

Multi-Stakeholder dialogue on NGOs' access to financial services

Roundtable organized by CiviKos Platform jointly with the Kosovo Civil Society Foundation (KCSF) and the European Center for Not-for-Profit Law Stichting (ECNL)

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Prishtina

BRIEF SUMMARY

General Overview

Civikos Platform, the Kosovo Foundation for Civil Society (KCSF) and the European Center for Non-Profit Law Stichting (ECNL) have organized a joint meeting between the representatives of non-governmental organizations (NGOs), relevant financial and public institutions to discuss the challenges that NGOs face in accessing financial services. Furthermore, the expert of Human Security Collective have shared good practices on how some countries have addressed similar problems.

The purpose of the meeting was to foster inter-institutional dialogue between representatives of Kosovo state institutions, institutions responsible for providing banking services and NGOs in order to discuss how to address the problems that NGOs are facing in ensuring access to financial services.

The roundtable marks the second public activity CiviKos organized on this topic and will be followed by further meetings in order to enhance inter-institutional cooperation and facilitate NGO access to financial services.

Meeting participants

The event gathered together key stakeholders in Kosovo engaged in regulating the NGO sector and/or relevant in their access to financial services such as the following:

- Ministry of Finance;
- Ministry of Public Administration - NGO Department
- Central Bank of Kosovo- Anti Money Laundering Division;
- Financial Intelligence Unit;
- Kosovo Banking Association;
- NGO representatives in Kosovo.

Key discussion points

On this occasion, CiviKos launched the main findings of the report that was compiled based on an online survey and focus groups with NGOs in Kosovo. The report aimed at mapping the main issues and challenges of the NGOs in accessing effective banking services provided by the commercial banks in Kosovo.

Some of the identified issues in the report and confirmed during the meeting are as the following:

- Commercial banks have closed bank accounts of NGOs without prior notification (warning).
- Commercial banks have general misunderstanding about the governing bodies and structure of NGOs. Banks insist on having the founders of the NGO present and the ID cards of the founders despite of their very symbolic role in NGOs. Instead, banks should be focusing on the Executive Board that have a governing role in the NGO.
- Commercial banks require the physical presence of the members of the board or founders in the process of updating and verifying the data.
- The amounts/fees for maintenance of bank accounts have increased for NGOs, the amounts in many cases are unaffordable for NGOs that lack sustainability and continuous funds.

The representatives of NGOs present in the meeting such as the Initiative for Progress INPO, the Kosovo Justice Institute, Kosovo Stability Initiative and the Advocacy Training and Resource Center confirmed the findings of the CiviKos research report by sharing their personal experiences on the challenges that their NGOs have encountered with commercial banks.

Some of the issues that the representatives of these NGOs have encountered with commercial banks include:

- Requirement for physical presence of the members of the Board regarding updating data in the bank;
- Requirement for signatures of the founders of the organization in the process of updating of the information in the bank;
- Failure to update the data and contacting the previous directors of the organization to be present in the bank.

Representatives of the Central Bank emphasized that:

- The primary legislation, the Law on Prevention of Money Laundering and Financing of Terrorism sets the same obligations and legal responsibilities for NGOs as for other reporting entities (e.g. banks).
- NGOs are categorized as reporting subjects with high risk and the Central Bank and commercial banks treat them with enhanced due diligence.
- There is a need for better financial education. It is a process that takes longer time. The Central Bank is committed to active cooperation in the future on these matters.

The representative of the NGO Department emphasized that:

- The representative of the NGO Department sent its first complaint to the Central Bank for more than 4 years now, seeking to address issues that NGOs are facing with commercial banks, with special regard to the requirement for the presence of the founders, even though they do not have any role in the organization, except for a ceremonial role when the organization was founded. The commercial banks should not block the activities of NGOs with such requirements. NGOs should not be required to present documents in person.

- According to the new Law on Freedom of Association in the Non-governmental Organizations the authorized representative of the NGO shall be responsible for opening and administering the NGO's bank account.
- NGOs should be allowed to change their board and they need to inform the Department. Since 2017 it is possible to update the information electronically and it is available at any time.

The representatives of Banking Association emphasized that:

- Commercial banks require enhanced due diligence for NGOs based on the Law on Prevention of Money Laundering and Financing of Terrorism and the Central Bank Regulation on Prevention of Money Laundering and Financing of Terrorism.
- Financial institutions have been more restrictive than they needed to be which stemmed from trying to comply with regulations. All NGOs are put under one category, and seen as high risk.
- In their opinion the founders of NGOs can have an influence, therefore banks require the presence of the founders, or their signatures for opening a bank account or updating of data.
- In general, the representatives of the Banking Association agreed that the requirement for the founder, considering the fact that NGO has other decision making bodies, is not appropriate and can be addressed.
- The amount of the maintenance fee for NGOs depends on the bank. It may be higher by some banks, but there is a diversity of prices and market is free when it comes to determining the prices.
- The representatives of the Banking Association stressed that this was the first meeting where they participated jointly with relevant institutions and NGOs and they are open for further collaboration.

Representatives of the Financial Intelligence Unit emphasized that:

- The Law on Prevention of Money Laundering and Financing of Terrorism sets no obstacles regarding the opening and maintenance of the bank accounts.
- No legislation requires that all NGOs need to update their data on an annual basis. It should only apply to those that constitute a high risk, otherwise it should be enough to update every 3-5 years. Also, there is no need to ask people to be physically present.
- Not all NGOs present a high risk- many present low or no risk at all. Therefore, categorization is important and it is necessary to apply simplified and enhanced due diligence accordingly.

The representative of Human Security Collective emphasized that:

- There are various political/security/regulatory/institutional drivers of NGO de-risking worldwide so what is happening in Kosovo is not an isolated case.
- There are good practices to address this challenge, including various technological and policy solutions.
- It is important to have a proper sectoral Risk Assessment which could better guide regulators and financial institutions in their decisions and avoid wholesale and disproportionate de-risking which was hindering legitimate charitable activity in the country.
- There is no zero risk scenario and there is a need for a viable risk sharing framework.

Some of the main recommendations deriving from the discussion were:

- Commercial banks need financial education in order to better understand the nature and operations of NGOs;
- The founders of the organization should not be required to open a bank account or update information, if they do not have any leadership role within the organization.
- The Banks should recognize the decision-making bodies in NGOs, such as the Board.
- The biggest issue with legislation is the way that the Law is interpreted by those that implement it (in this instance Commercial Banks).
- Since the legislation pertaining money laundering and financing of terrorism is being revised, the momentum should be used to address all these issues.
- Therefore, there is a need to continue the multi-stakeholder dialogue and organize similar meetings in the future.