it and the draft law has to undergo again the same procedure.

On the government’s level, the draft legislation is submitted to further revision process. The Permanent Secretary of the Prime Minister’s Office (POM) establishes with a decree a Government’s working group consisted from 5-7 members, one of them representing the Legal Department of the Ministry that initiated the draft law to review the initial draft. After completing all procedures for reviewing the draft and receiving all required
documents that have accompany the law, the head of the Government working group sends to the OLSS office following documents:

- Last draft of the law,
- Declaration about the financial implications of the law,
- Memorandum that explains the legitimacy of the law,
- Assessment for implications of the law in the legal framework,
- Declaration for the compatibility of the law with the European Union legal framework, etc.

These documents together with the documents prepared by OLSS such as: (i) Certification for procedural compliance to be signed by the Permanent Secretary of the PMO and (ii) Recommendation for approving the draft law by the Government has to be sent to the Government for approval and afterwards the law is send to the Assembly. In case the Government does not approve the law, the law returns to the Government’s working group for revision and the procedure repeats. In the Assembly, a draft law follows the procedures of the Regulation of the Assembly of the Republic of Kosovo (2010).

In case the law is initiated by the President, Deputes, Parliamentarian Commission, parliamentarian Group, than the Presidency of the Assembly sends the initiative to the Government. After its approval by the Government, the law follows the Assembly procedures. If the law is proposed by at least by 10 000 citizens, the procedures has to follow rules determined by the law.

The final provisions of each law entitle the Minister to adopt Admin Instructions in order to implement the law. The preparation for drafting the AIs are carried out by Legal Department within MEST, who involves in the work also the MEST Department, who is in charge of the agenda that the drafted AI deals with. As in case of drafting a law, also the AIs are prepared by a working group within the ministry composed by officials from
both departments. An administrative instruction enters into force upon Minister’s signature.

At the municipal level the initiative for a regulation has to start from the certain department which is in charge of the agenda addressed by the planned regulation. This department proposes the initiative to the Board of Directors that is responsible for its approval. This department establishes a working group in charge of preparing the initial draft, which further has to be approved by Board of Directors and afterwards its respective committees such as: the committee for education and the committee for policies and finances. After the positive response from these committees, the regulation has to be approved by the Municipal Assembly. The department responsible for the respective issue organizes public discussions and publishes the draft on the official portal. During this time, different stakeholders and citizens can participate in public discussions and send their comments via e-mail. After public discussions, the draft has to be presented to the Board of Directors and follows the same procedures. The final draft has to be approved by the Municipal Assembly and promulgated by its president.

5. Stakeholders in consultations

The Government institutions as well as different non-governmental organizations (NGOs) play an important role in building a qualitative and modern system of education that serves all citizens. These stakeholders are crucial in initiating, designing, commenting and approving the Laws and AIs that regulate the general function of the education system.

The stakeholders involved in the educational agenda at the central level are:

- MEST,
- Parliamentarian Committee for Education,
- International Organizations (World Bank, International Monetary Fund, GTZ, UNICEF, CRS, etc.),
The Academy for Science and Arts of Kosovo (ASAK),
The University of Pristina (UP),
Educational Institutes (Pedagogical Institute, Institute of Albanology, Institute of History, National and University Library),
Kosova Education Center – KEC,
Teachers’ Union,
Kosova Foundation for Open Society (KFOS), etc.

In general, the MEST has built a mutual cooperation with all stakeholders mentioned above. This cooperation is mainly focused on implementing different policies and projects of MEST; however they are rarely involved in the policy designing process. The initiative of designing a law usually starts with the consultations of MEST with experts from ASAK, UP or international organizations. These consultations are focused on receiving initial information regarding the law and experts’ opinion about the initiative. Since the inclusion of stakeholders in designing the laws is not firmly set by the Government’s Rules of Procedures, it is up to the MEST to decide, who they want to invite to participate in the working group. MEST usually engages an international expert, who does the desk research and cooperates with MEST officers in preparing the initial draft. If MEST decides that it would be useful to involve an NGO representative in the working group, than h/she participates in the drafting process from the beginning. However, in most cases, the non-governmental stakeholders are involved in the process rather at its later stage, when they are asked by MEST to provide their comments. Collecting feedbacks and commenting process is usually organized though the round tables discussions. Nowadays, MEST publishes the draft in the official portal and all citizens can send their comments by mail.

Very important players in providing expertise and organizing the round table discussions on the draft laws have been international organizations, who forward the collected comments to the MEST. There are few local educational NGOs active at the central
level. The most outspoken ones, who have often been providing their feedback regarding the draft laws, have been KEC and Teachers’ Union. The representatives of these NGOs actively contribute during the round table discussions as well as send comments via e-mail. Some of their comments have been accepted and thus improving the final draft of the laws.

Similarly to other areas, the very challenging and in the educational sector a rather complex task remains the implementation phase. The main tools of implementation of a law are the administrative instructions. The AIs are usually drafted by MEST departments and only at rare occasions other stakeholders are invited to give their comments. This approach sometimes failed, since some AIs have not been implemented, were delayed, or adopted repeatedly. This was also the case of the AI on teacher licensing that was approved in 2004, then was adopted in 2008 and then was adopted again in 2010. In 2009, the MEST established the National Council for Teacher Licensing (NCTL), composed from government officials, UP experts and NGOs, which succeeded to initiate and design some of the AIs that are related to its functioning. The composition of NCTL resulted in preparing in a short time a professional package of AIs that are needed for implementing teacher licensing process.

In order to ensure successful process in the education sector, the involvement of local government is inevitable. Lately, its role has been empowered through the Law ON education in the municipalities, which delegates some of the responsibilities to MEDs. Besides new competencies regarding the election of school principals and professional development of teachers, MED is also responsible for preparing, approving and implementing the school regulations, including the Code of Ethics for managerial staff, teaching staff and students as well as disciplinary measures. The other local stakeholders that contribute in the education sector are:

- Local NGOs,
- Schools Boards,
- Teachers,
- Students’ Councils.
The local NGOs mainly focus on helping schools with organizing extracurricular activities and increasing the inclusion of vulnerable pupils into schools. Meanwhile, School Boards and Students Councils prepare and approve school regulations, usually elaborating school ethos and students’ responsibilities and obligations. The Parent Teacher Association (PTA) is a mechanism established by MEST aimed at involving parents in the school life. However, the lack of tradition in this regard and limited funds limits the activities of the PTAs.

6. The overview of key activities

Since the Law on education in municipalities of Kosovo delegates some of the responsibilities to local level, MEST decided to start the process for reviewing the Law on primary and secondary education as well as the Law on higher education. This initiative has been supported by the World Bank in order to update the existing laws and adjust them to new circumstances. The reviewing process has been carried out by a working group composed from MEST officials and an international expert. The consolidation of MEST departments and their expertise gained for more than a decade has been crucial in using local experts in reviewing these laws based on local needs, whereas the international consultant has been engaged to do the desk research and prepare the final version of the initial draft.

The draft of the new Law on primary and secondary education foresees many changes comparing to the current law, including: (i) compulsory pre-school education, (ii) introduction of English classes from first grade, (iii) compulsory education for upper secondary schools, (iv) teacher licensing and upgrading, and so on.

The MEST has organized a series of round table discussions in all municipalities to present these changes to different stakeholders including parents and collect their
comments. It is worth to mention some of the relevant comments raised in the round
table discussions: (i) it is too early to proclaim the upper secondary school compulsory,
because of the lack of premises and limited budget, (ii) the idea for English language
classes starting from first grade is welcomed, however there is lack of qualified teachers
to teach a foreign language at that stage, (iii) it is better to pilot some of the innovations
to check how they function in practice, before implementing them in all Kosovo, etc.
Due to the lengthy commenting process and considerable number of comments the
process of reviewing the Law on primary and secondary education took a longer time
than expected. For the moment, the draft of the new Law is sent to the Government,
but due to the financial implication and limited funds for its implementation, it is still
following the Government procedures.

The planned changes in the Law on higher education have been focusing on the
provision of quality education by ensuring the accreditation and licensing of the HEIs
and the functioning of the University of Mitrovica North that offers higher education in
the Serbian Language. The draft is yet in the initial phase. It is published at the MEST
portal and it is open for comments from the public.

The MEST is also in the process of finalizing a new Education Sector Development
Strategy for 2010 – 2015 and a new Kosovo Curriculum Framework. Although these
documents are not related to the above mentioned Laws, they have indirect impact on
their implementation, mainly by identifying the necessity for designing new AIs.

In 2009, the MEST took a new approach in helping the teacher training unit in dealing
with the teacher licensing process. As mentioned above, MEST established Teachers
Licensing council (NCTL) to prepare the legal framework for teacher licensing and
propose the roadmap for its implementation. Since there have been positive results of
this initiative such as preparing different AIs and identifying the best ways for their
implementation, this initiative can be shared as a successful example for other departments to follow-up.

Another positive example coming from the local level is the initiative of the Municipal Education Directorate in Prizren. The MED in Prizren approved and published in the official portal some regulations such as the regulations for students’ behavior and discipline in the primary, low secondary and upper secondary schools and the regulation for managing and using the physical education halls in schools. This approach has to be followed by other MEDs as well.

7. Current mechanisms in consultations

The framework for consultations in education has started to be built up. The previous practice of engaging an (usually an international) expert or a small group of experts in policy design has started to be replaced by a more open and inclusive mechanisms such as round table discussions, public hearings, focus groups, interviews, consultations, internet platforms and media. This participatory approach significantly contributed to the increased quality of the designed documents and ensuring that the final result better fits to the actual needs in the country.

Being aware of this, in 2009 MEST took a more open approach in the process of reviewing some of the laws and used some of the above listed mechanisms in consultations. In the beginning of the process of revision of the Law on primary and secondary education, MEST organized a launching conference and invited a wide range of relevant stakeholders as well as media. Consequently, the Ministry established a working group composed from representatives of the Pre-university Department, Department of Law, Teachers’ Union and international consultants funded by the World Bank. During the drafting process many consultations and interviews with stakeholders were carried out, the initial draft was presented at round tables organized in all
municipalities and some schools with the participation of educational community and parents provided their comments to the draft. The initial draft is published in the MEST official portal offering the possibility for citizens to send their comments via e-mails. The draft was commented in different media including TV, radio and written ones. Compare to the previous practices, the participation of stakeholders and parents have been increased.

Although, the MEST has been more open in drafting this Law and involved more stakeholders and parents, than in any previous case, the process is yet not satisfactory. Much more needs to be done. The MEST has to encourage the participation of stakeholders and more important welcome their comments, whereas the NGOs and citizens have to empower their role and use the advocacy methods to oblige MEST to be more open and take into consideration their proposals.

8. Findings

There are few positive examples when NGOs participated actively during the preparation of legal frameworks or other educational documents. Besides the contribution of NGOs during the revision of the Law for pre-university education mention above, there were cases when a NGO had played an important role in preparing the entire document. The MEST has closely cooperated with KEC in developing educational strategies: the Strategy for pre-university education 2007 – 2017, Strategy for higher education 2005 – 2015, and the sector wide strategy Education Sector Development Strategy for 2010 – 2015. These documents were drafted through the mechanisms of round table discussions, interviews, consultations, focus groups and internet platform. However, this experience should be enriched with other advocacy methods in order to prepare good documents that take into consideration the different point of views of all stakeholders.
NGOs and other stakeholders have in disposal a range of advocacy methods in order to provide their contribution in designing laws and other legal documents. Some of them are addressed in the Rules of Procedures of the Government and the Assembly, additionally, there are more informal methods based on personal or professional contacts and friendship.

The Rules of Procedures stipulates the organization of round table discussions and public hearings. Since there is not a culture of active participation of citizens in public discussions, the role of NGOs is crucial in encouraging citizens to take part in public discussion and present their arguments in order to influence the opinion of decision makers and prepare a law that addresses all beneficiaries. In order to increase their voice in defending their interests, the coalition of NGOs and their network is recommended. If the Government institutions do not take into consideration the stakeholders comments, which they consider vital for the society, the outside stakeholders have a right to organize a petition and deliver it to the Prime Minister Office or to the Assembly’s Committee on Human Rights, Gender Equality, Missing Persons and Petitions. Communicating the message through media is another influential tool how to raise public awareness or gain sympathy for a case with the aim of engaging wider public in the discussions and intensify the pressure at the state institutions. Using informal communication channels might be another useful advocacy tool. The consultations with members of working groups and their colleagues as well as writing letters to them can be productive in offering our arguments and proposals.

It is the role of NGOs to strengthen their capacities, to build professional networks and through different advocacy methods increase the involvement of beneficiaries in order to mainstream all synergies that will contribute to the democratization of the process and preparation of qualitative legal documents.
9. The professional development of teachers and its legal framework

Since the professional development of teachers has been a priority for MEST since 2004 and there has been three AIs on Teacher Licensing approved so far, the last one developed with the contribution of local NGOs, this issue is an interesting to show the effectiveness of legislative initiatives in Kosovo on this example, as well as illustrate room for its improvement.

The most tangible changes and reforms of the educational system in Kosovo have been carried out in the methodology, when the traditional way of teaching and learning through lecturing and memorization has been transformed into a modern methodology promoting student’s centre learning approaches. This transformation has been a result of major series of in-service teacher training programs that were organized by international and local NGOs (e.g. OSI, World Bank, UNICEF, CRS, GTZ, Swisscontact, Save the Children, CIDA, KEC, etc.) with MEST’s support. Regardless the fact that the teachers had not been offered any salary incentives based on the fact that they acquire certificates, the majority of teachers attended trainings, since they viewed them as opportunity to master their skills for applying new methodologies in the classrooms.

The concept of professional development of teachers has been a new concept introduced in the education system in Kosovo just lately. MEST has tried to regulate and institutionalize it through the Law on primary and secondary education, specifically by the article 32.2 that reads “all teachers shall be required to undertake appropriate professional re-training and development as required by the MEST. All school personnel, including support and administrative staff must attend in-service training as provided for them.” In addition to this, MEST had developed an Admin Instruction no. 18/2004 on the Teacher licensing, which presents the first attempt to relate the teacher qualification and professional development with salary. Although this initiative has been loudly promoted by MEST, its implementation has been postponed for different reasons
such as: (i) the lack of mechanisms for implementing this instruction, (ii) the lack of human and financial resources, (iii) the lack of accredited in-service teacher training providers and programs, etc.

The second attempt to introduce the concept of teacher licensing into the legislation was carried out in 2008, when MEST adopted a new Admin Instruction on Teacher Licensing (no.16/2008) through which it was introducing “a coherent system of teacher licensing and their promotion during their career based on their qualification, experience, professional development and performance and develops the respective salary structure adequate to this system.” This Admin Instruction links all components of teachers’ professionalism with salary, trying to introduce a merit pay system in Kosovo. Even though, this AI has not been fully implemented, its adoption was essential, since it was changing the linear delivery of teacher salaries and they started to be calculated based on two important factors – teachers’ qualification and experience. This instruction determined procedures for beginning teachers and the path to their promotion into four categories of regular license teachers (a carrier teacher, advanced teacher, mentor teacher and meritorious teacher). However, the instruction did not specify many issues related to teachers’ licensing such as: (i) the number of professional development hours required for promotion, (ii) the relation of teachers’ graduation with salary payment, etc.

In order to overcome the gaps identified in this instruction and prepare the environment for implementing teacher licensing, MEST has established the SCTL. Among the first intervention of the Council was the design of two Admin Instructions: (i) accrediting the in-service teacher training providers and programs (no. 4/2010) as the precondition for determining the accredited programs for professional development of teachers and (ii) teacher licensing (no. 5/2010). Since it has been foreseen to carry out the teacher’s licensing based on the teachers’ professional development and performance, this Council is currently preparing a third AI on teacher’s performance
assessment, which would complete the package of AIs necessary for implementing the teacher licensing process.

Since the legal framework for teacher licensing is at the final stage, there is an assumption that teacher licensing will start very soon. The implementation of this process is important, because the relation of teachers’ graduation with salary payment will motivate them increase their performance, ensure the retention of teachers in the systems and attract the good students start their carrier in the education profession.

10. The positive impact of NGOs and other stakeholders

The lack of tradition for teacher licensing in Kosovo and abroad makes the teacher licensing a very complicated process. The identification of teacher licensing as a priority from 2004 and approval of three AIs for teacher licensing in 6 years, whereas the process has not started yet, are enough arguments for explaining the complexity of the process and its implementation.

It seems that lately the teacher licensing process in Kosovo has identified its roadmap for implementation by establishing an advisory council – NCTL responsible for identifying and preparing all necessary steps regarding this process. After the initial phase of preparing the package of AIs, it is expected that the Council will continue its work in advising the mechanisms for implementation.

The composition of the NCTL from Government institutions, UP and NGOs offered the flexibility for educational NGOs to give their contribution in designing the final draft of two AIs prepared from this Council:

(i) accrediting the in-service teacher training providers and programs (no. 4/2010),
(ii) teacher licensing (no. 5/2010).
Some of the issues objected by NGOs during the draft process of these instructions are:

1. initial date for counting the hours for professional development,
2. the number of professional development hours required for teachers promotion into different categories,
3. criteria for advancing from temporary license to the regular one.

As for the first objection, MEST proposed September 1, 2008 as the starting date for counting the hours for professional development of teachers (from the accredited in-service teacher training programs that will take place these days) and leaving behind the enormous investments and work done from international and local NGOs in previous years. This proposal has irritated all international and local NGOs, because their work in previous years was considered unworthy. The proposal has annoyed also a majority of teachers who attended different trainings and invested in their professional development. Having in mind the huge work done by international and local NGOs from 1999 and the fact that almost all these institutions will continue with the same in-service teacher training programs, the proposed date has been considered not relevant by NGOs and teachers community. In order to defend the interest of all teachers who voluntarily participated in trainings without any compensation just for mastering their skill in implementing new methodologies in their classrooms, NGOs started their advocacy and used different formal and informal meetings to argue about this proposal. During the meetings, NGOs explained that this initiative harms the majority of certified teachers who spent weekends to attend the trainings and makes an unfair division among teachers who attended and those that will attend the same in-service teacher training programs. As a result of joint efforts of different NGOs, the date has been changed to September 1, 1999, which preludes the start of the in-service teacher training programs in Kosovo. Some of the arguments used by NGOs to persuade the NCTL members were:

- MEST will not spend extra money for offering the training for all teachers from the beginning, but will be focused to invest in those with less trainings,
- MEST will not frustrate a majority of certified teachers who attended qualitative in-service teacher training programs that would be accredited,
- Teachers will have a certain number of hours to be counted for their promotion,
- The international and local NGOs will continue their work in offering in-service teacher training programs and there will not be an unfair division among teachers who attended and those that will attend the same training in the future.

Regarding the second objection, the MEST proposed the requirement of 150 hours of professional development for all teachers to retain or be promoted in the higher level of graduation. NGOs have proved to SCTL members that there is a lack of human and financial resources to cope with training of 25,000 teachers with 150 hours each in 5 years. So, as a compromise the amount has been decreased at 100 hours, which is more feasible in our circumstances. The role of international institutions and their experts has been crucial in advocating for this topic.

The change of the criteria for advancing from the temporary license to the regular one from 2 years of experience into 1 year for new teachers was done easily. The attraction of good students to enter the education profession has been the main argument to shorten this period.

Besides the objections mentioned below, KEC has proposed these interventions in the draft in order to make more functional the teacher licensing process:

1. possibility for accelerated graduation for experienced teachers,
2. criteria for application procedures.

The draft was not paying attention to the difference of teachers regarding their experience. All teachers were asked to undergo the professional development almost at the same time and every teacher should wait the period of 5 years to be promoted in higher level without any advantage based on their long time of experience. This
approach would result in having almost all teachers at the same level and the lack of mentor teachers for at least 10 years. As a result of professional explanation of these arguments by KEC staff, an article 2 has been added to the Admin Instruction that foresees the conditions for accelerated graduation for experienced teachers. This is the most proper way to build a functional system, because mentor teacher and meritorious ones help other teachers in their way towards promotion.

The final proposal has been regarding the incorporation of the criteria for application procedures in the AI. The added article 18, which explains all procedures regarding the application, renewal and upgrading license is welcomed to teachers, because it clarifies what teachers have to do and where in order to retain or be promoted in their profession.

These AIs are fundamental for teacher licensing process. But since the graduation will depend on the teachers’ performance and will have impact in their salaries, it is understandable the need for preparing 2 other AIs: (i) teacher performance assessment and (ii) impact of graduation in teachers’ salaries. The NCTL is in the process of designing these AIs and thus completing the package for successful implementation of the teacher licensing process.

11. The advocacy methods used

The design process of these instructions is interesting, because for the first time a few advocacy methods have been used during their finalization. Since the teacher licensing is actual for many years, this has increased the interest of NGOs and teachers in giving their contribution in order to finalize the documents in the best way. In presenting their ideas and comments, NGOs used these advocacy methods:

- present different arguments in formal meetings,
- write letters with strong arguments to different members of Council,
organize informal consultations with Council members.

As a result, there is a general consensus that these ALs are well prepared and have laid a strong basement for implementing the teacher licensing process.

12. Financing the professional development of teachers

The teacher licensing is based on the professional development of teachers that has been MEST responsibility until 2008, but has been transferred to municipalities with the approval of the Law on Education in the Municipalities of the Republic of Kosovo. The lack of MEST strategy in devolving this responsibility to MEDs has raised some important issues related to the professional development of teachers, such as:

- How will be funded the professional development of teachers in Kosovo?
- What mechanisms for professional development of teachers are going to be established within municipalities?

A policy briefs “Financing the professional development of teachers: Urgent need for a strategy” prepared by the author of this paper tries to give answer to above questions by proposing three possible approaches for financing the professional development of teachers within a framework of a new legislation as well as three options for setting up proper mechanisms within municipalities to manage the professional development of teachers. Approaches for financing professional development of teachers are:

- MEST manages the fund for professional development of teachers,
- MEST devolves the fund for professional development of teachers to MEDs,
- MEST defines the funding formula based on the level of municipal contributions.

First approach is continuation of existing modality of funding the professional development, which is managed by Department of Trainings within MEST. Two other approaches demand the setting up of mechanisms within municipal level to cope with the process of professional development. Three options given for these mechanisms are:
- Establishment of a Municipal Board and assignation of an officer in MED, responsible for professional development of teachers,
- The assignation of an officer in MED, responsible for professional development of teachers,
- Assignation of an officer within the municipality, responsible for the professional development of civil servants and professional servants.

In the policy brief is elaborated that the most efficient approach for ensuring maximal funds for professional development of teachers is the third one. This approach offers the possibility for co-financing the professional development of teachers from MEST and MEDs. This approach will mobilize representatives of MEDs to engage more seriously in professional development, as the amount of allocation from central level will depend heavily on the ratio of participation with internal sources of funding. Effectuation of this scenario will push MEDs to explore possibilities of closer cooperation with education NGOs, other institutions, business sector, as well as with school community. The fact that MEDs are participating with their funds, will make them more accountable to provide better professional development services. Finally, the transfer of competences to municipalities will allow lowering the decentralization to the school level. The significant contribution to this step would be the application of the system of “voucher”, as a democratic approach in meeting the professional development needs of teachers within each school.

There is not any official document that defines the modality for funding the professional development of teachers. For this reason, it is a vital interest to suggest advocacy methods and prepare an action plan for raising awareness of MEDs officials and teachers regarding the best scenarios for financing their professional development.
Sources

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6. Education and training 2010, diverse systems, shared goals,

2. The legislative process in Kosovo: Legal provisions requiring public consultations and current practice in the public consultations\(^3\) (Ramadan Ilazi)

Republic of Kosovo has a fairly affirmative legislation that promotes public consultations and civic participation in decision-making process. The constitution of the country, considered a very modern document, includes three very important articles that require public consultation: Articles 45, 52 and 124.

Article 45 of the Constitution of the Republic of Kosovo demands from public authorities to enable and provide space for all citizens to participate and influence in democratic manners the decision-making process. The article 52 of the Constitutions demands from public authorities to enable the citizens to influence the decision-making processes regard the environment and furthermore the article 124 on local government encourages all citizens to actively participate in the decision-making process.

There are four institutions in the republic of Kosovo that hold the right to propose an legislative initiative. The first institution to hold this power is the President of the country, than the government, the members of parliament and at last the institution of the petition, which means that 10 thousand signatures of Kosovo citizens with the voting age can propose a law or amendment to a law or any other initiative within the power of the Parliament. While this important democratic power for citizens is recognizes by the Constitution, the country still has no law that regulates the process of legislative initiatives. The absence of a such law has harmed at least two important legislative processes started from civil society during 2009: a petition against increase of electricity tariffs and a proposal to amend the Law on Local Government.

In 2009 the FOL Movement in accordance with the Constitution of the Republic of Kosovo gathered 10529 signatures from citizens of Kosovo with the voting age (18) to oppose an ongoing process at the Kosovo Energy Regulatory Authority (KERA) to

\(^3\) Prepared by Ramadan Ilazi (Fol Movement)
increase the electricity prices. The request by Kosovo Electricity Company (KEK) was as much as 18.7% for increase in electricity tariffs. Having in mind that KEK during 2009 would receive about 100 million Euros from the Kosovo budget (tax payer’s money) and the main reason for increasing the tariffs was the failures of the company to get bills paid by the families, making this a problem of the management FOL Movement together with 5 other NGO-s organized a petition to oppose this increase. Kosovo Democratic Institute, Eye of the Vision, Initiative for Progress, Community Building Mitrovica and Kosovo Center for International Cooperation joined FOL Movement and gathered the signatures of 10529 citizens from Prishtina, Peja, Gjakova, Prizren, Mitrovica, Ferizaj and Gjilan.

The petition was submitted to the Parliament of Kosovo on a meeting with the speaker of Parliament who committed himself to supporting the petition. However although two Parliamentary committees the Committee on Energy and Committee for Human Rights supported the petition and recommend officially to the Chamber of Parliament to include in the agenda of the Plenary Session of the Parliament the petition against increase of electricity tariffs, the Parliament Chamber refused to comply with this request thus violating the 79 of the Constitution of the Republic of Kosovo. One of the reasons for such refusal was mentioned the lack of a law on petitions or legislative initiatives. The same reason was used to refuse another petition from Kosovo Democratic Institute to amend the Law on Local Government.

While public consultations in Kosovo are very well designed on paper there is a significant problem with enforcing the constitutional provisions in two aspects. On one hand the parliament is failing to supplement the constitutional provisions with necessary laws or regulations that would provide administrative guidance on how to conduct and manage the consultation process. And on the other hand while there is participation of citizens in public consultations the institutions are negligent to respond to citizen demands and questions during the process. So, in this regard there is a very weak system of managing the expectation.
Civil Society organizations so far have been very active mostly during the Parliamentary hearings for a Law which is almost an end game at this stage. The Civil Society participation in governmental working groups on Laws has been a rather recent opportunity.

Part 2: Rule of Law: Legislative initiatives, stakeholders in consultations, current mechanisms in consultations on hand

Legislative Initiatives are regulated with article 79 of the Constitution of the Republic of Kosovo thus giving the right to initiative a legislative proposal to the following institutions: The President of the Republic, the Government of Kosovo, 30 Members of Parliament and signatures of 10,529 citizens with the voting age.

Furthermore almost all laws that regulate operating and functions of an institution foresee special provisions for public consultation and participation in decision making process of civil society and other stakeholders.

The Law on Local Government has many provisions regulating public consultations and civic participation in the decision-making process. Almost all Mayors have Open Office hours, usually on Fridays where they meet citizens to discuss their problems. The Mayor is also obligated according to the Law to organize twice a year open public meetings with citizens in order to inform them on projects of the Municipality but also to hear on citizens complaints or proposals. The local Parliament (Municipal Assembly) is obligated to establish sectorial Consultative Committees comprised of citizens. However there is a lack of administrative guidance on how to go about creating these Committees and involve the citizens. A serious concern in this regard is the issue of relationship between the Mayor and the Consultative Committees. What mechanisms will the Consultative Committees have to influence the Mayor’s agenda? The meetings of the Municipal Assembly are open for media and citizens to follow. Some municipalities have contracted a local TV station to transmit live the meetings.

As for the central level, government, the legislative process starts from the Ministries. The minister, permanent secretary, Department Directors, Chief Executives of the
Agencies and the Legal Office director may initiate the procedure for a law. After the decision is taken a working group on the respective law is established. The working group is responsible for crafting the law and sending it for approval to the Minister than afterwards to the Prime Ministers Legal Office, than the law is approved in a meeting of the Government and sent to the Parliament. The names for the working group are proposed by the Legal Office of the respective Ministry and approved by the Permanent Secretary of the Ministry. The serious problem with the Civil Society involvement in this stage of the process is the lack of information by the authorities on which NGO does what. So, this means that sometimes authorities either invite NGO-s with the lack of experience in the respective field or they do not invite NGO-s at all in absence of information.

FOL Movement was invited by the Prime Ministers legal office to become member of the working group on the law for access to public documents. The working group was a rather large forum representing all important stake holders. The working group was very successful and all comments presented by the members of the group where respected and included in the draft law. Sometimes these working groups however lack the sufficient information on the scope of the respective law thus failing to clearly identify problems and making the law applicable to the real situation in the ground.

After the law is approved by the working group it is sent to be approved in a government meeting which than after that the law is sent to the Parliament through the Office for Requests. Later the law is reviewed by the chamber of the Parliament and it is put on the agenda for the next plenary session of the Parliament, who does the first reading after which it is send to the Functional Committees and then after the initial approval in the Parliament it is sent to 4 main Parliament committees, which are: The Committee on Finance and Budget, the Committee on Judiciary and Legislation, The Committee on European Integration and The Committee on the Rights and Interests of the Minority Communities. All these four committees sent their reports to the Functional Committee.
At this stage before the law is sent for the second approval in a plenary session of the Parliament, the Functional Committee may organize public hearings. The NGO-s during this process may be invited to public hearing although there is a participation opportunity for NGO during the reviewing process of the law in the four main committees. NGO-s can send letters with comments and recommendation or they may request from the committee to allow them to attend the meeting of the committee.

In a consultative process regarding Rule of Law here is a list of important institutions that should be consulted:

1. Anti corruption agency
2. Ombudsperson institution of Kosovo
3. Judiciary and Legislation Committee of the Parliament of Kosovo
4. The Public Financial Oversight committee of the Parliament of Kosovo
5. Kosovo Police sector on organized crime and corruption
6. Judicial Council of Kosovo
7. State Prosecutor
8. The Financial Intelligence Center
9. American Chamber of Commerce
10. Business Chamber of Kosovo
11. Association of the Construction Companies
12. FOL Movement
13. Kosovo Democratic Institute
14. COHU (Anti-Corruption organization)
15. KIPRED – Kosovo Institute for Policy Research and Development

During the process of consultations it is imperative that the responsible institutions leading the process organize meeting with the above mentioned organizations. The consultations should take place in writing and meetings. The respective institution organizing the consultations should initially send the draft document and then invite a meeting. During the meeting, someone should take notes and send an e-mail to the
participants informing them on the key issues discussed during the meeting. Within the reasonable time the institution should inform the participants of the meeting on what changes were included in the final document as a result of their inputs. Do not just send a thanking e-mail after the meeting. You have to inform the participants of the meeting on what was the input of the participants.

Part 3: Case studies in public consultations in the area of Education and Rule of Law in Kosovo and Czech Republic

During a study tour on rule of law in Czech Republic of a team from Kosovo public institutions and civil society we identified the outsourcing element in relationship between the public authorities and civil society as very important. The Czech Internal Affairs Ministry had outsourced the free toll phone line for citizens to inform the authorities for corruption to the Czech Transparency International (NGO). This is a very good example of quality partnership between authorities and civil society. By outsourcing the phone line to an NGO the authorities vested credibility and responsibility in the civil society sector, while the citizens have more trust in reporting the corruption cases because it is more objective for an outside institution to receive the calls rather from institutions themselves. Something like this could be implemented in Kosovo as well having in mind we already have two phone numbers to report corruption: one with the Agency against Corruption and another one with Kosovo Democratic Institute and Transparency International with ALAC Center.

A positive example from Kosovo in regards to consultations in Kosovo is during the strategy against corruption. In 2008 the Kosovo Anti Corruption agency initiated consultations for 2009-2012 anti corruption strategy. The agency invited all relevant stake holders in the process and this is something to be commended and applauded. This demonstrates a clear political will of the agency to include public in deciding on the
strategic approach to fight corruption and organized crime. The agency needs help in having a better set-up of the process, in order to organize the recommendations. Another positive example in Kosovo of legislative process consultation is the process of drafting the new law on access to official documents. FOL Movement was member of the working group together with two other NGO and major advices to the group on the law were taken into consideration.

These manual for consultations in education and rule of law have been prepared from the Kosovar experts in the framework of the project “How to engage together in a policy dialogue?”. The descriptions, analysis and recommendations present the views of the individual authors and are not always considered as the official positions of the Kosovar Civil Society Foundation, nor of organizations the experts work for or represent.