



POLICY PAPER

No. 8 (110), April 2015 © PISM

Editors: Marcin Zaborowski (Editor-in-Chief) ● Wojciech Lorenz (Managing Editor)
Jarosław Ćwiek-Karpowicz ● Aleksandra Gawlikowska-Fyk ● Artur Gradziuk ● Dariusz Kałan
Piotr Kościński ● Sebastian Płóciennik ● Patrycja Sasnal ● Marcin Terlikowski

Civil Society Networks in the EU Integration of Serbia¹

Bojan Elek, Ljiljana Ubović, Tomasz Żornaczuk

Countries wishing to accede to the EU must involve civil society organisations (CSOs) actively in the process. In Serbia, in order to champion their effectiveness in cooperation with the government, the CSOs gathered in networks, and the three main, nationwide ones have proven to be of greatest relevance. The National Convention on the EU covers all 35 negotiation chapters, the Sectoral Civil Society Organisations group is involved in pre-accession funds distribution, while prEUgovor focuses exclusively on the hottest potato in the negotiations, which concerns chapters 23 and 24. Although in general terms the legal basis and good practices for such collaboration are established, more understanding of the government's approach to the CSOs is needed in order to achieve visible benefits.

The EU's Constant Pressure: Tools and Results

The importance of CSOs on Serbia's path to the European Union may not be immediately clear, but as they are regularly touched upon in the EU institutions' documents, their role becomes more evident. Resolutions adopted by the European Parliament on 11 March, 2015 are recent examples of the EU's interest in this area. The documents regard the European Commission's progress reports on Kosovo, Macedonia, Montenegro and Serbia² for 2014, and call on the governments in all four countries to enable the wider involvement of civil society in the law and policy-making process. The EP has raised concerns that the majority of laws in Serbia are being adopted under the urgency procedure, not allowing sufficient consultation of stakeholders. Hence, it has called for the government's greater openness to civil society in the integration process, urging it to conduct regular dialogues and public consultations with all relevant stakeholders so as to ensure full transparency in negotiations with the EU. Similar recommendations were formulated in the European Commission's latest enlargement strategy and progress reports (2014–2015).

At the same time, the EP welcomed the resolution by the Serbian parliament,³ and a subsequent decision⁴ of the European Integration Committee, on the adoption of draft negotiating positions. This has led, among

¹ This paper is published within the "Thinking for Governance" project, led by the Polish Institute of International Affairs, and supported by the International Visegrad Fund. Both co-authors, Bojan Elek from the Belgrade Centre for Security Policy, and Ljiljana Ubović, from the Belgrade Fund for Political Excellence, are involved in the CSO networks that are the subject of this paper.

² European Parliament resolution on Serbia, www.europarl.europa.eu.

³ Resolution on the role of the National Assembly and the principles of the negotiations on the accession of the Republic of Serbia to the European Union, www.parlament.gov.rs.

other things, to mandatory consultations with civil society (in the form of the National Convention on the European Union), prior to making its own final recommendations/proposals to the government. This is one of solutions, based on which it would be undeserving to say that, in recent years, no progress has been made in terms of improving dialogue between CSOs and government in Serbia. This is especially true when it comes to enhancing the legislative framework for recognising the importance of civil society as a component in improving good governance through its inclusion in decision-making processes. Common actions are enhanced through the Office for Cooperation with Civil Society, which was established in 2011. In 2014, the European Integration Office signed the Memorandum of Cooperation with the Sectoral Civil Society Organisations (SEKO) for the processes of the Instrument of Pre-Accession Assistance (IPA) programming. Recently, the government adopted the *Guidelines for inclusion of civil society organisations in the regulation adoption process*,⁵ and devised the *National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia for 2015–2019*, yet to be adopted.⁶ Both documents are non-binding, hence numerous challenges remain: adequate access to information, sufficient time to comment, the selection and representativeness/diversity of working groups, acknowledgement of input, the degree to which input is taken into account, and the feedback and publication of consultation results.⁷

However, the concerns above indicate a need to develop a mechanism for direct, meaningful and timely inclusion of CSOs in policy-shaping and decision-making processes. One of the major challenges relates to the fact that civil society is consulted only in the final phases of writing drafts of laws and policies. At this stage, it leaves little room and time for changes, and often lacks the feedback on what was included in the final proposal. Such examples of shortcomings in dialogue between CSOs and government during the process of EU integration might shed some light on the common obstacles to cooperation as a whole. At the same time, the accession negotiations with the EU present, in reality, a well-structured development agenda for any candidate country, an agenda that has always triggered improvements in communication between government and citizens on reform priorities. Yet CSOs are still mainly left to their own resources when it comes to organising themselves and influencing the negotiations. As for the segments not directly connected to negotiations, this dialogue is in far worse shape.⁸

The National Convention on the EU: Opportunity at Hand

The CSO coalition that covers the widest agenda, with the aim of enhancing the EU integration process is the National Convention on the EU (NKEU), which has been directly mentioned in the EU Serbia Progress Report. It was established in 2006 (based on the Slovak model⁹) and covered eight thematic areas, but has grown in size and scope with the opening of negotiations to 21 working groups¹⁰ covering all of the 35 negotiation chapters. It has a direct link to the government due to a decision made by the Committee on European Integrations of the National Assembly, from June 2014, in which it was explicitly mentioned that NCEU working groups will be consulted by this body during the process of adopting the negotiating positions. The groups are led by a single CSO or coalitions thereof, selected according to expertise and capacity in their respective areas. An average working group includes 25 to 30 different CSOs, experts, representatives of business, academia, local self-governments, media, and others. A relevant government official is present at every NKEU working group session, which takes place in the National Assembly of the Republic of Serbia, but also outside Belgrade. From the beginning of the negotiations with the EU, more

⁴ Odluka o postupku razmatranja predloga pregovaračke pozicije u procesu pregovora o pristupanju Republike Srbije Europskoj uniji, <http://eukonvent.org/wp-content/uploads/2014/08/Odluka.pdf>.

⁵ Adopted on 26 August 2014, <http://civilnodrustvo.gov.rs>.

⁶ The second draft of the document was open to public consultation until 15 April, <http://civilnodrustvo.gov.rs>.

⁷ *Serbia Country Report 2014*, p. 4, Monitoring Matrix on Enabling Environment for Civil Society Development, March 2015, Balkan Civil Society Development Network, <http://monitoringmatrix.net/wp-content/uploads/2015/02/25-5-CMR-2014-Serbia-FINAL-ENGI.pdf>.

⁸ During 2014, the Serbian parliament adopted 105 laws (out of 146 in total) under urgent procedure. See: <http://monitoringmatrix.net/wp-content/uploads/2015/02/25-5-CMR-2014-Serbia-FINAL-ENGI.pdf>.

⁹ This means that CSOs are not part of the state's negotiating groups. Unlike in Montenegro, where, due to limited capacities of state administration, the EC even suggested that national CSOs are to be included in the state negotiation structures. This is the case today, where roughly one third of individual negotiating groups' members are representatives of civil society.

¹⁰ The details of the distribution of the groups are available at: <http://eukonvent.org>.

than 300 CSOs have taken part in 35 sessions of working groups, formulating conclusions and recommendations for relevant state institutions including the president of the coordination body for EU integration, the officers of the negotiating group, the minister in charge of the EU accession process, the chief negotiator, and the president of the European integration parliamentary committee. Conclusions and recommendations are also available to the public, and widely distributed in order to provide accurate information and to increase the level of understanding of the process. To this end, once a year, a plenary session in cooperation with the National Assembly is held. It also evaluates and compares improvements in relevant fields, and the collection of final recommendations of all working groups was published in April 2015.

So far, this particular mechanism has been operating on a well-established structure and in an inclusive manner. The leading NKEU CSO (the European Movement of Serbia), as well as most of the working groups, are investing their experience in monitoring the EU integration process and coordinating multi-stakeholder advocacy consultations. On the other hand, there is almost no framework that would regulate the area of communication between executive power and CSOs in the process of negotiations, not to mention stipulating clear obligations, responsibilities and deadlines. The government has not yet appointed negotiation teams for each chapter, which leads to insufficient capacity of overall negotiation structures, and prevents the next logical step in facilitating communication, that is, identifying civil society focal points within each negotiation team. As a result of the absence of legally binding regulations, it is clear that the NKEU would encounter the same obstacles as any partnership between government and civil society in general. These are a lack of relevant and timely information (some negotiation positions or accompanying documents were even declared as secret in the past), no obligation to take into account CSO recommendations, and subsequently no feedback, no contact persons within ministries in charge of leading negotiations for chapters or negotiation teams, and no clear guidelines for cooperation, which leads to ad hoc and non-institutionalised procedures in cooperating with CSOs. At the same time, the efforts from the side of civil society need to be increased as well, especially in terms of advocating institutionalisation, to establish precise and unified procedures and legally binding documents stipulating the roles and obligations of both sides involved in communication. Also, indicators for measuring the impact need to be put in place, regarding both the effects of recommendations to the government and the understanding of the public need for ensuring legitimacy and leverage to the role of civil society in these partnerships.

The convention has been regionally recognised as a productive mechanism of involving civil society in the EU integration process. The establishment of the National Convention of European Integration in Montenegro (2011), led by the European Movement in Montenegro, seems to follow the same suit. However, it has to be noted that Montenegro is further along in EU negotiations, but also in adopting and practising the framework for cooperation with civil society. Based on these regulations, there are persons within each ministry appointed for cooperation with civil society, consultations and public debates have been held, CSOs are invited to sessions of parliamentary committees, and, finally, Montenegro has directly included representatives of the civil sector in the negotiating structure for EU accession negotiations. Forty eight members of CSOs participate in the 22 working groups for the preparation of different accession chapters.¹¹ Bearing this in mind, it comes as no surprise that there is a stronger involvement of Montenegrin state officials in the work of convention as well. Unlike in Serbia, each of the working groups is co-chaired between public administration and civil society. In addition to general regulatory documents, the work of the convention is operationally guided by rules of work in the working groups, clearly stating roles and responsibilities.

And finally, the full potential to adjust this model to different regional settings is currently being tested within a joint project funded by the International Visegrad Fund. It includes Serbia, Montenegro and Albania, and relies on both the Balkan and the Visegrad countries' experience in EU accession, with the objective of establishing a regional forum for discussion, transfer of knowledge, best practices and advocating for a more dynamic EU enlargement in the Western Balkans.

¹¹ See: BCSDN, Monitoring Matrix, <http://monitoringmatrix.net/wp-content/uploads/2015/02/25-1c-Montenegro-Matrix-Report.pdf>.

Sectoral Civil Society Organisations: Where the Money Is

If the EU accession process is perceived as a development strategy for a country, the financial assistance programming certainly represents its action plan. The consultative mechanism Sectoral Civil Society Organisations was established in 2011 by the European Integration Office of the Republic of Serbia (KEI), with the aim of facilitating CSOs' participation in monitoring and programming of EU and other development assistance, as well as creating and promoting constructive dialogue between the state and civil society. CSOs that are involved in SECO are divided into 10 thematic sectors that reflect the priority areas defined in the international development assistance policy documents.¹² Although the mechanism was established some years ago, abiding by the requirements of transparency and participation, the first legal document stipulating the rights and obligations of both sides was signed in November 2014, in the second mandate¹³ of the SECO mechanism. The Memorandum of Cooperation covers the provisions such as the timely and effective communication and exchange of information, establishing contact persons within the KEI, and providing feedback information to CSOs, but without strict time frames. Internal documents governing the work within each SECO group have also been drawn up.

Although the general framework for the second mandate of the SECO mechanism notes significant improvements and lessons learned, some of the recommendations drawn during the 2011–2013 period have not yet been fulfilled. Moreover, the same complaints and hurdles in communication are still in place: CSOs obtain the documents at the last minute, they do not receive enough input in the process of designing project ideas, there is no direct communication between the ministries and CSOs in preparation of documents, and—although repeatedly pleaded for—there are no official focal points within ministries to facilitate the exchange of information with CSOs.

One of the strongest points of this mechanism appears also to be its weakest. The KEI is the only truly committed public administration body participating in this process from the government side. Although it has clearly defined its role in facilitating the involvement of CSOs in the financial assistance programming, this process itself is not under its full control. Hence, for the role of civil society in decision making to be effective, the weakest link lies on the side of ministries providing input for programming in their own respective areas. At the same time, there are only basic (close to none) funds available to CSOs participating in the process. This becomes crucial when one expects to include smaller organisations from outside the capital. Also, the question of the unequal capacity of CSOs to follow the quite technical and comprehensive process of programming, may be posed as a here. This all brings us to CSOs' participation based on individual level of interest, the time they are able to invest, and, finally, their sources of financing.

The prEUgovor Coalition: In Response to the EU's "New Approach"

Within the "new approach" to enlargement¹⁴ in the Western Balkans after Croatian accession to the EU, candidate countries were to be subjected to more detailed scrutiny regarding the level of harmonisation with European standards than ever before. This meant that national governments were tasked with not only implementing legislative changes, but also proving a positive track record in order to demonstrate that the reforms actually produced positive effects on the ground. This was especially true for the parts of *acquis* covering Judiciary and Fundamental Rights (Chapter 23) and Justice, Freedom and Security (Chapter 24), as these two were the cornerstones of the "new approach." In Serbia, this created a demand for an independent, non-partisan and non-governmental body that could assure that the reforms undertaken are indeed effective and that the citizens' rights are protected in the process. In response to this need, prEUgovor (Eng. prEUnup), a coalition of civil society organisations with exclusive focus on chapters 23 and 24, was formed in April 2013.

¹² *Introducing SECO*, http://www.seio.gov.rs/upload/documents/publikacije/introducing_seco.pdf.

¹³ The set of organisations within SECO is being established following an open call for participation. SECO's second mandate started in June 2014.

¹⁴ More on the "new approach" can be found in the *Enlargement Strategy 2014–2015*, European Commission, http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-strategy-paper_en.pdf.

The idea behind creating prEUgovor was to assure that the process of Serbia's accession to the EU is utilised in a manner that will contribute substantially to further democratisation of the country in line with European values and standards. Learning from the negative experiences of Croatia regarding the participation of civil society in the accession negotiations, which was marked by lack of inclusion and low level of transparency,¹⁵ Serbian CSOs were prompted to act quickly and start monitoring Serbia's accession process before the negotiations even officially started. Thus, on the initiative of the Belgrade Centre for Security Policy, the prEUgovor coalition was created, gathering seven Belgrade-based CSOs.¹⁶ These organisations, each with extensive experience in dealing with the issues falling under the scope of policies covered by chapters 23 and 24, gathered in a coalition with the aim of sole monitor of negotiations regarding these two chapters. Given that chapters 23 and 24 are of the highest importance within the "new approach," covering issues that are directly related to the most fundamental values of the EU, and where in the previous enlargement waves the performance of new Member States was subpar, it was only logical that prEUgovor decided to focus on monitoring progress in these particular policy areas.

The coalition is structured on a democratic basis, with respect for the principles of inclusiveness, unanimity and mutual solidarity. The coalition has a rotating coordination for each six-month period, meaning that each of the seven member organisations coordinates the work of prEUgovor, in alphabetical order, for an equal period of time. When deciding on the issues of concern for the coalition, its members prefer to reach a unanimous agreement. If this is not possible, the simple majority vote rule is used for decision making. Lastly, the possibility of derogation exists for the members of prEUgovor who disagree with the joint position of the rest. Due to the fact that the coalition members share the opinion that prEUgovor should remain a voluntary initiative between the seven organisations, it was not registered as a separate entity and therefore has no legal personality. Although accepting new organisations is an option, it is a joint position that the membership should remain low and exclusive to those organisations that have extensive experience and expertise in order to avoid the over-inflation of prEUgovor that would make the its work harder to coordinate. Therefore, accepting new organisations was operationalised by setting up the following three rules: all of the current prEUgovor members must reach a unanimous decision on it; a new member organisation must possess expertise and sufficient experience in the areas it deals with; and must cover policy areas from chapters 23 and 24 that are not covered by any of the current members.

The prEUgovor coalition has so far based its work on publishing regular, six-monthly reports on the state of play regarding the areas of judiciary and fundamental rights, and justice, freedom and security.¹⁷ Apart from these two chapters, the reports also cover other priority areas for Serbia, such as political criteria and democratic institutions, as well as the process of normalisation of relations with Kosovo. As time progressed, other issues found their way into the report, as deemed fit because of their importance during the early phases of the accession process of Serbia. For instance, since the second half of 2014 was the period when the Serbian Government started drafting Action Plans for chapters 23 and 24, the issues surrounding this process have been included in the report. So far, three of these reports have been published and their release is carefully adjusted so that it closely follows the annual dynamic of the accession process. Namely, the first annual report is published in spring (April or May), and the second one in autumn (October or November). The first comes out during the period when the EU delegation in Serbia conducts consultative meetings with national CSOs, and accepts their contributions for the progress report, which usually takes place in early April. In this manner, in addition to submitting comments of all seven prEUgovor members as a joint contribution to the EU delegation, these are also published for a wider audience. The latter report is published around the time when the EC's progress report is released,

¹⁵ On the issues CSOs faced during Croatia's accession negotiations see: M. Škrabalo, *Transparency in Retrospect: Preliminary Lessons from Croatia's EU Accession Process*, discussion paper commissioned by the Greens/EFA in the European Parliament, December 2012, www.franziska-brantner.eu/wp-content/uploads/2012/11/Transparency-in-retrospect.pdf.

¹⁶ From the beginning these were: ASTRA—Anti-trafficking Action; the Belgrade Centre for Security Policy; the Centre for Applied European Studies; the Centre for Investigative Journalism in Serbia; Group 484; Transparency Serbia. In January 2014, the Autonomous Women's Centre joined prEUgovor, bringing the total number of organisations in the coalition to seven.

¹⁷ All of the prEUgovor six-monthly reports are available online, on the coalition members' websites. The latest report is from November 2014, available at: www.bezbednost.org/All-publications/5640/prEUgovor--Report-on-Progress-of-Serbia-in.shtml.

and contains an update on the state of play regarding the two monitored chapters for the period of the previous six months.

Taking into account that Serbia adopted the “Slovak” model for including civil society in the process of accession negotiations, prEUgovor operates independently as an external monitoring coalition that has no official links to the government. This distinguishes the coalition from the other mechanism for consultations with CSOs discussed in this paper. The positive side of this arrangement with prEUgovor is that it allows a more independent monitoring process and unbiased reporting on the state of play regarding chapters 23 and 24. On the negative side, though, it does not guarantee that the policy impact can be achieved, or that the criticism will be taken into account by government representatives. In order to assure that impact is achieved, other methods must be employed, such as extensive advocacy activities, careful timing of the reports as previously discussed, or reliance on support from other stakeholders. The achieved influence can be best measured by the inclusion of prEUgovor recommendations in the EU progress report during the previous two years, which shows that its work is policy relevant. Also, the coalition was acknowledged in the Serbian Ministry of the Interior’s draft action plan for Chapter 24, as one of the few civil society initiatives that contributed to monitoring the accession process.

However, the impact achieved by prEUgovor is of limited scope, for a number of reasons, the two most important being its loose structure and poor access to funding. As far as the first is concerned, the coalition has so far been operating on a voluntary basis, with each member organisation devoting their time and resources to the extent that has been necessary for monitoring to be conducted and reports produced. These efforts were made more difficult due to the fact that prEUgovor had no permanent staff as such, and that the meetings and coordination were done on an ad hoc basis, although regularly and effectively. The second issue, which is not unique for this coalition but appears to be a larger problem in the candidate countries, is lack of access to funding opportunities that are fashioned in a manner that best suits the needs for monitoring of accession negotiations. Apart from two small grants that prEUgovor obtained for capacity building activities and producing one report, all other work is done either voluntarily or even by relying on members’ own sources of funding. Meanwhile, independent monitoring of the implementation of reforms under chapters 23 and 24 requires development of a comprehensive methodological framework, a set of benchmarks and relevant indicators, extensive capacity building for the policy areas in which there is low level of expertise among civil society, and producing educational and informative content so as to increase the outreach and engage other stakeholders. For the time being, there are no funding opportunities well suited for this purpose. Although some of the donors did respond to this need, these were mostly private ones and, strangely, mostly based outside the EU. Therefore, it is evident that a more proactive approach to distributing development assistance to CSOs in the candidate countries needs to be taken, primarily by the EU and other Member States.

What Serbia Can Teach Other Candidate States: Three Lessons

In this respect, there are several lessons that can be learned from Serbia and useful for other EU candidates’ civil society sectors, governments and even the donor community. First, it is of utmost importance for CSOs to organise and start monitoring activities early on, even before the negotiations are formally open, when the governmental rules, institutions and procedures for negotiations are being set up on the national level. This would allow CSOs to influence these starting conditions, which will benefit them later on in terms of increased transparency and better communication with the government. Once the negotiations start, it is difficult to change the rules of the game, including those not in favour of the CSOs.

Second, it is important to perform monitoring and submit comments and recommendations to the government even when not invited to do so. The government might not be responsive to these activities coming from CSOs, and might not welcome the criticism directed towards it, especially in the early phases of negotiations, when the state administration is undergoing a transformation and is still in the process of adjusting to the new rules and procedures. However, even unsolicited contributions on the part of civil society might help establish a relationship of trust and, even more important, help position the CSOs as partners in the process with relevant expertise.

Lastly, there are important lessons for the donor community. Namely, the “new approach” to enlargement does not only pose challenges for the candidates, but also for the existing mechanisms that are used to programme and distribute pre-accession development assistance. The EC’s focus on proving positive track records, especially regarding the rule of law, puts significant strain on the already diminishing resources at civil society’s disposal. Therefore, in order for the reforms to be successful and sustainable, there is a need for the donor community to create mechanisms for supporting the work of CSOs and their networks specifically for the purposes of monitoring the accession process.

Conclusion: The (Imperceptible) Benefits for Public Administration and Civil Society

The slow pace of introducing a regulatory framework governing inclusion of civil society in decision and policy making in Serbia hampers the participation of CSOs in the reform processes in the country. This hurdle might be observed and analysed through a number of cooperation practices, but it is especially interesting in the context of policy cooperation within accession negotiations. The EU sends clear messages that the inclusion of civil society by the government is needed at all levels of decision making, with particular attention paid to the negotiation process. As a result, cooperation went a bit further in the segments connected to accession. But, even there, the effects of the lack of some regulations, understanding and interest are obvious. It appears that public administration, even within single ministries, suffers from an absence of coordination, vertical and ill-informed decision making, and a last minute approach lacking a comprehensive strategy. In such circumstances, it is no wonder that CSO participation comes in last.

At the same time, the most relevant reason for trying to avoid consultancy with CSOs has to be identified as insufficient understanding of the benefits such cooperation may bring, including saving time. And this is where more efforts are needed, in explaining to the public administration the advantages that lie in timely and informative inclusion of civil society in the process of decision and policy making. In addition, civil society leaders need to be more aware that their participation in EU negotiations is only part of a larger scale intervention of institutionalising the role of CSOs in influencing the country’s overall development agenda. That is where civil society in Serbia needs to try to utilise the accession processes (and inclusion in structures developed for that purpose) to advocate its legitimacy in becoming a prominent partner for the public sector. Positive examples of cooperation in the accession negotiations need to be understood and solidified as a platform for establishing long-lasting links between the two sectors, and proving value through delivering results. Exposing both public administration and civil society to the benefits of investing in partnership, by offering better impact to both sides and improved outreach to citizens, would create a crucial impetus for putting this cooperation higher on the law and decision makers’ agenda in Serbia.

It is therefore important that the EU further encourages both the government and civil society to cooperate with the aim of facilitating Serbia’s integration with the EU, but also beyond this process. At the same time, since monitoring of the accession negotiations is time-consuming and capacity-demanding, it is significant that the CSOs have constant access to EU funding schemes that support watchdogs on Serbia’s path to membership. It could help civil society develop its tools within the existing networks, and in this way would make it more likely that their efforts achieve mutually desired results.

Policy paper published within the framework of the project

thinking⁴governance

supported by the International Visegrad Fund

