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PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT



# GUIDE TO MUNICIPAL PARTICIPATORY GOVERNANCE

Part of the Municipal Guide Series



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Mission in Kosovo

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*“(...) it is at local level that this right [of citizens to participate in the conduct of public affairs] can be most directly exercised.”*

**European Charter on Local Self-Government, Preamble**



## **ABOUT THE INITIATIVE**

This publication is part of the Municipal Guide Series, a capacity building initiative aimed at strengthening the institutional capabilities of Kosovo's local governments.

The Municipal Guide Series is managed jointly by the Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo, the Provisional Institutions of Self-Government and the Association of Kosovo Municipalities.

## **ABOUT THE GUIDE**

This Guide to Municipal Participatory Governance (the Guide) has been prepared to assist municipal officials in building local governments that are transparent, accountable, and responsive to the needs of the communities they serve. It offers a conceptual framework for a better understanding of participatory governance in Kosovo and introduces a number of enabling tools and strategies to municipal authorities.

Although it frequently cites the current legislative framework, this Guide should not be taken as a statement of law as its implementation is not mandated by a legal act.

The information provided, however, is based on the applicable legal framework as of December 2007.

# TABLE OF CONTENTS

## ACKNOWLEDGMENTS

## KEY ACRONYMS AND ABBREVIATIONS

## INTRODUCTION

|                                                             |    |
|-------------------------------------------------------------|----|
| Involving the public beyond the ballot box .....            | 11 |
| Participatory governance in the context of this Guide ..... | 12 |

## CHAPTER I INFORMATION SHARING

|                                                                                                    |    |
|----------------------------------------------------------------------------------------------------|----|
| 1. Introduction to information sharing .....                                                       | 15 |
| 1.1 Access to official documents .....                                                             | 15 |
| 1.1.1 Minimum standards for the implementation of the Law<br>on Access to Official Documents ..... | 16 |
| 1.2 Access to official meetings .....                                                              | 21 |
| 1.2.1 Meetings of the municipal assembly and its committees .....                                  | 21 |
| 1.2.2 Other meetings .....                                                                         | 22 |
| 1.3 Access to public information .....                                                             | 23 |
| 1.3.1 Types of public information on the work<br>of municipal government .....                     | 23 |
| 1.3.2 Types of public information tools .....                                                      | 25 |

## CHAPTER II PUBLIC CONSULTATION – THE RIGHT TO SPEAK

|                                                                 |    |
|-----------------------------------------------------------------|----|
| 1. Introduction to public consultation .....                    | 31 |
| 1.1 Public consultation cycle .....                             | 31 |
| 1.2 Statutory framework for public consultation in Kosovo ..... | 33 |
| 1.3 Public consultation tools and strategies .....              | 35 |

## CHAPTER III DECISION MAKING - THE RIGHT TO ACT

|                                                        |    |
|--------------------------------------------------------|----|
| 1. Introduction to participatory decision making ..... | 43 |
| 1.1 Referendum .....                                   | 43 |
| 1.2 Collaborative mechanisms .....                     | 44 |

## ANNEX 1 Request for Access to Official Documents

## ANNEX 2 Residents' Guide for Access to Official Documents

## ANNEX 3 Guide to Public Meetings

## ANNEX 4 Template for the Municipal Statement of Commitment

|             |    |
|-------------|----|
| INDEX ..... | 66 |
|-------------|----|

|                |    |
|----------------|----|
| ENDNOTES ..... | 68 |
|----------------|----|

## **ACKNOWLEDGMENTS**

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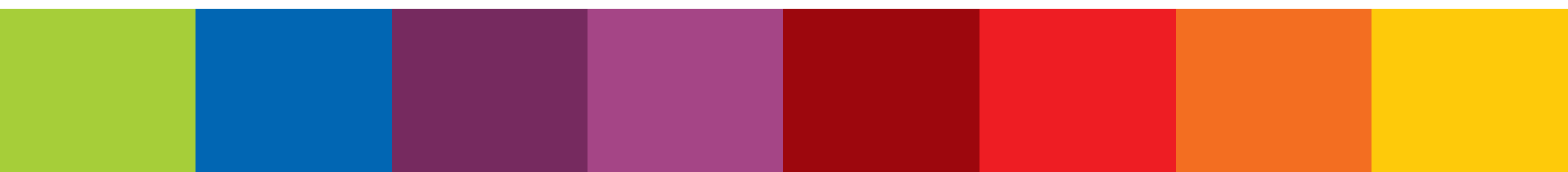
Invaluable inputs were provided by municipal information officers and experts at the policy level - their generous assistance helped shape this manual and for this they are gratefully acknowledged.

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## KEY ACRONYMS AND ABBREVIATIONS

|              |                                                         |
|--------------|---------------------------------------------------------|
| <b>AI</b>    | Administrative Instruction                              |
| <b>EU</b>    | European Union                                          |
| <b>LAOD</b>  | Law on Access to Official Documents                     |
| <b>MESP</b>  | Ministry of Environment and Spatial Planning            |
| <b>MFE</b>   | Ministry of Finance and Economy                         |
| <b>MLGA</b>  | Ministry of Local Government Administration             |
| <b>MPS</b>   | Ministry of Public Services                             |
| <b>NGO</b>   | Non-Governmental Organization                           |
| <b>OPM</b>   | Office of the Prime Minister                            |
| <b>OSCE</b>  | Organization for Security and Co-operation in Europe    |
| <b>PISG</b>  | Provisional Institutions of Self-Government             |
| <b>UNMIK</b> | United Nations Interim Administration Mission in Kosovo |
| <b>USAID</b> | United States Agency for International Development      |

# INTRODUCTION





## INTRODUCTION

### Involving the public beyond the ballot box

For democracy to prosper, the work of elected representatives must be augmented by the active and frequent inclusion of the public into the business of government.

Free and fair elections permit for the formulation of public policy by popularly elected representatives. However, as elections take place according to a determined cycle, usually every four or five years, they provide the public with opportunity to affect democratic change in the way their government operates only in limited periods. This is why an increasingly participatory approach to governance is needed which also covers the time “in-between” elections, particularly at the local level where responsive government is more easily accessible.

Formulating urban policy, setting development priorities, and managing municipal resources, to name a few common functions of municipal government, all have a major impact on the quality of life in Kosovo’s local communities. Democratic local governments are thus called on to enable and facilitate residents to actively exercise rights in their municipalities through the introduction of **participatory governance**, a concept defined as a **set of standards for public consultation and inclusive decision-making in local government**.

Participatory governance ensures that the public, either as individuals or as groups assembled with a common objective, openly advocates and pursues their respective interests throughout the public policy cycle, from grassroots planning to final evaluation.

The benefits of participatory governance are numerous and range from ensuring better employment of public resources through joint identification of municipal priorities to decreasing the likelihood of mismanagement through increased scrutiny by the public. Participatory governance also facilitates governing and leads to marked improvements in the quality of services provided.

### Three guiding principles of participatory governance

There are three key elements to participatory governance: **transparency, participation, and accountability**.

**Transparency** ensures that ample information on the work of municipal government is readily available and easily accessible to the public. The information provided must also be understandable and up-to-date to keep interested people or civic groups apprised of the issue in question. In essence, transparency in the work of the municipal government is a prerequisite to participatory governance.

**Participation** at the local level entails a continuous and open process of collaboration between the government and the public in the planning and implementation of the municipal mission and its various components. As noted previously, civic participation can either be direct, through the interested public, or indirect, through a recognized intermediary such as a non-governmental organization (NGO). Although participation is a civic right rather than an obligation, the public should be encouraged to take part in governing and be made aware of their rights by the municipal leadership.

Public participation in local government must not be restricted to taking part in municipal elections.

Participatory governance is a set of standards for public consultation and inclusive decision-making in local government.

There are three key elements to participatory governance: **transparency, participation, and accountability**.

**Accountability** is the “government’s obligation to respect the interests of those affected by its decisions, programmes and interventions through mechanisms of answerability and enforceability.”<sup>1</sup> In practice, accountability represents the ability and willingness of the people to hold local government officials responsible for their decisions and actions. Accountability is ultimately achieved once municipal officials recognize the community as their employer and acknowledge that they serve at its discretion.

### Participatory governance in the context of this Guide

Participatory governance takes place on a number of different levels and with varying intensity. Whether only sharing information or directly including the public in decision making, local authorities must ensure that there are adequate mechanisms available to enable effective interaction between the public and its government. These mechanisms can be roughly divided into three modules represented in the corresponding chapters of this Guide:

The first chapter on **information sharing** highlights the importance of providing the public with accurate, relevant, and up-to-date information. It reviews legal instruments for information sharing and offers a number of tools municipal administrators can use in keeping the public up to date with what is happening in their local government.

The second chapter, dealing with **public consultation**, outlines the advantages of community involvement in policy making through a process of inclusive and extensive consultation. Consultation provides municipal officials with an opportunity to better assess the needs and priorities of the public with the objective of improving services and enhancing the legitimacy of elected municipal government.

Direct participation in **decision making**, as the most advanced form of public participation, is discussed in the final chapter. In a sense, inclusive decision making represents the pinnacle of participatory governance and is the ultimate objective local governments in Kosovo should strive for.

## RESOURCES

### Sources and Suggested Readings:

#### On accountability:

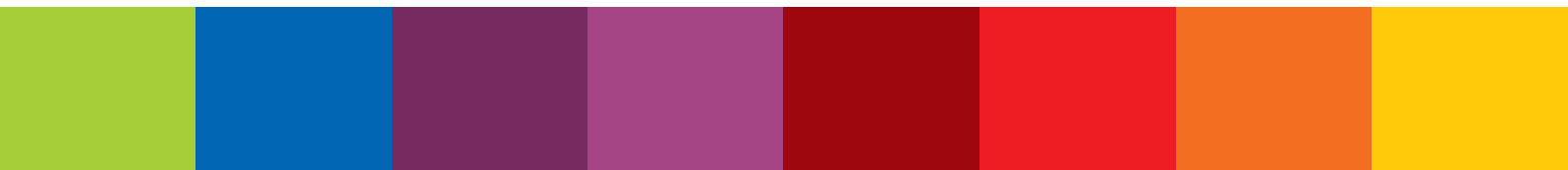
Governance and Development Review, Accountable Governance in the Age of Partnerships and Contracting Out, 2002, available at <http://www.ids.ac.uk/gdr/reviews/review-15.html>

#### On public participation in local government:

Council of Europe Committee of Ministers, Recommendation Rec (2001)19E to member states on the participation of citizens in local public life, 6 December 2001, available at <https://wcd.coe.int>

# CHAPTER I

## INFORMATION SHARING – THE RIGHT TO KNOW





## 1. Introduction to information sharing

The principle prerequisite of civic participation in local government is the provision of timely and accurate information by municipal administrators. In keeping with this principle, municipal officials are advised to think of official data not as the property of government but rather as the property of the community and the people they serve. Information on past and present performance as well as on future development plans is crucial in the formation of an informed environment conducive to civic participation.

The legal framework in Kosovo greatly reflects this pursuit of *open government* with legislation aimed at: “strengthening transparency of legislative, executive and administrative bodies of the municipalities, enhancing public participation in the decision making at the local level, and facilitating public access to official documents of the municipalities.”<sup>2</sup>

In summary, the job of the government is to generate opportunities for the public to exercise their right to be informed by:

1. instituting a set of enabling mechanisms aimed at ensuring access to official documents;
2. opening official meetings to the public; and,
3. voluntarily disclosing information on activities and plans as well as on past performance of municipal government to the public.

### 1.1 Access to official documents

The Law on Access to Official Documents provides a legal basis to exercise the right to obtain documents held by public institutions and sets out the instruments needed to do so. It enables residents of Kosovo to “participate more closely in the decision-making process of public institutions and guarantees that the public institutions enjoy greater legitimacy, transparency and are more effective and more accountable to the residents of Kosovo.”<sup>3</sup>

The underlying principle for freedom of information legislation is the burden of proof resting with the body holding the information, not the individual, or group, requesting it. This principle is clearly represented in the Law on Access to Official Documents which foresees that the applicant does not have to provide justification for the request but, conversely, a valid reason has to be provided by the adjudicating institution if the information is withheld.<sup>4</sup>

The municipal government is obliged to create an enabling environment for access to official documents in accordance with Article 8 of the Administrative Instruction No. 2006/03 of the Ministry of Local Government Administration, which states that the “Municipal Assembly shall adopt regulation, take measure and establish good administrative practices to guarantee the right of the residents to access the official documents of the municipality.”<sup>5</sup>

Therefore, this section will provide a set of minimum standards for the implementation of the Law on Access to Official Documents in municipalities.

Accompanying annexes, including a Sample Request for Access to Official Documents and a Residents’ Guide for Access to Official Documents, both issued by the Ministry of Public Services, are provided in the back of this Guide.

**Information is a public resource.** Municipal officials are advised to think of official data not as the property of government but rather as the property of the community and the people it serves.

### 1.1.1 Minimum standards for the implementation of the Law on Access to Official Documents

In line with the relevant legislation, the municipal assembly is obligated to pass a **decision** outlining the following issues:

#### *What is an official document from the municipal perspective and in line with United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 2003/32?*

The municipality should define the category as broadly as possible to encompass “all information recorded in any form, drawn up or received and held by public authorities and linked to any public or administrative function.”<sup>6</sup> A “document” is defined as “any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording), concerning a matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility.”<sup>7</sup>

#### *Who may request access to an official document?*

The Law on Access to Official Documents states that “any habitual resident of Kosovo or any person who meets eligibility requirements for registration as a habitual resident of Kosovo, and any natural or legal person residing in and having a registered office in Kosovo, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in the Law.”<sup>8</sup>

#### *What is the procedure for gaining access to official documents?*

Information on how and where to apply for access as well as any other assistance needed will be provided by the municipality.<sup>9</sup> The Law on Access to Official Documents states that the application to gain access to an official document is to be made in any written form (to include electronic) and “in a sufficiently precise manner to enable the institution to identify the document.”<sup>10</sup> A sample request is provided in Annex 1. The purpose of providing a template is to facilitate application by interested parties. As stated above, an application can nonetheless be made in any other written form as well. There is no requirement for the applicant to state the purpose of the application. In instances where the application is not clear enough the applicant will be contacted to provide clarification.<sup>11</sup> The applicant can be conferred with informally to find an equitable solution if the document in question is very long or the application relates to a large number of different documents.<sup>12</sup>

#### *What is the timeline to process an initial application?*

The application for access to official documents should be processed promptly, so that a decision on either granting or refusing access is made within 15 working days of receipt. A confirmation of receipt should also be provided in writing by the municipality to the applicant.<sup>13</sup> Exceptions to the 15 day rule are only valid if the document in question is not registered with the municipality or if:

- the official documents must be collected from offices or remote units of the institution physically detached from the building where the archive is located;
- the application requires that a large number of documents be collected and investigated;
- there is a need to consult another institution, agency, or two or more units within the institution to make a decision on access; or,
- there is a need to process the data, to create a computer programme, or to generate computer reports in order to extract the requested data.

If delays are anticipated, the applicant should be duly informed by the municipality and provided with the reasons for the delay.<sup>14</sup>

### ***What municipal documents are exempt from the application of the Law on Access to Official Documents at the municipal level?***

The Law on Access to Official Documents states that its application is universal and covers “all documents held by an institution, drawn up or received by it and in its possession, in all areas of activity of the institutions.”<sup>15</sup> However, the right to access official documents is not absolute and must be carefully balanced with other interests and rights. In other words, the right to access documents is a rule with exceptions, as envisaged by applicable law .

The Law on Access to Official Documents explicitly enumerates the public interest which creates the basis for the exceptions to the rule. According to the law “the institution shall refuse access to a document where disclosure would undermine the protection of:

- a. “the public interest as regards:
  1. public security,
  2. civil protection,
  3. international cooperation,
  4. the financial or economic policy of the PISG.
- b. the privacy and the integrity of the individual in particular in accordance with the applicable legislation regarding the protection of personal data.”<sup>16</sup>

The Law on Access to Official Documents also refers to respective restrictions relating to documents connected to UNMIK reserved powers. The law states that “[a]ccess to and classification of documents relating to reserved matters, including security, defence and military matters, external relations and monetary policy, within the area of responsibility of the Special Representative of the Secretary General shall be regulated by UNMIK.”<sup>17</sup>

Access to documents shall also be refused in instances where access would “undermine the protection of:

- a. commercial interests of a natural or legal person, including intellectual property,
- b. court proceedings and legal advice,
- c. the purpose of investigations, inspections and audits, unless there is an overriding public interest in disclosure.”<sup>18</sup>

Certain internal documents are also exempted from application where “the document would seriously undermine the institution’s decision-making process, unless there is an overriding public interest in disclosure.”<sup>19</sup> The disclosure of third-party documents requires that the institution consults the respective third-party in assessing whether the document should be exempted “unless it is clear that the document shall or shall not be disclosed.”<sup>20</sup> In the interest of maximum transparency, the law also states that “if only parts of the requested document are covered by any of the exceptions, the remaining parts of the documents shall be released.”<sup>21</sup>

The right of access to official documents is not absolute and must be balanced with other individual and collective rights and interests.

When deciding whether to disclose exempted documents as a result of an overriding public interest, “the institutions shall have due regard to considerations such as any failure to comply with a legal obligation, the existence of any offence, miscarriage of justice, abuse of authority or neglect in the performance of

an official duty, unauthorized use of public funds, or danger to the health or safety of an individual or the general public.”<sup>22</sup>

Notwithstanding the listed exceptions, the guiding principle for municipal administrators should be that access to official documents is the right of the public and the refusal to grant it should have ample justification.

### ***What is the procedure for challenging refusal of access/review?***

In case of a partial or total denial of access, a written reply should be sent to the applicant indicating the reasons for the refusal as well as a reminder of his/her right to make a confirmatory application.<sup>23</sup> Confirmatory applications may be submitted within 15 working days in order to petition the municipality to reconsider its initial position.<sup>24</sup> If the application is refused again, the institution will inform the applicant of the remedies available, “namely instituting court proceedings against the institution pursuant to the provisions of the relevant applicable law and/or filing a complaint with the Ombudsperson pursuant to Chapter 10 of the Constitutional Framework and UNMIK Regulation No. 2000/38.”<sup>25</sup>

### ***How to manage access to sensitive documents?***

Sensitive documents are defined as “documents originating from the institutions classified in accordance with the rules of the institution concerned, which protect the essential interests of the PISG.”<sup>26</sup> According to the Office of the Prime Minister Administrative Instruction No. 2006/03 Implementing the Law on Access to Official Documents, each institution must classify its official documents in line with the categories provided in Article 26 as:

- official documents without limitation in access; and,
- sensitive official documents.

Sensitive official documents are further classified into one of the four categories:

- limited use official documents;
- confidential official documents;
- secret official documents;
- top secret official documents.

For municipalities, the majority of the documents will not be classified as sensitive due to the nature of their work. However, the municipality should refer to the Administrative Instruction No. 2007/07 On Principles, Procedures, and Classification Signs of Official Documents, issued by the Office of the Prime Minister. This Administrative Instruction envisages the establishment of a commission by each municipality; the commission shall be responsible for drafting and adopting a list of sensitive documents held by the respective institution.<sup>27</sup> Furthermore, the Administrative Instruction foresees that the approved list is submitted to the Inter-Institutional Committee, the body which evaluates the administrative practices regarding official documents.<sup>28</sup>

Applications to access sensitive documents can only be processed by those municipal officials who have authorized knowledge of the documents in question.<sup>29</sup> The institution from which the sensitive document originates must give its consent to recording the document in the register and/or to releasing it.<sup>30</sup> As for any document with restricted access, the institution that decides on the sensitivity of the document as grounds for refusal must “give the reasons for its decision in a manner which does not harm the interests protected in section 4 [exceptions].”<sup>31</sup>

### ***How to provide access following approval?***

Depending on the successful applicant's preference, access will be given either through on-site consultation or through the provision of a copy of the document in question, including an electronic copy, where available.<sup>32</sup> The applicant may be charged for the costs incurred but "this charge shall not exceed the real cost of producing and sending the copies."<sup>33</sup> "Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge."<sup>34</sup> At the same time, "if a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document."<sup>35</sup> As for the format, the documents "shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference."<sup>36</sup>

### ***Who manages the process on behalf of the municipality?***

The executive, via the municipal archiving office<sup>37</sup>, handles the operational aspects of the process while the ultimate accountability to the public rests with the elected representatives in the municipal assembly. All municipalities in Kosovo are instructed to establish an archives office in line with Article 15, Office of the Prime Minister Administrative Instruction No. 2006/03.

### ***How to inform the public of their right to access official documents?***

The success of transparency legislation is greatly dependant on the active involvement of people and civic groups who, therefore, must be educated on the opportunities provided by the Law on Access to Official Documents. All the information that prospective applicants need to know should be assembled into a Residents' Guide detailing the application and access procedures. The municipality should print and distribute the Residents' Guide which tells people how to gain access to public documents.<sup>38</sup> The Resident's Guide should be displayed prominently in the municipal building; hard copies should be made available as well. The electronic version of the Resident's Guide should be posted on the municipal web-site, if applicable.<sup>39</sup>

The Law on Access to Official Documents foresees the obligation for each institution to undertake measures to inform the public of the rights they enjoy under this law.<sup>40</sup> Furthermore, the municipality should create a number of official e-mail addresses that should facilitate communication with the public and provide an alternative method of submitting applications for access to official documents.<sup>41</sup> The municipal web-page should also provide contact information for all relevant organizational units in the municipal government.

### ***How to organize data on available official documents?***

A register containing all official documents in the municipality must be created and stored in the archives office. The register itself is an official document with unlimited access, i.e. freely accessible. References of all official documents received by the archivist, classified according to "unlimited use" (accessible to the public) and "limited use" (restricted access), will be stored in the register. Documents that are classified as "confidential", "secret", and "top secret", are not to be recorded in the register.<sup>42</sup>

Each entry into the register will contain the following reference fields:

1. unique number for protocol and registration purposes;

2. reference/number of the official document itself;
3. owner of the document (name of the institution/official);
4. date of last access to the document provided by the owner or institution;
5. classification of the official document;
6. original date;
7. date of registration in the register;
8. location of the official document;
9. origin of the official document;
10. short description of the document contents.<sup>43</sup>

### ***What are the recording and reporting requirements?***

The municipality is required to create and maintain a record of access requests received to keep track of the implementation of the Law on Access to Official Documents. The register of requests should be stored in the municipal archives office and be treated as an official document with limited access to protect the privacy of the applicants. It shall contain the following documents:

1. the written request for access, submitted to the archives office;
2. the written notification to the applicant on whether the request was granted or denied;
3. the confirmatory request for access to official documents, if submitted;
4. the written notification to the applicant on whether the confirmatory application was granted or denied.

All of these documents are considered official documents with limited access.<sup>44</sup>

The following information is also stored in the application register:

1. the unique number for protocol and registration purposes;
2. if the requested official document is registered in the Register of Official Documents:
  - a. the reference of the unique number for protocol and registration purposes;
  - b. the reference number of the official document itself;
    3. the date of registration in the register of applications;
    4. the name of the official/department who/which received the application;
    5. a description of the original form of the application (electronic, paper);
    6. a short description of the contents of the application;
    7. the name of applicant.<sup>45</sup>

The Law on Access to Official Documents contains a provision that requires municipalities, among other public institutions, to produce an annual report on the implementation of the law. The report should include any instance where access to a document was denied along with the justification and the number of sensitive documents that have not been recorded in the register.<sup>46</sup>

Once passed, the municipal assembly decision outlining the municipal commitments stated above becomes binding; the executive should then be tasked with its implementation, including the drafting and the development of all policies and mechanisms as required by law.

## RESOURCES

### Source of Law:

UNMIK Regulation No. 2003/32 On the Promulgation of a Law Adopted by the Assembly of Kosovo on Access to Official Documents of 6 November 2003.

MPS Administrative Instruction No. 2006/01 Implementing the Law on Access to Official Documents of 15 March 2003, Annex 1.

OPM Administrative Instruction No. 2006/03 Implementing the Law on Access to Official Documents of 15 March 2003.

OPM Administrative Instruction No. 2007/07 On Principles, Procedures and Classification Signs of Official Documents, 6 June 2007.

MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.

### Sources and Suggested Readings:

Council of Europe, Access to Official Documents Guide, 2004, available at: [http://www.coe.int/t/e/integrated\\_projects/democracy/DocAccess\\_Guide\\_en.pdf](http://www.coe.int/t/e/integrated_projects/democracy/DocAccess_Guide_en.pdf)  
Ministry of Public Services, Access to Official Documents Manual (See Annex 1)

OSCE Mission in Kosovo, Report on Implementation of the Law on Access to Official Documents at the Municipal Level, November 2007, available at: [www.osce.org/kosovo](http://www.osce.org/kosovo)

## 1.2 Access to official meetings

Permitting and facilitating public access to official meetings of municipal bodies represents a key pillar of a transparent government as it allows people and interested groups to scrutinize the work of the government in real time while providing the public with valuable insight into how policy decisions are made. The presence of the public ensures checks and balances and that the government acts in the best public interest. At the same time, it enhances the legitimacy of the municipal government, boosting the public confidence in the work of its elected representatives.

Although there is no one law that comprehensively legislates the issue of open meetings in Kosovo, the current legal framework obliges local government to permit the presence of individuals and/or interested groups at almost all official meetings.

This section examines the legal provisions governing the presence of the public at official meetings currently being in effect in Kosovo and, for easier reference in those instances where municipalities wish to go beyond the letter of the law, provide a clear and precise definition of an official meeting. An accompanying annex, containing a Guide to Official Meetings, is provided in the back of this Guide.

### 1.2.1 Meetings of the municipal assembly and its committees

The cornerstone of local government legislation in Kosovo, UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 On Local Self-Government of Municipalities in Kosovo, lays the foundations for open meetings. It states that, subject to limitations, “members of the public, including press representatives, shall be admitted to all meetings of the Municipal Assembly, and its

Barring special circumstances, public officials should always conduct their business in the open.

committees, and all meetings of the Board of Directors.”<sup>47</sup> However, the right to attend official meetings is not absolute, and in instances where the assembly, or its selected committee, determines that the “nature of the matter to be discussed would result in publicity that would be prejudicial to public interest”, a reasoned decision can be made to exclude the public from attending.<sup>48</sup>

When scheduling meetings of the municipal assembly and its committees, municipal administrators should ensure public access through:

- identifying a venue that can accommodate all interested members of the public (within reason); and,<sup>49</sup>
- giving proper and advance notice (seven days for regular municipal assembly sessions, three days for emergency municipal assembly session, and three days for committee meetings).<sup>50</sup>

The public will be notified of the upcoming meeting by the municipal information office and the following media:

- public announcements posted on the most frequented locations within the municipality;
- local print and electronic media; and
- the municipal website.<sup>51</sup>

Furthermore, the notice must contain the following information:

- the date of the meeting;
- the time of the meeting;
- the venue of the meeting; and
- the agenda.<sup>52</sup>

A meeting agenda is defined as a general description of the issues that are expected to be discussed in the meeting. No last minute changes should be made to the agenda prior to the meeting unless absolutely necessary.

### 1.2.2 Other meetings

Although the current legal framework only requires municipalities to open meetings of the assembly, its committees, and the board of directors, the municipal leadership should consider enabling public access to all of its official meetings, including those taking place within the executive branch. The following two principles can be used as criteria in determining which meetings should be attended by the public:

- a decision is discussed or taken; and,
- the decision concerns public policy.

In instances where municipal leaders are willing to go beyond the letter of the law and further enhance transparency in the conduct of municipal affairs, section 7.4 of UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 allows the municipality to formulate additional provisions for public attendance at official meetings.

Public attendance at Board of Directors’ meetings, in particular, should be encouraged as the issues discussed often have a profound effect on decision making in the municipality and it offers a good opportunity for the public to evaluate the work of their non-elected officials.

Decisions concerning the well-being of the local community must not be taken behind closed doors.

## RESOURCES

### Source of Law:

UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 200/45 on Local Self-Government of Municipalities in Kosovo of 16 October 2007.  
MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.

### Sources and Suggested Readings:

For good practice see:

Association of Kosovo Municipalities, Calendar of Official Meetings, 2007, available at: <http://www.komunat-ks.net/>

City of Stamford, Connecticut, USA, Government Meeting Calendar by Board with Agendas and Minutes, 2007, available at: <http://www.cityofstamford.org/content/25/56/default.aspx>

### 1.3 Access to public information

In addition to inviting scrutiny through facilitating access to official documents and meetings of the municipal government, local authorities must also be proactive in sharing information with the interested public. In practice, this requires the municipality to continuously provide all available information about its work to the public, allowing individuals and civic groups to identify those that are of interest.

Local authorities must be proactive in providing information to the interested public.

This section will review the types of information that should be made available to the general public by municipal authorities, outline some mechanisms and tools through which the information can be conveyed, and examine the municipal transparency action plan as a key vehicle for pursuing transparent local government in Kosovo.

#### 1.3.1 Types of public information on the work of municipal government

For the public to clearly comprehend, and effectively oversee, the work of local authorities, they must have a solid understanding of what role is foreseen for municipal government in the relevant constitutional and legal frameworks.

At present<sup>53</sup>, there is a great deal of ambiguity regarding core municipal competencies as opposed to those retained by UNMIK or central level institutions.<sup>54</sup> A concerted effort is therefore needed to raise awareness of the municipality's primary mission and to clearly identify those services that the local government is responsible for providing.

Key laws as well as selected internal documents, e.g. municipal statutes, should be made available to the public. This should improve the quality of dialogue between the public and their municipal governments by raising the level of awareness of municipal competencies.

#### On the basic structure of a municipal government

The public should be made aware of the local government structure. Detailed explanations should be provided on the roles of the following actors:

### Political leadership:

Mayor;  
Directors;  
Municipal Assembly; and,  
Municipal Assembly Committees.

### Administrative managers:

Head of Administration and Personnel; and,  
Heads of Departments.

Basic information on how assembly members are elected and how the municipal administration is structured should be made available. In addition, detailed information on the individual portfolios handled by the municipal departments should be given to assist the people in determining to whom to address their query or request. Publishing the names and constituencies of individual assembly members also significantly enhances electoral accountability of the assembly and improves the public's confidence in the work of the government.

### On the performance and plans of municipal government

As the principle benefactors of local government, the public is fully entitled to know how their tax money is spent. This implies that the public should be informed on the government's performance through voluntarily facilitating public access to a number of key documents and processes including:

- **the municipal annual report**, submitted to the municipal assembly by the mayor;
- **audit reports** published by the office of the auditor general and any internal audit findings;
- **decisions of the municipal assembly**, and, where regulated by municipal statute, the board of directors. As the Ministry of Local Government Administration Administrative Instruction No. 2006/03 notes, "all normative and collective decisions of the Municipal Assembly, the publication of which is not restricted by applicable legislation on access to official documents shall be made public within one week following the end of the meeting in which decisions were reached."<sup>55</sup>;
- **the municipal budget process**, as the cornerstone of municipal planning, the municipal budget document, and quarterly and annual budget realization reports.<sup>56</sup> Financial statements for sub-municipal organizations, such as schools or hospitals, should be published separately and in detail;<sup>57</sup>
- **tender documentation**, as the tendering process is a major source of mismanagement and corruption in transitional public administrations;<sup>58</sup>
- **agendas and minutes of meetings of the municipal assembly**, its committees, and, where regulated by municipal statute, meetings of the Board of Directors;
- **vacancy announcements**, to ensure that the recruitment and selection process is open and merit-based;
- **work plans**, where they are developed; and,
- **any other official documents**, covered by the Law on Access to Official Documents.

### On the rights of the public

The public is often ill-informed about their rights and privileges when dealing with the municipal government. A concerted effort is therefore needed by the municipality to raise awareness of the rights the public enjoys in this respect .

### On upcoming events

Upcoming events that have an impact on the general wellbeing of the inhabitants of the municipality, such as a session of the municipal assembly or a public budget hearing, need to be adequately publicized so that interested public can take part.

### 1.3.2 Types of public information tools

A wide range of public information tools is available to local governments in reaching out to the general public, ranging from the more conventional to increasingly advanced forms of communication. Some of the tools may appear redundant and the information repetitive, but the rule in managing public information should always be **more is better**. The following serves as an overview of public information tools.

The rule in managing public information should always be **more is better**.

#### Municipal information counter

The counter is a permanent component in the municipal government building and is manned throughout the working day. It represents the municipality's principle information point where people can direct their queries or requests regarding the work of the municipality. The staff member manning the counter also acts as the municipal receptionist, directing visitors to the person or department relevant to their needs.

Other forms of personalized communication with the public include:

- an "open door day" to enable direct meetings between public and civil servants or elected officials; and,
- designated telephone lines to take calls from people.

#### Brochures and newsletters

Brochures are developed and printed by the municipality with the aim of addressing frequently asked questions or common concerns raised by the public, e.g. how to access official documents or how to apply for a construction license or a business permit. Printed copies should be displayed at the information counter. The municipal newsletter can be published monthly or biannually with the objective of keeping the public up to date on the most important developments in the municipality.

#### Municipal website

With the increasing number of Internet users in Kosovo, websites are becoming a major element in the government's communication strategy, both locally and centrally. Municipal Internet presentations should provide ample information on the structure of municipal government, its mission, and its governing framework. The website can also serve as an electronic repository of official documents (through a public information index) for easier access by interested visitors. Current and upcoming events, relevant in the life of the municipality, should also be posted on the website in the form of a calendar.

#### Municipal information board

The board should carry similar information to that presented on the website including the municipal organigram, the calendar of events, and the municipal newsletter, if published by the municipality.

#### Local print and electronic media

Municipal governments can also employ the services of local media outlets when

they need to reach out to the community, e.g. to announce upcoming budget hearings.

### Public information campaigns

When serious changes with far-reaching consequences are proposed to the municipal landscape, the municipality needs to ensure that the public is aware of the proposed changes and their impact on the quality of life in the municipality. This will enable any grievances to be articulated by the people and action to be taken through petitions or referenda, if needed. The campaign can employ a combination of different tools, including print and electronic media, municipal websites, brochures, leaflets, and press releases.

### Briefings

In addition to personalized forms of two-way communication, described at the start of this section, municipalities are advised to schedule a number of briefings with the people and the media throughout the year to keep the public informed about the work of the municipal government. Briefings should be themed, designed, and promoted in such a manner as to attract sufficient public interest.

### Fact-sheets

Fact-sheets on the work and structure of the municipality and its capital projects should be produced and made available to the public as a cost-effective and easy tool for disseminating information in the municipality.

### Municipal transparency action plans

Under the current legal framework, governing the operation of local governments in Kosovo, municipalities are required to consider the development and implementation of a transparency action plan. The plan aims at “making the municipal decision-making process and municipal operations more transparent” and formalizes much of what has been set out in the previous section.<sup>59</sup>

According to the Ministry of Local Government Administration Administrative Instruction On Municipal Transparency No. 2006/03, the plan should contain provisions for the municipality to:

- a. “Make more frequent media reports particularly the use of municipal budget, economic development, spatial planning, investment, municipal revenues and other issues of general interest;
- b. Hold periodic press conferences (every two weeks or every month) with journalists and representatives of the local media;
- c. Organize Question and Answer sessions with public or interest groups;
- d. Organize radio and TV debates on the aforementioned issues;
- e. Create web sites or update the existing ones to include information on municipal work plans, reports, calendar of meetings, phone directory, and contact information of responsible municipal officers.
- f. Publish and distribute leaflets, guides about the organigram, internal regulations, job descriptions, of the municipal employees from whom residents may receive useful information, municipal taxes, fees for municipal services and other useful information.”<sup>60</sup>

Municipal transparency action plans are crucial in establishing and maintaining a culture of openness and accountability.

A number of municipal assemblies in Kosovo have already adopted transparency action plans based on a template jointly prepared by the Ministry of Local Government Administration, the Association of Kosovo Municipalities and the OSCE Mission in Kosovo. The template consists of a number of action points; the fol-

lowing four are the most important:

1. Ensuring implementation and compliance with the relevant legal provisions on transparency regarding:
  - Local Self-Government of Municipalities in Kosovo;
  - Civil Service in Kosovo;
  - Public Procurement;
  - Public Financial Management and Accountability;
  - Access to Official Documents;
  - Municipal Transparency;
  - Public Service Centres.
2. Providing public access to the process of developing municipal financing priorities.
3. Facilitating the work of local civil society organizations.
4. Developing a media and communications plan.

## RESOURCES

### Source of Law:

UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 on Local Self-Government of Municipalities in Kosovo of 16 October 2007. UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001.

UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo of 13 September 2001.

UNMIK Regulation No. 2004/3 On the Promulgation of the Law on Public Procurement of 28 July 2004.

UNMIK Regulation No. 2003/17 on the Promulgation of the Law on Public Financial Management and Accountability of 12 May 2003.

UNMIK Regulation No. 2003/32 On the Promulgation of a Law Adopted by the Assembly of Kosovo on Access to Official Documents of 6 November 2003.

MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.

MLGA Administrative Instruction No. 2005/07 On Citizen Service Centres.

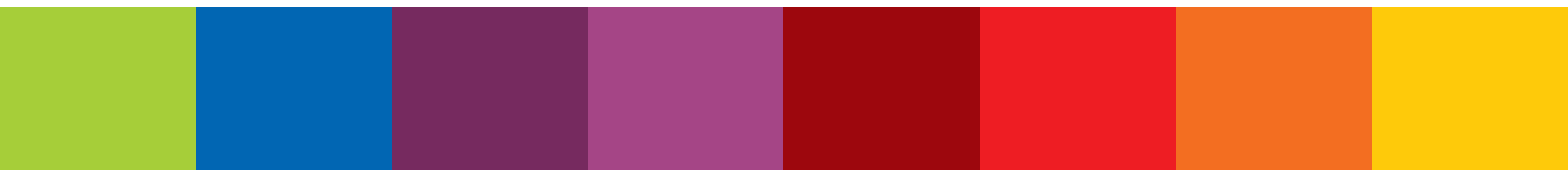
### Additional Sources and Suggested Readings:

Association of Kosovo Municipalities, Municipal Action Plan for Transparency, 2007, available at: <http://www.komunat-ks.net/>



## **CHAPTER II**

### **PUBLIC CONSULTATION – THE RIGHT TO SPEAK**





## 1. Introduction to public consultation

While the provision of information by the municipality is crucial in creating a platform for further democratic engagement, it is merely the first and most basic level of participatory governance. Public consultation in policy making by the municipal authorities represents a more advanced form of interaction between the government and its people. It is commonly defined as a process of soliciting information or opinions from stakeholders with the purpose of improving the quality of decisions by the government.

This chapter will examine in detail what is public consultation, review the relevant statutory framework, and set out some basic tools and strategies that can be utilized by practitioners in municipalities.

The benefits of public consultation far outweigh any associated costs in time and resources for the local authorities.

### 1.1 Public consultation cycle

The public consultation principle is grounded in the following assumptions: ample information is available to the public, the people are willing to participate and contribute, and collected feedback elicits an adequate policy response from the municipal authorities. Accordingly, there are three key stages of public consultation:

#### Disclosing full information on the policy issue under discussion

Municipal governments must provide the relevant information prior to the public consultation exercise to ensure that the public can participate in a meaningful fashion. A detailed description of the issue, available policy alternatives, the policy impact on the municipality as well as consultation tools to be utilized need to be shared with the public.

This information can be relayed in a number of ways, as discussed in more detail in the previous chapter (local radio and print media, municipal website, information board, etc.). Precise date and venue for the consultation exercise(s) need to be provided as well.

The success of this stage is greatly dependant on the municipal authorities' preparedness to meaningfully engage in the consultation process. In practice, this means that the municipal government has: established what issues are at the heart of the policy (i.e. urban development versus preservation), identified groups or individuals with a vested interest, defined the purpose and scope of the consultation, set out a timetable, allocated a budget for any costs planned, and identified available consultation strategies. This should mainly be the job of the municipal information officer with inputs by senior municipal leadership.

#### Facilitating participation

Overcoming public apathy and disinterest as well as tackling the general lack of confidence in government are key issues at this stage. Public consultation should not merely be seen as a box to be ticked but rather an opportunity to enhance relations between the people and their government and to improve the quality of decision making. Mechanisms for consultation must therefore be designed with the target audience in mind to cater to the needs of those being consulted. For instance, organizing public meetings in the municipal building to debate a policy that will affect one specific, rural area is not a strategy conducive to broadening

Consultation is a process of soliciting information or opinions from stakeholders with the purpose of improving the quality of decisions made by the government.

Why public consultation ?

Through engaging in public consultation, municipal governments: enhance their legitimacy; collect additional information on policy issues; boost public confidence in their work; ensure residents respect and are positive about their policies; enable the public to gain a sense of ownership in the development of the municipality; increase transparency and accountability of their work; build lasting and sustainable relationships with the community; improve their awareness of the needs of the community; improve the communities' awareness of the constraints under which they operate; identify potential problem areas early on in the process.

The principle of public consultation is dependant on: ample information being available to the public, residents' willingness to participate and contribute, and municipal authorities' constructive use of collected input.

Mechanisms for consultation must be designed with the target audience in mind to cater to the needs of those being consulted.

If residents participate in a survey, or take time to serve on a focus group, without ever seeing the results, they are unlikely to participate again.

#### Who should be consulted?

Residents of the municipality;  
Municipal service users;  
Local entrepreneurs;  
Local public agencies (health, law enforcement, etc);  
Professional organizations and unions;  
Non-governmental organizations;  
Village elders and informal community groups;  
Minorities and/or socially marginalized groups;  
Visitors;  
Any other affected group or individuals.

participation. Taking the event to those directly affected, however, will immediately increase participation and demonstrate willingness by the government to reach out to the public.

During the exercise itself, the municipal leadership needs to carefully manage the expectations of those participating in the consultation. Parameters should be set out at the start to ensure that the public is aware of any restricted provisions in the policy that are not open for debate (as a result of an overriding public interest or a legal requirement). Also, care needs to be taken to ensure that the consultation exercise does not clash with a religious or ethnic holiday in order to be sensitive to the needs of all communities and to ensure maximum participation. Interpreters should also be at hand to make sure there is no breakdown in communication between participants belonging to different communities. Overall proceedings should be managed based on an agenda provided beforehand. Conflict among participants should be defused promptly and calmly.

#### Reacting to feedback

The principle measure of success for consultation is not necessarily the number of participants or the amount of input received. A public meeting, for instance, should not be viewed as a failure if the room is not packed with participants. Consultation is voluntary and, ultimately, about providing opportunities to participate.

However, what happens to the input that *is* collected greatly affects the relationship between the community and its government and determines the outcome of future participatory exercises sponsored by the local authorities. If people participate in a survey, or take time to serve on a focus group, without ever seeing the results, they are unlikely to participate again.

This does not mean that every input provided by the public should influence policy. People will generally represent their individual or their micro-community's interests, but it is up to the municipal government to balance the interests of the municipality as a whole. The government should, however, show that the input provided was given due consideration. Feedback should therefore be provided to all those who participated in the consultation exercises.

## RESOURCES

### Source of Law:

UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 on Local Self-Government of Municipalities in Kosovo of 16 October 2007.

### Sources and Suggested Readings:

For best practice in public consultation see:

Burchell MP, A Case Study in Effective Public Participation in the Development of Public Sector Policy: The Quinninup Water Source Protection Plan, 2005, available at:

<http://engagingcommunities2005.org/abstracts/Burchell-Marion-final.pdf>

## 1.2 Statutory framework for public consultation in Kosovo

The requirement to consult the public most often stems from a legal norm set out in the relevant statutory framework. The laws currently in effect in Kosovo, however, list only limited cases where public consultation is mandated. Consultation, nonetheless, should be adopted as good management practice even when not legally mandated.

The following represents a review of the key instruments governing public consultation in municipalities:

### UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo

Public consultation in municipal decision making is explicitly mandated in the cornerstone of local self-government legislation, UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo. Section 8, Article 8.1 deals with public meetings as a consultative strategy: “Each municipality shall hold periodically, at least twice a year, a public meeting at which any person or organization with an interest in the municipality may participate. The date and place of the meeting shall be publicised at least two weeks in advance. At the meeting, municipal representatives shall inform participants about the activities of the municipality and participants may ask questions and make proposals to the elected representatives of the municipality.”<sup>61</sup>

The regulation also provides for influencing municipal policy through petitioning: “Any person or organization with an interest in the municipality shall have the right to present a petition to the Municipal Assembly about any matter relating to the responsibilities and powers of the municipality. The Municipal Assembly shall consider the petition in accordance with its Statute and Rules of Procedure.”<sup>62</sup>

### Ministry of Finance and Economy budget circulars for municipalities

The circulars contain process guidance by the Ministry of Finance and Economy to local budget organizations (municipalities) on how to implement the budget planning process for the coming year. They are published annually and contain the budget calendar, the fiscal message, and government priorities. While they do not have the force of a law, they are nonetheless a crucial planning document for municipalities.

Three of the eight steps contained in the circulars foresee some level of public involvement in the planning of the municipal budget which is the capital planning document for the municipality:

#### *Establishing a municipal medium term budget framework*

Establishing a **municipal medium term budget framework** is the first step in the budget process as it sets out the following estimates for the next three years:

- a. economic and budgetary forecasts and assumptions;
- b. municipal development strategy;
- c. aggregate estimates for revenues;
- d. aggregate targets for expenditure;
- e. estimates of expected donor support.

Prior to adopting a **municipal medium term budget framework**, as the cornerstone of municipal planning for the next three years, the budget circulars foresee that “consultations shall take place with the community and key stakeholders, including public meetings to discuss Municipal priorities and strate-

Public consultation in municipal decision making is explicitly mandated in UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo.

gies.”<sup>63</sup> Separate consultations are to be conducted by the director of finance, economy, and development and the policy and finance committee.

### **Budget hearings**

Hearings are crucial in establishing and maintaining effective communication between the people and their local government in the budget process. They allow municipal officials to present proposed municipal priorities for the upcoming period to the public as it is ultimately the inhabitants that are the beneficiaries of the municipal budget.

After the public has had a chance to review and comment on the proposed budget ceilings, “the Policy and Finance Committee shall approve Final Budget Ceilings after taking into consideration the results of the Budget Hearings.”<sup>64</sup>

### **Review of the municipal budget**

Once the proposed budget is approved by the board of directors, it is submitted to the assembly. At this stage, the circular recommends that the municipal assembly hold a properly announced special meeting for soliciting public input to the budget as well as for public consideration and approval. This meeting should include media coverage and a public budget address from the mayor, and it is recommended that it be a “Town Hall Meeting” in conformance with relevant legislation.<sup>65</sup>

### **Ministry of Local Government Administration Administrative Instruction No. 2006/03 On Municipal Transparency**

As discussed in previous sections, this Administrative Instruction is a collection of good practices in the areas of transparency and public participation that municipalities are advised to fully implement.

Article 6 states that, in addition to the “two mandatory public meetings, Municipal Assembly should consider holding additional public meetings at the closest level to the residents possible (settlements, villages, neighbourhoods) particularly on issues related to the use of municipal budget, economic development, use of municipal property, urban planning, investment, municipal revenues and other issues of general interest.”<sup>66</sup>

According to Article 7 and in the interest of public inclusion in policy making, the Administrative Instruction requires that all “acts, regulations, normative and collective decisions of the Municipal Assembly and other municipal bodies shall undergo public discussion before adoption.”<sup>67</sup> Furthermore, “the municipal organ proposing the act shall prepare the draft and decide on the manner and timing of the consultation, including consultations with interest group, scheduling public hearings and other forms of public participation.”<sup>68</sup> The public shall be notified of the hearings at least two weeks before the event is scheduled to take place.

### **Municipal statutes and other internal documents**

Internal documents that regulate the operation of municipal government in detail often build on, and broaden, the relevant legal framework. Chief among these documents is the municipal statute.

While the statute may not override a law, it is designed to regulate the basic principles established by general legal acts in more detail. Public consultation is one such principle and a number of municipalities in Kosovo have adopted provi-

sions to expand its scope and application.

Municipal governments are encouraged to go beyond the letter of the law and further enhance municipal transparency and accountability through the introduction of additional public consultation mechanisms.

## RESOURCES

### Source of Law:

UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 On Local Self-Government of Municipalities in Kosovo of 16 October 2007.  
MFE Budget Circulars (published annually).  
MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.

## 1.3 Public consultation tools and strategies

The choice of tool or consultation strategy will greatly depend on the type of decision that is deliberated and its impact on the wider community. It will also be influenced by the structure and the perceived level of interest of the target audience. For instance, if the proposed measure is likely to adversely and substantially impact a large group of people, then the tool selected must be suitable for facilitating and accommodating significant public interest.

### Consultation tools

#### Preliminary meetings with stakeholders

A number of consultative mechanisms can be employed at the very start of the policy making cycle to ensure that stakeholders are given an early entry point to provide their inputs. This would enable to address contentious issues at the very start, before the sides are firmly entrenched in their respective positions, and encourage a more open exchange of views and information.

This mechanism may, for instance, be employed in dealing with the following groups:

- war veterans associations;
- people with disabilities;
- local professional associations and other civil society organizations;
- local forums; and,
- small business owners.

#### Inviting written submissions

While this method may only yield results when utilized in selected scenarios (i.e. highly charged or specialized policy issues), it is a cost-effective and useful tool in gauging public opinion. Comment sheets should be provided to facilitate participation along with instructions on how to submit them. They may be sent out in a particular way to target a group within the community that is deemed to be especially affected by the decision under deliberation.

#### Municipal officials must:

- approach consultation with a positive attitude;
- allow enough time; and,
- be clear about the objectives and purpose of the consultation.

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## Public surveys

Public surveys represent a relatively cost-effective and inclusive method of soliciting public opinion on a particular issue. The questions in the survey must be strictly related to the topic under discussion and must not be leading towards a specific outcome. There are two different methods to administer surveys:

- **Surveys through interviews**, where a number of municipal staff is sent out to conduct structured interviews with inhabitants. Although this method provides the best results through direct eye-to-eye communication, it is expensive and impractical when attempting to reach out to the entire community.
- **Self-completion surveys**, where the public is asked to record their answers directly onto the survey form. This approach covers more people but it is heavily reliant on public interest and may produce inconclusive results if people do not show real interest. Surveys may be mailed out, provided at the municipal building, or posted on the municipal website.

The target of the survey will also need to be determined. Based on the issue under deliberation, the municipality may decide to consult the entire community or to reach out to a particular group only.

## Public meetings

Public meetings are a more conventional consultation tool, used to share information and gauge public opinion of the municipal population at large. As noted earlier, municipalities in Kosovo are obligated to organize a minimum of two public hearings a year. Nonetheless, local officials are advised to go beyond the letter of the law and organize more than the two meetings mandated by UNMIK Regulation No. 2007/30.

Public meetings will require elaborate planning on behalf of the municipal leadership and should not be seen as merely a legal formality as the public is provided with only limited opportunities to affect the public policy cycle. First, local authorities should think about picking a theme for the public hearing. If the topic is too general it will not attract many people. However, the agenda should on the other hand not be narrowed down too much as this would attract only a small part of the population.

The event itself should be publicized in a manner that ensures maximum public exposure. Local media should be utilized and posters should be displayed in all the local communities. Village leaders and other informal leadership structures in the municipalities should be separately invited.

The meeting should be presided over by the mayor him/herself to show commitment to the public on behalf of the municipal authorities. Municipal directors and department heads should be present as well so they can answer any sector-specific questions the participants may have.

Public meetings are open to anyone to attend and members of the media should be encouraged to participate in the event as well. The agenda should allow for a presentation of the work and plans of municipal government by the mayor and should allocate sufficient time for the public to engage the present municipal officials in discussion and to seek clarification through questions when needed. The public meeting, however, should not be allowed to degenerate into a plat-

form for politicking and should be carefully moderated. To avoid ill-feeling or accusations of favouritism, municipalities may bring in a neutral moderator where heated discussion is expected.

### Public hearings

Public hearings are public meetings with a policy agenda; the local government presents its policy and invites comments and suggestions from the public. They should be held, as a matter of good practice, before any piece of municipal regulation is passed.

Public hearings are crucial in building up and maintaining trust between the people and their government. They provide the public with opportunities to effect change and increase transparency in the way local authorities operate. As with public meetings, detailed and elaborate preparation is needed to ensure that the hearing goes smoothly. Care should be taken to moderate discussion as to prevent destructive dialogue that may hamper relations between the community and its leadership.

Before the hearing is held, the municipality needs to raise awareness of the upcoming event, much like with the public meetings, with a detailed description of what will be discussed. People are more likely to participate if an issue under discussion is one close to their hearts. The extent of the awareness campaign will depend on the availability of municipal resources. The hearing agenda has to be established and published well beforehand, to allow sufficient preparation, both by municipal officials and the interested public. In addition to the topics of discussion, the agenda will set out a timeframe for all the speakers and allocate sufficient time for a “questions and answers” session.

There should be a follow-up to ensure that the participants are aware of the fact that their input was duly considered. Proceedings reports should be drafted in the form of minutes with a detailed transcript and widely distributed within the municipality.

### Outreach visits

As part of an elaborate consultation strategy, the municipality may launch a number of public outreach activities to include presentation of municipal plans and projects at the local community level and informative sessions with village leaders. In addition to facilitating consultation and communication, outreach activities enhance ties with the community and increase the confidence public officials enjoy at the grassroots level.

### Focus groups

Focus groups are an extremely useful method of assessing the opinions of the community on a particular policy issue. As a rule, a manageable number of individuals are selected from the community at random (up to 10). The group, however, needs to form a representative sample of the municipal demographics in terms of age, ethnicity, gender and economic status. It serves two broad purposes:

- providing detailed civic feedback on a proposed policy; and
- enhancing the satisfaction of the people with their elected government.

As a rule, focus groups provide a more qualitative approach to consultation where fewer people are engaged but with better results. If assembled properly,

Focus groups provide a more qualitative approach to consultation where fewer people are engaged but with better results.

they are a good testing ground for key policies. The group is managed by a moderator who must never lead or dominate discussion but rather steer it in the relevant policy direction.

Focus groups may also be established with a particular category in mind; rather than representing the entire community, members of the focus groups may on purpose be drafted from just one group to assess their positions on an issue.

### Electronic consultation

As more and more people in Kosovo are starting to use the Internet, another low-cost option for municipalities is the use of the website or email in order to assess public opinion on a policy.<sup>69</sup> Alternatives range from on-line tick-box questionnaires to e-mail submissions with comments and suggestions.

### Public consultation strategies

The municipality will need to employ a combination of various tools to meet its consultation objectives as using only one tool is unlikely to yield satisfactory results. Nonetheless, due to limited financial resources of Kosovo municipalities, it is unrealistic to expect that every policy proposal will be served by an elaborate public consultation strategy. In cases where resources are limited, public consultation strategies are generally utilized when there is a need to reach out to a diverse public with different communication needs and/or when a key municipal policy is deliberated and maximum exposure required.

It is up to the municipal officials to decide on the type of strategy to be employed. The following is an example of how a number of communication tools may be combined to ensure maximum engagement through the policy development process:

Step 1. Schedule meetings with stakeholder groups.

Step 2. Launch an information campaign to promote awareness of policy issues.

Step 3. Solicit comments and suggestions from the public.

Step 4. Organize a public hearing.

Step 5. Publicise results of the policy development process with special emphasis on public input.

### Municipal public consultation policy

The municipality is advised to adopt a more planned and structured approach to public consultation through instituting a public consultation policy to be incorporated into the municipal statute. The strategy should lay out the objectives of public consultation as well as the tools at the disposal of the municipal government. It should list instances where consultation is needed, set minimum standards for consultation, and designate roles and responsibilities to relevant municipal staff.

The policy should also require that a budgetary impact assessment is conducted for each proposed consultation exercise in order not to disrupt key municipal processes. Mechanisms for assessing and evaluating the success of any given consultation exercise should also be provided for in the strategy; i.e. conducting public surveys to determine whether the public was informed of an event or measuring the levels of awareness regarding key municipal issues under deliberation. Adopting a policy would underline the commitment of the municipality towards participatory governance and democratic behaviour at the local level.

A note of caution to municipal officials:  
**There is no pleasing everyone.**  
The business of a government is to make difficult decisions and to balance the priorities of different groups within the community with those of the community as a whole. It should be ensured that not one special interest exerts disproportionate influence on the policy making process as a result of para-institutional links or relationships.

## RESOURCES

### **Source of Law:**

UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 On Local Self-Government of Municipalities in Kosovo of 16 October 2007.

### **Sources and Suggested Readings:**

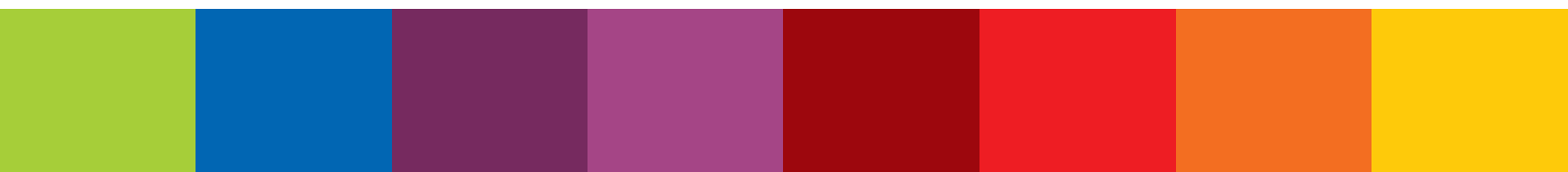
For sample consultation plan see:

Leicestershire County Council, Local Transport Consultation Plan, 2005, available at: [http://www.leics.gov.uk/prov\\_ltp2\\_consultation\\_document.pdf](http://www.leics.gov.uk/prov_ltp2_consultation_document.pdf)



## **CHAPTER III**

### **DECISION MAKING – THE RIGHT TO ACT**





## 1. Introduction to participatory decision making

With the previous chapters dealing in detail with the basic and intermediary levels of participatory governance, the final chapter will discuss inclusive decision making as the pinnacle of participatory governance.

Ultimately, participatory decision making is about empowering the public and marks a move from indirect to semi-direct representation. Participatory decision making can be defined as an inclusive process of making public decisions where the public exerts direct and substantial influence on the outcome of the policy process.

This chapter will discuss some of the more common tools for participative decision making employed by local authorities.

### 1.1 Referendum

Referenda are considered to be the most direct method of determining popular standpoints on a particular public policy issue. They provide people with an opportunity to retain decision-making power rather than delegating it to their representatives, even if only in selected scenarios. In general, they are considered to be the ultimate preserve of democracy as they allow for a proportionate relationship between how much a policy affects a person to how much he/she impacts its formulation.

A referendum is only held in special circumstances where key decisions about the future of the municipality are debated. It can be initiated in two different ways: 1) by the municipal assembly or 2) by the public through an initiative. In some states, a referendum is also foreseen in the respective constitution as the only mechanism for constitutional change or, at the local level, for modification of municipal boundaries.<sup>70</sup>

If not foreseen in the relevant legislation, the municipal assembly will only call for a referendum in extraordinary circumstances where a decision cannot be made due to a political deadlock or when a particular policy is deemed to have a major effect on the life in the municipality.

When initiated by the public, a certain number of supporting signatures must be collected to show overwhelming commitment to the idea of a referendum. The number corresponds to a percentage of the municipal population ranging between 5% and 20%.<sup>71</sup> Many municipalities will place a high ceiling on referendum initiatives, not to prevent people from exercising their right but rather to avoid incurring the substantial costs of holding a referendum. Outcomes of referenda may or may not be binding, meaning that where regulated by law or municipal statute, the municipal assembly may choose to ignore the result. The referendum, in said circumstances, serves as a consultative rather than a decision making tool.

Elected representatives who ignore popular will, however, do so at their own peril. If the municipal government wishes to hold a referendum about a particular issue, it needs to pass a decision explaining in detail why a referendum is needed. It should define the following:

- The referendum question; the wording of the question should allow only yes/no answers to prevent ambiguity and misunderstanding.
- The eligibility to vote; the only persons eligible to vote should be the habitual

Participatory decision making is defined as an inclusive process of making public decisions where residents exert direct and substantial influence on the outcome of the policy process.

- residents of the municipality, in accordance with the Law on Elections.
- The timeline for the referendum; determining when the referendum will take place and when the final results will be published.
- The budgetary implications of the referendum; a cost estimate developed by the director of finance.
- The agency in charge of the referendum; the referendum itself should be organized and conducted by the Central Election Commission to ensure impartiality. A referendum commission should be established in the respective municipality and polling committees should be appointed.

Municipal referenda can only be organized for issues that are under the exclusive jurisdiction of the municipality. **In Kosovo, there are no legal grounds for a municipal referendum.** Some municipalities have, however, built referendum provisions into their statutes. The outcome of such referenda is not binding.

## RESOURCES

### Sources and Suggested Readings:

Council of Europe, European Charter on Local Self-Government, 1985, available at: <http://conventions.coe.int/treaty/en/Treaties/Word/122.doc>

## 1.2 Collaborative mechanisms

While consultation enables people to freely express their views and positions on a particular policy issue, there are no guarantees that their opinions will be taken into account. Regardless of the consultative mechanisms used, the decision whether to consider a comment or a suggestion provided by a member of the public is very much left to the discretion of municipal government. With participatory decision making, however, the local authorities are often obliged to make decisions based on a consensus that includes members of the public participating in the policy making process.

There are several collaborative mechanisms commonly used by local authorities to enable inclusive policy making empowering non-governmental actors, e.g. representatives of civil society groups or other local stakeholders. Public participation in decision making can be enhanced through facilitating membership in the following bodies: 1) working groups and 2) municipal commissions.

### Working groups

Working groups are bodies generally convened with a specific purpose in mind, mostly to help formulate a particular decision of the municipal assembly. They tend to have a diverse membership with individuals from a number of institutions and groups. It is important to note that in selecting working group members, the principle criterion should always be subject-matter expertise.

Due to their relatively high cost and extra-institutional character, municipal working groups should not be set up for every single municipal assembly decision but rather for those involving a pressing need for external participation.

The need to form a working group is generally identified by the municipal assembly in consultation with the municipal administration based on one of the following factors: 1) insufficient internal expertise in the municipal government; and

When selecting working group members, the principle criterion should always be subject-matter expertise.

2) pressing need to involve the public directly into the policy development process due to concerns about transparency and accountability.

After the municipal government decides to form a working group, either through its assembly or the mayor, the following actions need to be taken:

1. Develop terms of reference;
2. Nominate and appoint members;
3. Select a chairperson;
4. Adopt rules of procedure;
5. Set a timeline;
6. Identify reporting requirements.

### **Municipal commissions**

In addition to the mandatory and additional committees of the municipal assembly, the municipality may decide to constitute a commission to deal with any specific issue from the municipal portfolio that is not deemed to be adequately covered by any of the municipal assembly committees.

The municipal assembly will usually open membership of such commissions to representatives of different groups and communities from within the municipality to ensure grassroots support and to guarantee maximum impact.

The commissions, *de facto* government bodies, are granted certain powers and either serve as enforcement or advisory agencies to the municipal assembly. They can be standing or provisional, depending on the purpose they serve.

**Standing municipal commissions**, such as the Municipal Community Safety Council<sup>72</sup>, serve as a platform for dialogue between various groups in the municipality and propose policy changes, when and where needed. The commissions must also be consulted by the municipality or other relevant public agencies when deliberating matters dealing with the portfolio of the commission. Another example of such a commission is the municipal transparency commission, consisting of a several government representatives, members of the civil society, and representatives of different ethnic communities.

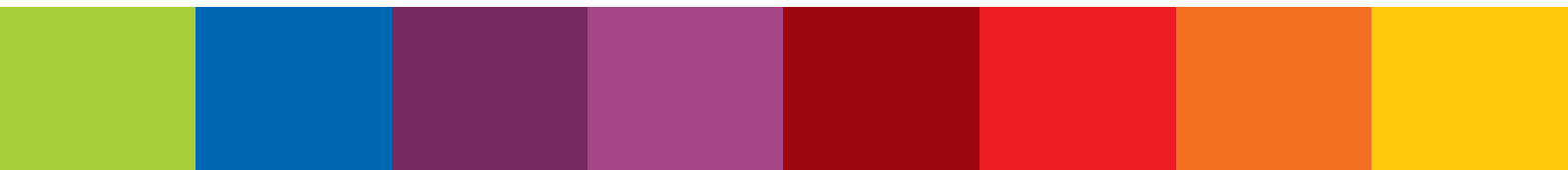
**Provisional commissions** are formed to deal with an issue of limited duration. They can be used to independently investigate allegations concerning the work of the municipal government or to provide technical guidance to the decision makers when, for instance, developing capital plans for the municipality. The membership of these commissions will reflect its purpose. If established to investigate a particular event or allegation, the commission should incorporate local media representatives as well as civil society groups and legal professionals. However, if created to facilitate long-term strategic planning for the municipality's future economic development, the commission should incorporate representatives of the local business community.

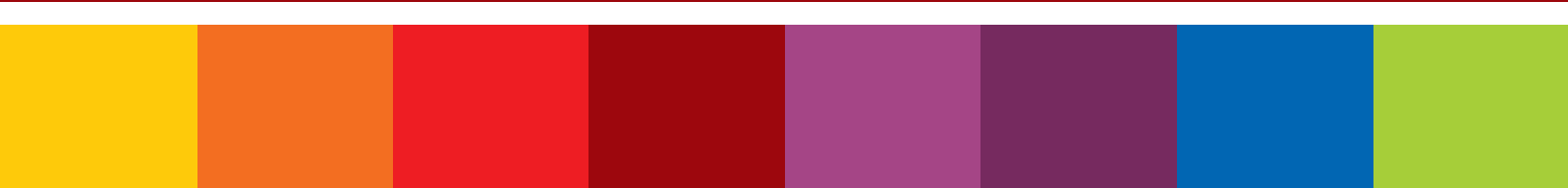


# ANNEX 1

## **Request for Access to Official Documents**

(Source: Ministry of Public Services, Annex 1 to Administrative Instruction  
No. 2006/01 Implementing the Law on Access to Official Documents)





## Request for access to official document

Ref.No: \_\_\_\_\_

This document contains 1 page

Should be submitted to the institution's archives, but it may be submitted to any unit of the institution.

### Part 1. – SHOULD BE FILLED IN BY THE APPLICANT

(1) Name of applicant: \_\_\_\_\_

(should be filled in by the physical person or by the authorized person of the legal entity in Part 1b.)

(2) ID, personal document No.: \_\_\_\_\_

\_\_\_\_\_ (Number) \_\_\_\_\_ (personal document type)  
(3) Address: \_\_\_\_\_

\_\_\_\_\_ (postal code) \_\_\_\_\_ (Street, No) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

(4) Phone: \_\_\_\_\_

(5) email: \_\_\_\_\_

Part 1a. – Should be filled in following the Part 1 only if applicant is a legal person

(6) Name of legal person: \_\_\_\_\_

(7) No. of registration: \_\_\_\_\_

(8) Date registered: \_\_\_\_\_

(9) Address: \_\_\_\_\_

\_\_\_\_\_ (postal code) \_\_\_\_\_ (Street, No) \_\_\_\_\_ (City) \_\_\_\_\_ (State)

(10) Phone: \_\_\_\_\_

(11) email: \_\_\_\_\_

(12) Description of document(s) requested:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(13) Number of documents: \_\_\_\_\_

(14) Access form desired:

\_\_\_\_\_  
(consultation on the spot, paper copies, copies in electronic form, other)

(15) Documents to be available on (date):

\_\_\_\_\_

(16) Number of copies:

\_\_\_\_\_

(either to consult on the spot or pick up copies)

**Part 2. – SHOULD BE FILLED IN BY THE INSTITUTION OR ARCHIVIST**

(17) How was the application received: \_\_\_\_\_

(18) Date received: \_\_\_\_\_

(in person, via mail, email, other)

(19) Request received by: \_\_\_\_\_

(20) No. registered:

\_\_\_\_\_

(archives, department or official's name) (Register of applications for access)

(21) No. in the register, if the requested document is in the Register:

\_\_\_\_\_

(22) No. of ref. in the document (if the doc. is found):

\_\_\_\_\_

(23) Institution responsible – Owner (if the doc. is found):

\_\_\_\_\_

**Part 2b. – Institutional response to the applicant**

(24) Application approved:

\_\_\_\_\_

(25) Date: \_\_\_\_\_

(signature)

**Part 2c. – Should be filled in only if access is denied**

(26) Application denied:

\_\_\_\_\_

(27) Date: \_\_\_\_\_

(signature)

(28) Name of official(s) responsible for denial:

\_\_\_\_\_

(29) Reason(s):

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Notice of receipt for the applicant. Issued only if consultation on the spot is not allowed for whatever reason

(17) How was the application received: \_\_\_\_\_

(18) Date received: \_\_\_\_\_  
(in person, via mail, email, other)

(19) Request received by: \_\_\_\_\_

(20) No. registered:

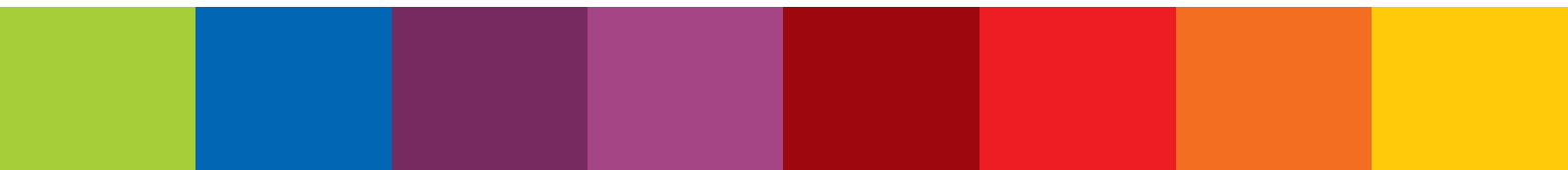
\_\_\_\_\_  
(Register of applications for access)    archives, department or official's name)



## **ANNEX 2**

### **Residents' Guide for Access to Official Documents**

(Source: Ministry of Public Services)





## ACCESS TO OFFICIAL DOCUMENTS - MANUAL -

**Prepared by the Ministry of Public Services**

### TO WHOM IS THIS MANUAL INTENDED

This manual is directed to residents, journalists and institutions and it aims to be a quick reference and provide general information regarding the access to official documents. The manual explains some common problems related to access to official documents, but it does not substitute for research of legal acts or consultation with a lawyer on detailed questions.

The explanations provided in this manual are based on the Law on Access to Official Documents (LAOD) and on the Administrative Instruction for implementing the LAOD (AI). References have been cited in brackets in the form of (LAOD x.x) for LAOD, and (AI x.x) for AI, where x.x is number of the cited article.

This manual has been updated on April 2, 2006.

### FOR MORE INFORMATION OR HELP:

Law on access to official documents, UNMIK reg. No. 2003/32:

<http://www.unmikonline.org/regulations/index.htm>

Administrative Instruction implementing the Law on Access to Official Documents:

<http://www.ks-gov.net/mshp/legj.html>

Legal Office of MPS:

[http://www.ks-gov.net/mshp/ksek/z\\_ligj.html](http://www.ks-gov.net/mshp/ksek/z_ligj.html)

### WHAT IS THE ADMINISTRATIVE INSTRUCTION IMPLEMENTING THE LAW ON ACCESS TO OFFICIAL DOCUMENTS

Administrative Instruction (AI) implementing the LAOD provides the framework for managing official documents in the institution and determines practical rules for implementing the Law No. 2003/32, on Access to Official Documents (AI 1.2).

### WHO'S COVERED

“all Provisional Institutions of Self-Government organs and agencies thereof, KTA, municipality organs, agencies thereof, as well as independent bodies and offices also listed in or established under chapter 11 of the Constitutional Framework,” (LAOD 2.a).

### WHO'S NOT COVERED

- Institutions, of which access and management of their official documents is regulated by special laws.
- UNMIK

### WHAT'S COVERED

- Official documents defined as: “any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility;” (LAOD 2.b).
- Documents in electronic form are included, but software may be exempt (AI 14.3 iv).

#### WHAT'S NOT COVERED

- Personal documents,
- Documents containing residents' personal data that institution collects and stores during the provisioning of its services to the residents.
- Documents containing employees' personal data, unless they relate to the employee's work in the institution.
- Official documents that do not exist yet (AI 12.8. iv).
- "Pending" requests for official documents that shall be created in the future (AI 12.8.v).
- Official documents, issuance of which the institution performs as a service through procedures and tariffs determined by the regulation (AI 14.6).

#### WHAT DO YOU NEED TO KNOW REGARDING THE PROCEDURE FOR ACCESS TO OFFICIAL DOCUMENTS

- The hours for receiving the requests and the hours during which it is allowed access to official documents may be limited only by the institution's working hours (AI 11.1, 12.4).
- The institution's employees are not expected to disrupt their operations to allow immediate access (AI 14.3.i), but the request shall be accepted and registered the same day (AI 11.3).
- During the receiving of a request, regardless of the form the request has been submitted, the institution shall provide assistance to the applicant in order to identify official documents and information relevant to the request and shall suggest ways to overcome basis and formal reasons for denying access (AI 11.5).
- The institution may refuse access to an official document, but can not refuse to accept the request for access to that document which is submitted in compliance with the provisions in LAOD.
- Institution has available 15 work days to take decision whether to allow access to the requested official documents (LAOD 6.2, 7.1).
- If the institution expects to experience a delay in providing the answer to the applicant, the applicant should be informed in advance and should be provided with detailed reasons for a possible time extension (LAOD 6.3, AI 12.6).
- This time line can not be used for the sole reason of delaying access to official documents (AI 12.5, 12.3).
- If access to the requested official document has been refused, the refusal must be given in written. The refusal must enlist names and positions of all individuals responsible for taking the decision for refusal (AI 12.11).
- If the institution refuses to allow access to the requested document or does not reply within 15 working days from the date of receiving the first request, the applicant may submit confirmatory application (LAOD 6.2, 6.4). If the access is refused after the confirmatory application or if the institution does not respond to the request within 15 working days, the applicant can initiate the court procedure against the institution or may submit appeal to the Ombudsperson (LAOD 7.1, 7.3).

#### EXPENDITURES FOR ACCESSING OFFICIAL DOCUMENTS

- **The cost of producing and sending copies** may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies (LAOD 9.1).
- **Consultation on the spot**, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge (LAOD 9.1).
- Other expenditures. If the request for access to official documents requires

data calculations, extracting data from the database or programming, then access and copying expenditures may include expenditures for the works performed on data (AI 14.4).

### DOCUMENTS EXCLUDED FROM ACCESS OF PUBLIC

- LAOD and AI for implementation of LAOD leave the possibility for some types of official documents, considered as sensitive documents, to be excluded from access in total or in a part of the document.
- Sensitive documents are documents originating from the institutions classified in accordance with the rules of the institution concerned, which protect essential interests of the PISG (LAOD 8.1).
- An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected according to the LAOD (LAOD 8.4).
- The rules of the institutions concerning sensitive documents shall be made public (LAOD 8.5).
- Narrow interpretation: AI and LAOD favour the access. Documents excluded from the access of public are exceptions and not rules (AI 38.2.iii). Exceptions must be constructed and interpreted in a narrow and precise manner (AI 42.3).
- If documents are excluded, it does not mean that these documents are not official documents, and it does not mean that the applicant has no right to request access to these official documents too.

### HOW TO REQUEST ACCESS TO AN OFFICIAL DOCUMENT

- Plan your application: get informed if the requested type of official documents is excluded from public access. Request to see the list of all document types and the list of the document types excluded in the institution (AI 12.2).
- Make a decision on whether you will need copies of the official document or a consultation on the spot will suffice to you.
- Application must be made in any written form, including electronic form (LAOD 5.1). Request from the institution to provide you the application form, if there is such a form (AI 11.4).
- It is preferred to submit the application to the Office of archives of the institution, but you may submit it to any institution's unit or official (AI 11.1).
- You may save time if you submit the application to the Office of archives of the institution as firstly, your application must be send for registering in the Application's Register which is kept in archive; and secondly, the archive may have already prepared copies of the document you are requesting.
- Upon registering of the application, unless you have been provided access on the spot, a written notice on the receiving of your application must be issued and sent over to you in the same form the application has been made (AI 11.6).
- Get informed on the possible costs.

Put time limits, e.g. which is the latest date you would need to have access or a copy of the requested document.

Demand a written response within 15 working days

### TRY USING THE FOLLOWING STRATEGY TO AVOID DENIAL:

- **Ask** the institution if it will waive the exemption and if so, when will it release the document.

If the institution responds the document don't exist, ask what files were searched. Offer any clues that may help in finding the document you are requesting.

Do not ask the institution or its Office of archives to create a document or a list

(AI 12.8 iv,v,vi).

- **Explanation:** insist that the institution explain in a written form why the requested official document is excluded from public access. If it is possible to do so, rephrase your request so it does not clash with the explanation for exemption or denial that was provided to you.
- **Complaint:** State your rights, using, among others, this guide, and ask to speak to a higher official of the institution.

Ask informally before invoking the law. If necessary, use this guide to state your rights under the LAOD.

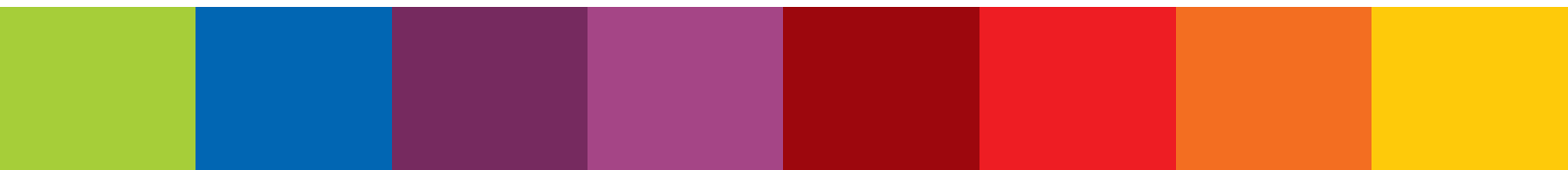
#### IF ACCESS IS DENIED

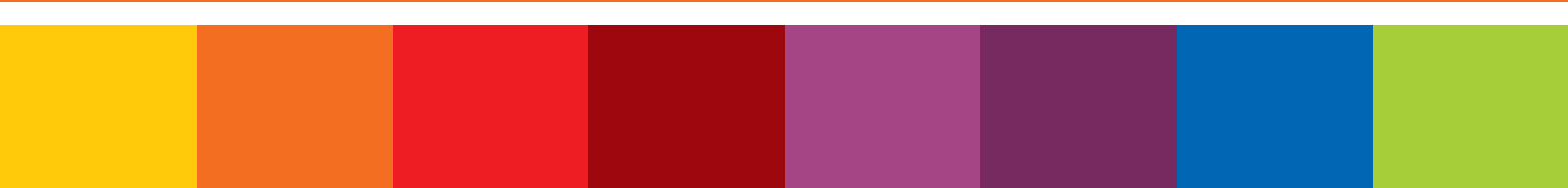
- Keep a log of to whom you speak and the stated reason for the denial.
- The institution must justify in written the denial of access to any official document (AI 12.11).
- If the reason explains that a part or parts of the official document are exempt from access, then ask for access to the part or parts of the document which are not exempt from access.
- Demand from the archivist to request the institution or the document owner to review and change the notice of restricted access to the official document requested (AI 13.3).
- Consult your supervisor or lawyer.
- Write a news story or letter to the editor about the denial.
- Institute court proceedings against the institution pursuant to the provisions of the relevant applicable law and/or file a complaint with the Ombudsperson following the provisions of Chapter 10 of the Constitutional Framework and UNMIK Regulation No. 2000/38 (LAOD 7.1).

# ANNEX 3

## Guide to Public Meetings

(Note: The Guide to Public Meetings is not an official document.  
It was prepared by the OSCE Mission in Kosovo and serves as a sample.)





**The current legislative framework in Kosovo requires that municipal governments conduct their business in a manner conducive to proper oversight by opening official meetings to the public.**

### **1. What qualifies as an open meeting?**

Meetings of the municipal assembly, assembly committees, and (where regulated by municipal statute), meetings of the board of directors.

### **2. What are the exceptions?**

Meetings may be closed to the public if the exercise of the open meeting rights “might lead to public disorder or violence or where their exercise would result in the disclosure of:

- a. Information provided by the Central Authority on a confidential basis;
- b. Personally or commercially sensitive information; or
- c. Information about actual or potential legal proceedings.”<sup>73</sup>

Additionally, where the assembly, or its selected committee, determine that the “nature of the matter to be discussed would result in publicity that would be prejudicial to public interest”<sup>74</sup>, a reasoned decision can be made to exclude the public from attending.<sup>75</sup>

### **3. How should the public be notified?**

Official meetings, designated as open, will be preceded by proper advance notice (seven days for regular municipal assembly sessions, three days for emergency municipal assembly sessions, and three days for committee meetings.)<sup>76</sup>

The public will be notified of the upcoming meeting by the municipal information office and through the following media:

- a. public announcements posted on the most frequented locations within the municipality;
- b. local print and electronic media; and,
- c. the municipal website.<sup>77</sup>

Furthermore, the notice must contain the following information:

- a. date of the meeting;
- b. time of the meeting;
- c. venue of the meeting; and,
- d. agenda.<sup>78</sup>

### **4. What do you have to do to attend?**

There is no need to announce your attendance in advance or to request permission from the municipal authorities.

### **5. What can you do if you feel your right to attend official meetings has been violated?**

Where a meeting has been closed for no apparent reason or no effort was made to notify the public that it was taking place, individuals, interested groups, or the media may institute action against the municipality either through court proceedings, pursuant to the provisions of the relevant applicable law, and/or file a complaint with the Ombudsperson. Individuals can also directly file a complaint with the municipal head of administration and personnel who will take the issue up with the mayor and report back to the individual.

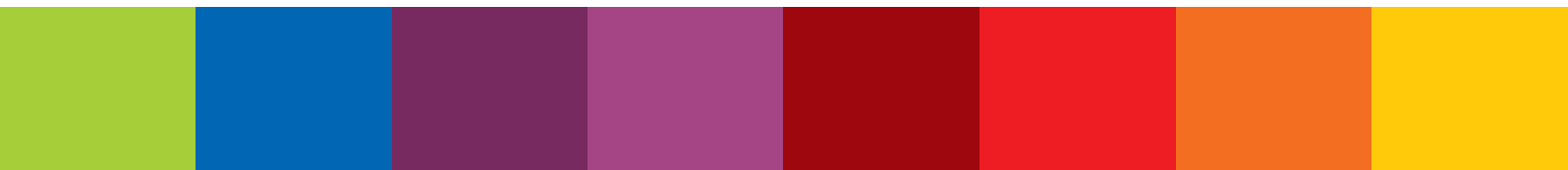
**It is important to remember:**

Although the public has the right to **attend** almost all municipal meetings, **they do not have a right to participate in these meetings**. That is, the public may listen and observe proceedings, but may only offer comments and advice in certain circumstances to be determined by the municipal officials (such as giving time for public comments at municipal assembly meetings).

## **ANNEX 4**

### **Template for the Municipal Statement of Commitment**

(Note: The Template for the Municipal Statement of Commitment is not an official document. It was prepared by the OSCE Mission in Kosovo and serves as a sample.)





## MUNICIPALITY OF .....

### STATEMENT OF COMMITMENT TO PARTICIPATORY GOVERNANCE

**In light** of the need to foster openness in the work of the municipal government;

**Keeping in mind** the current lack of confidence in municipal government institutions;

**Pursuant** to the principles of democratic governance and civic engagement;

The Municipality of ..... hereby commits itself to the following **guiding principles** to govern its work:

#### Transparency

as it insofar represents unhindered access to all official information, unless otherwise specified by law. This includes official documents, meetings of the municipal government, and general information about its work, its past and present performance, and its future plans and intentions.

#### Accountability

as it insofar symbolizes a relationship based on trust between the municipal government and the public, where the municipal government officials are held responsible for their actions, whatever they may be, before their electorate and the judiciary.

#### Due consideration

as it insofar represents a fair process whereby public input into policy making is sought and duly considered before vital decisions are made on behalf of the public.

#### Meaningful representation

as it insofar symbolizes a consultative and participatory process which is initiated and conducted with the required support in terms of time, resources, and political will on behalf of the municipal government.

#### Inclusiveness

as it insofar represents unhindered access to the policy process to all the non-majority community groups in the municipality, to include women, ethnic minorities, and the disabled.

**The above stated commitments represent a promise of this municipal government to the public and will represent benchmarks against which its work will be judged for the duration of its term in office.**

On behalf of the municipal government,

**MAYOR**

---

## INDEX

### A

Accountability (8, 9, 17, 37, 41, 49, 58, 62, 64)  
Annual report (19, 37)  
Archivist (18, 22, 29)

### B

Benefits (8)  
Budget hearing (28, 29, 47, 48)

### C

Central government (9)  
Confirmatory application (16, 19, 26)  
Civic group (8, 18)  
Civic participation (9, 12)  
Collaborative mechanism (2, 58)  
Consultative mechanism (50, 58)  
Court proceeding (15, 16, 29, 35)  
Court procedure (26)

### D

Decision making (2, 9, 10, 12, 32, 44, 46, 49, 55, 56, 57, 58, 64)

### E

Electoral cycle (8)  
Electronic consultation (53)  
Exception (14, 15, 16, 17, 27, 34)

### F

Focus Group (45, 53)

### I

Information sharing (9, 11, 12)  
Internal document (15, 36, 49)

### L

Legal framework (4, 12, 30, 32, 36, 40, 46, 49)  
Legitimacy (9, 13, 30)  
Local government (4, 5, 7, 8, 9, 10, 12, 30, 36, 37, 38, 40, 47, 48, 49, 52)

### M

Ministry of Finance and Economy (47)  
Ministry of Local Governance and Administration (MLGA) (13, 41)  
Municipal administrator (4, 9, 12, 16, 31, 36)  
Municipal archiving office (17)  
Municipal commission (58, 59)  
Municipal government (8, 9, 12, 13, 18, 30, 34, 36, 37, 38, 39, 40, 44, 45, 49, 52, 54, 57, 58, 59, 60, 62)  
Municipal information board (39)  
Municipal information office (31, 34, 38)  
Municipal leadership (9, 32, 45, 51)  
Municipal medium term budget framework (47)

Municipal statutes (49)  
Municipal transparency action plan (40)  
Municipal website (31, 34, 39, 44, 51, 62)

## **N**

Non-Governmental Organization (NGO) (6, 9)

## **O**

Official meeting (2, 12, 30, 32, 33, 34, 35)  
Ombudsperson (16, 26, 29, 35)

## **P**

Participatory decision making (2, 56, 58)  
Participatory governance (2, 4, 8, 9, 10, 43, 54, 56, 62)  
Press (30, 39, 40)  
Provisional commission (60)  
Public budget hearing (38)  
Public consultation (2, 8, 9, 42, 43, 44, 46, 49, 50, 54)  
Public consultation policy (54)  
Public consultation strategy (54)  
Public consultation cycle (2, 44)  
Public information (2, 36, 38, 39)  
Public information campaign (39)  
Public interest (15, 16, 30, 31, 34, 45, 50, 51)  
Public meeting (45, 46, 47, 48, 51, 52)  
Public policy cycle (8, 51)  
Public survey (54)

## **R**

Referendum (2, 56, 57)  
Regulation (49)

## **S**

Sensitive document (16, 17, 19, 27)

## **T**

Transparency (8, 9, 12, 13, 15, 18, 32, 36, 40, 41, 48, 49, 52, 58, 59, 62)

## **W**

Working group (58)

## ENDNOTES

- <sup>1</sup> Governance and Development Review, *Accountable Governance in the Age of Partnerships and Contracting Out*, 2002, available at <http://www.ids.ac.uk/gdr/reviews/review-15.html>
- <sup>2</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.
- <sup>3</sup> UNMIK Regulation No. 2003/32 On the Promulgation of a Law Adopted by the Assembly of Kosovo on Access to Official Documents of 6 November 2003.
- <sup>4</sup> Ibid., sections 5.1 and 6.1.
- <sup>5</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.
- <sup>6</sup> Council of Europe, *Access to Official Documents Guide*, 2004, available at: [http://www.coe.int/t/e/integrated\\_projects/democracy/DocAccess\\_Guide\\_en.pdf](http://www.coe.int/t/e/integrated_projects/democracy/DocAccess_Guide_en.pdf).
- <sup>7</sup> UNMIK Regulation No. 2003/32 On Access to Official Documents, section 2.
- <sup>8</sup> Ibid., section 3.1.
- <sup>9</sup> Ibid., section 5.
- <sup>10</sup> Ibid.
- <sup>11</sup> Ibid.
- <sup>12</sup> Ibid.
- <sup>13</sup> Ibid., section 6.
- <sup>14</sup> OPM Administrative Instruction No. 2006/03 Implementing the Law on Access to Official Documents, Article 12.5.
- <sup>15</sup> UNMIK Regulation No. 2003/32 On Access to Official Documents, section 3.3.
- <sup>16</sup> Ibid., section 4.1.
- <sup>17</sup> Ibid., section 4.2.
- <sup>18</sup> Ibid., section 4.3.
- <sup>19</sup> Ibid., sections 4.4 and 4.5.
- <sup>20</sup> Ibid., section 4.6.
- <sup>21</sup> Ibid., section 4.7.
- <sup>22</sup> Ibid., section 4.9.
- <sup>23</sup> Ibid., section 6.
- <sup>24</sup> Ibid., section 7.
- <sup>25</sup> Ibid.
- <sup>26</sup> Ibid.
- <sup>27</sup> OPM Administrative Instruction No. 2007/07 On Principles, Procedures and Classification Signs of Official Documents, Article 3.
- <sup>28</sup> Ibid., Article 7.
- <sup>29</sup> UNIMIK Regulation No. 2003/32 On Access to Official Documents, section 8.
- <sup>30</sup> Ibid.
- <sup>31</sup> Ibid.
- <sup>32</sup> Ibid., section 9.
- <sup>33</sup> Ibid.
- <sup>34</sup> Ibid.
- <sup>35</sup> Ibid.
- <sup>36</sup> Ibid.
- <sup>37</sup> OPM Administrative Instruction No. 2006/03 Implementing the Law on Access to Official Documents, sections 17 and 18.
- <sup>38</sup> According to the Law on Access to Official Documents, Article 13, "Each institution shall take the requisite measures to inform the public of (a) the rights they enjoy under this Law".
- <sup>39</sup> The text of the Resident's Guide is provided in Annex 2 (courtesy of the Ministry of Public Services).
- <sup>40</sup> UNIMIK Regulation No. 2003/32 On Access to Official Documents, section 13.
- <sup>41</sup> OPM Administrative Instructions No. 2006/03 Implementing the Law on Access to Official Documents, Article 41.
- <sup>42</sup> Ibid., Article 33.

- <sup>43</sup> Ibid., Article 34.
- <sup>44</sup> Ibid., Article 36.
- <sup>45</sup> Ibid.
- <sup>46</sup> UNMIK Regulation No. 2003/32 On Access to Official Documents, Article 16.1.
- <sup>47</sup> UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 200/45 On Local Self-Government of Municipalities in Kosovo, Article 7.1.
- <sup>48</sup> UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 200/45 On Local Self-Government of Municipalities in Kosovo, Article 7.3.
- <sup>49</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency, Article 3.2.
- <sup>50</sup> Ibid., Articles 3.4 and 4.2.
- <sup>51</sup> Ibid., Article 3.3.
- <sup>52</sup> Ibid., Article 3.5.
- <sup>53</sup> Referring to when this Manual was produced.
- <sup>54</sup> For more detailed information see United Nations Development Programme, *Kosovo Mosaic 2006. Public Services and Local Authorities Under Review*, pages 39-42, available at [http://www.kosovo.undp.org/repository/docs/KosovoMosaic-English\\_web5.pdf](http://www.kosovo.undp.org/repository/docs/KosovoMosaic-English_web5.pdf)
- <sup>55</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency, Article 3.7.
- <sup>56</sup> Ibid., Article 3.8.
- <sup>57</sup> For details on financial reporting requirements see UNMIK Regulation No. 2003/13 On Public Financial Management and Accountability of 12 May 2003.
- <sup>58</sup> For details on tendering process see UNMIK Regulation 2004/03 On Public Procurement in Kosovo of 9 February 2004.
- <sup>59</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency.
- <sup>60</sup> Ibid.
- <sup>61</sup> UNMIK Regulation No. 2007/30 On Local Self-Government of Kosovo Municipalities, section 8.1.
- <sup>62</sup> Ibid., section 8.2.
- <sup>63</sup> See MFE Budget Circular No. 2008/01.
- <sup>64</sup> Ibid.
- <sup>65</sup> Ibid.
- <sup>66</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency, Article 6.
- <sup>67</sup> Ibid., Article 7.
- <sup>68</sup> Ibid., Article 6.
- <sup>69</sup> See United Nations Development Programme, *Kosovo Mosaic 2006*.
- <sup>70</sup> The European Charter of Local Self-Government foresees that municipal boundaries can only change as a result of a referendum. However, the charter is not a legally binding document unless explicitly adopted by the Assembly of Kosovo.
- <sup>71</sup> According to most Municipal Statutes in Kosovo.
- <sup>72</sup> See UNMIK Regulation No. 2005/54 On the Framework and Guiding Principles of the Kosovo Police Service, section 7, *Relations with the Community*.
- <sup>73</sup> UNMIK Regulation No. 2000/45 On Self-Government of Kosovo Municipalities, section 7, paragraph 3.
- <sup>74</sup> UNMIK Regulation No. 2007/30 Amending UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo of 16 October 2007, section 7.
- <sup>75</sup> UNMIK Regulation No. 2000/45 On Self-Government of Kosovo Municipalities, section 7, Article 4 and MLGA Administrative Instruction No. 2006/03 On Municipal Transparency, Article 3.6.
- <sup>76</sup> MLGA Administrative Instruction No. 2006/03 On Municipal Transparency, Articles 3.4 and 4.2.
- <sup>77</sup> Ibid., Article 3.3.
- <sup>78</sup> Ibid., Article 3.5.

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