

July 2015
Prishtina, Kosovo

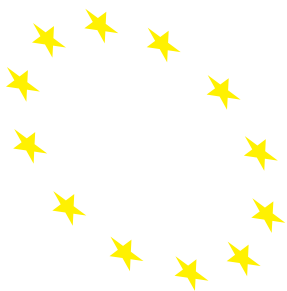


Initiated and supported by the
Kosovo Foundation for Open Society's
Project
Civil Society and Kosovo's European
Integration Process



Protection and Promotion of Cul- tural Heritage

Input for Country Report 2015



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This study was compiled by EC Ma Ndryshe, with support from the Kosovo Foundation for Open Society. Views presented in this publication do not necessarily represent those of the Kosovo Foundation for Open Society (KFOS).

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Acronyms

MCYS – Ministry of Culture, Youth and Sports

CCH – Council for Cultural Heritage (of Prizren)

MA – Municipal Assembly

MESP – Ministry of Environment and Spatial Planning

KCCT – Kosovo’s Council for Cultural Heritage

PzHC – Prizren Historic Centre

TF – Task Force (for Prizren Historic Centre)

NGO – Non-government organisation

KAI – Kosovo’s Archaeological Institute

CH – Cultural Heritage

Foreword

A state's transformation towards European Union membership cannot take place without close engagement of the civil society. Besides being regularly consulted on policy matters, the support of civil society comes best when such organizations monitor carefully the government's progress on the way to this transformation. It is exactly this segment that the Kosovo Foundation for Open Society supports since 2006 through its European Integration program.

In 2014, this support reached its pinnacle when a number of Kosovar think tank organization with long experience in monitoring and analyzing certain government policies produced focused thematic monitoring reports. Published in individual booklets, these reports were launched in the European Union's Plenary Consultation with Civil Society Organizations on June 24, 2014.

Building on this successful experience, the Foundation has supported a number of organizations to continue their engagement through developing and adopting own measurement indicators and sub-indicators of specific policy issues. Each monitored issue derives from the Progress Report of 2014, and builds on the organization's well established expertise. The several months of monitoring has thus generated interesting findings and recommendations for both Government of Kosovo and the European Union. The reports will be presented for the first time at the Stabilization and Association Process Dialogue Plenary Consultation with Civil Society in July 2015.

In this manner, the Foundation believes that the Kosovar civil society's potential will be based utilized in advancing country's progress during its pro-European transformation. As this goal remains distant in the future, the civil society's engagement becomes even more important and necessary to ensure that the progress takes place on a broad spectrum of policies, is measurable, and makes a difference on the lives of Kosovar citizens.

Iliriana Kačaniku
European Integration and Good Governance Program

Main challenges

Protection and promotion of cultural heritage

Cases documented throughout years of degradation in Special Protected Zones, especially in Prizren Historic Centre, are recently proved by statistical data obtained from institutions in charge, which in many cases do not have (or do not offer for the public) structured data, meanwhile the division line for cases at Historic Centre does not exist for the judiciary.

Justice system in relation to illegal constructions and damage of heritage

Reported cases of illegal constructions in judicial institutions in Prizren, which has a special law for the Historic Centre, can be counted in fingers, as well as those that are under investigations by Prosecution.

Inefficient management mechanisms in Prizren's Historic Centre

Task Force for Prizren's Historic Centre, after its inaugural meeting in March, held two more working meetings during 2015. So far, no case has been reviewed by the Task Force, and so far there is no decision made to address illegal constructions in PzCH.

Inadequate interventions risk cultural heritage values

Initiation of projects/works without meeting required legal procedures and without obtaining respective construction permits by public authorities is becoming a practice by municipal authorities, same as non-holding of proper debates with the communities on conservation projects or investments in vicinity of cultural heritage premises.

Protection of historic centres in other cities

Institutions in charge have been weak also with regard to taking actions to document situation in historic centres in other cities as well as taking rehabilitation actions in order to increase protective measures.

Protection and promotion of cultural heritage

Institutions with clear legal responsibilities to act on protection and promotion of cultural and historic heritage, for many years, have decided to close their eyes and ears to degradations in the field and they have silently installed the culture of impunity.

It has already been stated many times that Kosovo has a good legislative and institutional framework for protection of cultural heritage and application of legal obligations that derive from those documents are a responsibility of a large number of central and municipal institutions, including line ministries, municipalities, judiciary, and police. These responsibilities are clearly defined and there is no room for interpretations or ambiguities. Despite this legislative and institutional framework, protection and promotion of cultural heritage remains a challenge for Kosovo.

Cases documented throughout years of degradation in Special Protected Zones, especially in Prizren Historic Centre, are recently proved by statistical data obtained from institutions in charge, which in many cases do not have (or do not offer for the public) structured data, meanwhile the division line for cases at Historic Centre does not exist for the judiciary.

This culture of impunity enabled that institutions ignore accountability and transparency to the public with regard to protection and promotion of cultural heritage. Further, there are numerous cases when public investments contracted by institutions, either municipal and central, resulted with damage or expropriation of former cultural values, meanwhile there have been no legal sanctions for these mistakes.

Cases have been identified when municipal level, as is the case with the Municipality of Prizren, ignores legal obligations and completes works without obtaining the permit from MCYS and CCH of Prizren's Historic Centre.

Kosovo, despite having an institutional chain that should take care of protection and promotion of cultural heritage, in this situation reveals that the cogs in the chain are not properly linked and thus not working as defined by legal provision. Lack of coordination in municipal and central level governments with regard to spatial and urban planning and cultural heritage is evident and recognized by officials themselves, while judiciary does not adequately handle criminal acts pertaining to damage and destruction of cultural heritage.

Protection of cultural heritage requires regular inspection, which based on applicable laws, must be undertaken by municipal level and MCYS, and in this case the latter does not have its inspectors but it hires RCCH officials to draft assessment reports. Meanwhile municipal level has been negligent, and they often justify themselves with lacking human capacities, which results with non-taking preventive measures against damages in historic zones.

Further, institutions in charge still have not managed to set up an assessment system to measure implementation of the guide on planning policies for integrated conservation in Kosovo.

Justice system in relation to illegal constructions and damage of heritage

Last year it was noted that frequent breach of laws in entire Kosovo is constantly and seriously harming cultural heritage, and implementation of legal framework that covers cultural heritage remains weak, while illegal constructions are a major concern, especially within special protected zones. Punishing actions against law violators are not happening, even though they should be applied consistently, while violation continue to occur in Historic Centre.

Reported cases of illegal constructions in judicial institutions in Prizren, which has a special law for the Historic Centre, can be counted in fingers, as well as those that are under investigations by Prosecution.

Based on the data from the Basic Court in Prizren, there are 6 cases under procedures pertaining to illegal constructions. One case is under the competence of the general department and five cases are under the competence of the division for offences. This institution has not been able to provide explanations whether these cases are related to Historic Centre in Prizren or damages of Cultural Heritage.

Contrary to the Court, Basic Prosecution in Prizren keeps evidence in a more organized way. According to this Prosecution, 4 criminal charges against 11 persons were forwarded from previous years. Meanwhile the cases received during the first three months in 2015 included one charge against one person. Therefore, in 2015 there is a total of 5 criminal charges against 12 persons related to urban violations at Prizren's Historic Centre. Meanwhile, investigations have started on 2 charges against 9 persons and one indictment was submitted for 1 charge against 8 persons. Four more charges against 4 persons still need to be investigated.

Recommendation

Justice institutions (Basic Court, Basic Prosecution) must increase efforts and commitment to investigate, prosecute, and judge cases pertaining to harming Cultural Heritage, by paying attention to these cases in line with definitions provided in the Criminal Code of Kosovo. Application of the Criminal Code is essential to restore order in the field of Cultural Heritage.

Inefficient management mechanisms in Prizren Historic Centre

Task Force for Prizren's Historic Centre was established on 13 March 2014, consisting of representatives of the Ministry of Environment and Spatial Planning, Ministry of Culture, Ministry of Local Governance Administration, Ministry of Interiors, Municipality of Prizren, and Council for Cultural Heritage, aims to implement law no. 03/L-039 for Special Protected Zones and Law no. 04/L-066 for Prizren's Historic Centre. In the first year of its existence, this Task Force has never convened.

Task Force for Prizren's Historic Centre, after its inaugural meeting in March, held two more working meetings during 2015. So far no case has been reviewed by the Task Force, and so far there is no decision made to address illegal constructions in PzCH.

TF has made the decision to collect documents/cases of illegal constructions, transgressions or other violations of urban criteria, and to identify cases of illegal constructions and transgressions. Analysis of cases must be completed by September 2015 as per agreement of TF members.

A Task Force secretariat (consisting of three officers of the Municipality of Prizren, Urbanism, Inspectorate, and Legal Office) was established.

Building of financial, administrative and human capacities of the Council for Cultural Heritage at Prizren's Historic Centre continues to be a problematic issue and the Municipality of Prizren has not offered any support in this direction so far.

The Municipal Assembly of Prizren made the decision to establish the Office of Historic Centre in February 2013, but it has not been operationalized yet, and it has not started to exercise the role it has for protection, development and promotion of Prizren's Historic Centre. Furthermore, it has not taken any action on informing the public on relevance and status of Prizren's Protected Historic Centre.

On the other hand, the Municipal Assembly of Prizren has asked for a report from the Council for Cultural Heritage at Prizren's Historic Centre and it discussed the degradation of PzCH in a plenary session (for construction of the library next to Ryzhdije, Prizren's Hamam, archaeological excavation in the square, Prizren's Fortress, and League's Square). At Kosovo's Assembly, in the form of parliamentary questions, issues of

restoration of Hamam of Gazi Mehmed Pasha, Prizren Fortress and public investments next to Ryzhdije were raised, and in this case the Minister of Culture confirmed that works near this protected monument are done without permit from MCYS, and this those works are illegal¹.

¹ <http://live.kallxo.com/sq/MTL/Shala-Punet-per-Ndertimin-e-Bibliotekes-se-Prizrenit-Jane-te-Jashteligjshme-6480>

Recommendations

- Task Force for Prizren's Historic Centre must become more dynamic in its work, since any delay is reflected in THE field with further degradation of Prizren's Historic Centre. More professionals need to be hired for proper analysis of cases.
- TF members must show high commitment to implement obligations they have received.
- MESP must ensure that the Task Force fulfils the mandate designed for it.
- Task Force, MESP, and the Municipality of Prizren must be more transparent with regard to decision-making process for Prizren's Historic Centre.
- The Municipality of Prizren must operationalize the office for Prizren's Historic Centre as soon as possible, and adequate support should be offered so that the Office starts to exercise its role on protection, development, and promotion of Prizren's Historic Centre.
- CCH must have stronger financial, administrative and human support to play the role defined for it by law
- European Commission should be actively involved in the dialogue on the necessity to strengthen the established mechanisms for protection and promotion and Cultural Heritage.

Inadequate interventions risk cultural heritage values

Inadequate interventions risk cultural heritage values, and such specific examples have occurred during the year at Prizren Fortress, which is one of the most important archaeological monuments in Kosovo. A part of the front wall of the Fortress torn down since during the restoration-conservation work there poor quality materials were used and no appropriate supervision of works was applied.

MCYS confirmed that this part of the wall collapsed due to penetration of moisture into the structure of the wall, as well as a result of the poor construction materials, which according to officials was not of high quality. At the same time, according to them, there was lacking continued supervision of restoration-conservation works².

MCYS also stressed that the works in restoration of the roof of Hamam have been suspended due to the lack of financial resources. While there is waiting for financial resources to continue the restoration work, last month it was reported that Hamam in two cases has been a target of wrongdoers, who are suspected to have damaged the layer of lead placed on the roof, which was also confirmed by Kosovo Police. Therefore, incompleteness of works at Hamam building makes it vulnerable³. Meanwhile during this year there was new wave of reactions related to works completed at Hamam, without informing the public about the completed interventions.

Initiation of projects/works without meeting required legal procedures and without obtaining respective construction permits by public authorities is becoming a practice by municipal authorities, same as non-holding of proper debates with the communities on conservation projects or investments in vicinity of cultural heritage premises⁴.

Meanwhile during works in a square in Prizren, an archaeological monument was discovered, where KAI completed the initial excavations, and for months the location is not being treated, since none of the institutions, either municipality or MCYS, have not allocated funds for further conservation work at this site.

2 http://online-transparency.org/repository/docs/UW_Komunikate_23.doc.pdf

3 http://online-transparency.org/repository/docs/UW_Komunikate_19.pdf

4 http://online-transparency.org/repository/docs/UW_Komunikate_20.pdf

Recommendations

- All institutions involved in restoration-conservation projects must ensure that the works are completed in professional and transparent manner, with adequate materials and execution in order to sustain and promote values of the monuments.
- All institutions involved in restoration-conservation projects must be careful in their planning and include civil society and community in public discussions.
- Adequate reactions in case of discovery of archaeological zones.

Protection of historic centres in other cities

Institutions in charge have been weak also with regard to taking actions to document situation in historic centres in other cities as well as taking rehabilitation actions in order to increase protective measures.

Meetings of MCYS Commission for Prishtina's Historic Centre have continued. So far, four meetings have taken place to develop the programme for Protection, Conservation, and Development of Prishtina's Historic Centre. Procedural legal and study issues have been discussed, with regard to definition of Prishtina's Historic Centre and further developments on Conservation of Prishtina's Historic Centre. But there is no decision yet to declare the protected zone in Prishtina.

The working group for development of the Programme on Protection, Conservation, and Development of Prishtina's Historic Centre, and definition of its borders according to MCYS includes the following: Kosovo's Institute for Protection of Monuments, Kosovo's Council for Cultural Heritage, the Municipality of Prishtina, Ministry of Culture, Youth and Sports, NGO - Cultural Heritage without Borders, Regional Centre for Cultural Heritage Prishtina, Ministry of Environment and Spatial Planning, University of Prishtina, and community representatives.

With the decision of the Municipal Assembly of Prishtina no. 035-181427, dated 24.09.2013, Old City has been defined. According to MCYS, what the plan specifically defined, and other actions to be taken, will be discussed in a meeting with representatives of the Municipality of Prishtina.

There were no discussions and decision of MA of Prishtina in 2015 to approve the plan for conservation and development. MCYS, MESP, KCCH and municipalities have not taken any specific action to assess the situation in other historic centres.

There are no decisions of institutions to define the borders or declaring other historic protected zones other than the existed ones, while drafting of plans for conservation and development of historic centres has not started.

Recommendations

- Complete definition of borders, legal status, and conservation and development plan of Prishtina's Historic Centre as soon as possible by institutions in charge
- Complete scanning and assessment of situation in Prishtina's Historic Centre
- MCYS, MESP, KCCH, and municipalities undertake specific actions to assess situation in other historic centres
- Initiate drafting of conservation and development plans for historic centres
- Municipalities undertake actions for prevention and elimination of illegal constructions in historic areas
- European Commission to provide expertise in drafting and implementation process of conservation and development plans in historic centres