

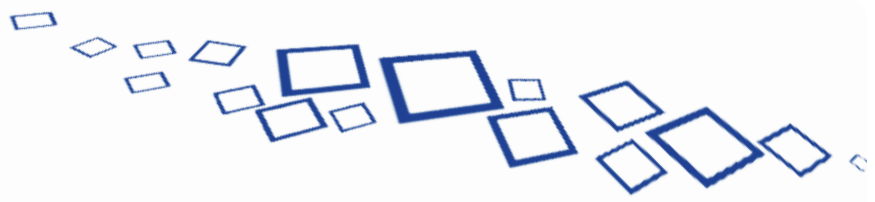
Policy Paper

Civil society - an important asset in EU accession negotiations in Serbia and Montenegro

**Ivana Drakić
Jelena Kajganović**



October, 2012



CIVIL SOCIETY - AN IMPORTANT ASSET IN EU ACCESSION NEGOTIATIONS IN SERBIA AND MONTENEGRO



Both Serbia and Montenegro have gone through numerous reforms in order to come closer to the European Union. As a result of that democratization process, Montenegro has already opened membership negotiations, while Serbia is waiting for the green light from the European Council. Leaders of both countries declare their commitment to the principle of inclusiveness of civil society in policy making and we believe that inclusion of civil society during the negotiation process with the EU would be a real proof of that commitment.

Considering the fact that accession negotiations are a crucial phase of the accession process, it is of great importance that civil society is actively included. For EU officials, these organizations represent an important, independent source of information and recommendations, while they can also provide supervision of country-specific politically challenging areas. The process of harmonization with EU standards is a great challenge for countries in the region, and therefore there is a clear demand for greater inclusion of civil society in order to provide expertise as well as ensure accountability and openness of the process. Some of the leading Croatian NGOs pointed out that one of the main reasons for the low voter's turnout on the accession referendum was the fact that the negotiation process was closed and the public was not informed enough during the process although the NGOs warned about this issue from the beginning.

After analyzing the benefits of CSOs' inclusion in the negotiation process, the present paper will examine the current situation in Montenegro concerning the newly established negotiation structures which Serbia could draw conclusions from. Based on this analysis, it will elaborate on concrete recommendations concerning inclusion mechanisms of civil society in the negotiations.



CIVIL SOCIETY IN THE ACCESSION PROCESS – WHY SHOULD WE CARE?

- CSOs enjoy public confidence

Bearing in mind the related political and institutional heritage in Serbia and Montenegro, the political atmosphere in both countries can easily be characterized as very similar in terms of the public trust towards state institutions. The lack of confidence is noticeable in public polls in both countries. On the other side, the polls show that the public has more confidence in the NGO sector than in institutions. Considering the complexity of the EU integration process, it is crucial to have a general consensus on the most important issues. It is obvious that CSOs should be included in order to make the accession negotiation process closer to the citizens.

In the case of Serbia, it is important to emphasize that the level of trust in political parties among the citizens is as low as 16%. On the other hand, the confidence towards civil society organizations is 31.8%, which may not seem particularly high, but if we were to compare it to the levels of trust in other institutions in the country, we could conclude that it ranks quite well.¹ Support for accession is at a barely satisfactory level (49% according to the poll from August 2012)² and the nationalist fractions opposing the EU are going strong and have a significant base particularly among the youth. The structure of answers of citizens rejecting the membership show insufficient knowledge on the advantages of joining the EU and there lies the problem that might emerge when the talks begin. If the process stays closed and the public uninformed, Serbia will be in great danger of failing to create consensus among its own citizens on continuing on the European path.

Public opinion polls show that Montenegrin citizens' trust in main institutions in the country is declining. According to data from 2011, the level of trust in political parties is 33.5%, while the level of trust in Parliament is somewhat higher (43%). On the other hand, the level of trust in NGOs is 46.7%, which is higher than the level of trust in the main institutions in the country³. For example, latest data shows that the NGO Network for the Affirmation of the NGO sector (MANS) in 2011 had 13 times more reports of corruption cases than the Police Department of the Government and five times more than the Directorate for Anti-corruption Initiative⁴. This illustrates the lack of public confidence in the main institutions, and how citizens rather believe somebody who has a different, non-governmental background. The support of Montenegrin citizens to EU accession dropped to 66% in December 2011, one of the lowest percentages ever in the country⁵.

If CSOs stay aside and continue to be passive observers, significant capacities will be lost and links between civil society and policy makers will remain weak. All this will create a negotiation process which would be an “exclusive right” of state institutions and a process with an obvious lack of transparency and national consensus.

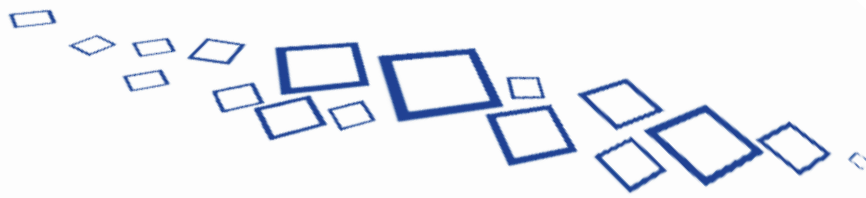
¹ Balkan Monitor 2012, <http://www.balkan-monitor.eu/index.php/dashboard>

² European Integration Office, Public Opinion Poll 2012, <http://www.seio.gov.rs/%D0%B2%D0%B5%D1%81%D1%82%D0%B8.39.html?newsid=1269>

³ CEDEM, 2011, <http://cedem.me/sr/programi/istraivanja-javnog-mnjenja/politiko-javno-mnjenje/finish/36-politiko-javno-mnjenje/170-politiko-javno-mnjenje-crne-gore-decembar-2011.html>

⁴ MANS, 2012, <http://www.youtube.com/watch?v=iWYPyg8tD-E>

⁵ CEDEM, 2011, <http://cedem.me/sr/programi/istraivanja-javnog-mnjenja/politiko-javno-mnjenje/finish/36-politiko-javno-mnjenje/170-politiko-javno-mnjenje-crne-gore-decembar-2011.html>



- **CSOs have valuable capacities**

CSOs, with their specific knowledge and the experience of their representatives, can greatly contribute to the quality of the process. The inclusion of experts from civil society would be beneficial for public administration in the process of accession.

Even though the Serbian administration is often praised for having sufficient capacity and human resources to carry out the integration process, civil society would bring a new kind of insight and knowledge, as well as provide monitoring of the process and inform the public, thus maintaining the link between often insufficiently trusted public institutions and the wider population. The question is whether the state structures have a clear plan on how to include the representatives in order to use their knowledge and accelerate the negotiations and reforms, which is something that Serbia should aim for.

EU official documents always address the lack of administrative capacities of the government of Montenegro. The Progress Report 2011 concluded that the administrative capacity involved in the coordination of European integration needs to be substantially strengthened⁶. Such a small society should seek for specific knowledge in non-governmental organizations, universities, trade unions and business associations in order for the process to include experts from all areas of the negotiating chapters and all interests to be equally represented and taken into account in the formulation of negotiating positions.

- **The European Union encourages the involvement of CSOs**

In its key documents and statements the European Commission emphasized numerous times that CSOs have an irreplaceable role in the process of reform and EU integration both in Serbia and Montenegro. For example, the Commission established the Civil Society Facility (CSF) in 2008 in order to support the development of civil society in candidate and potential candidate countries.

Already in the Analytical Report for Serbia from October 2011⁷, the Commission concluded that cooperation between state bodies and civil society organizations remains on an ad hoc basis and is unevenly developed across Serbia, with civil society activities still predominantly Belgrade-centered. It recognizes the improvement of the relationship between the government and CSOs, but it also recommends further improvement of their cooperation. It was also emphasized that the Office for cooperation with civil society, that was established in April 2010 and aimed at the enhancement of the cooperation between public administration and civil society organizations, is still not fully operational.

The Resolution of the European Parliament on Montenegro⁸ from 2012 welcomes the government's efforts to improve cooperation with non-governmental organizations and calls for continued consultations with civil society in policy-making and law-making; it underlines, however, the importance of also strengthening dialogue with trade unions as well as civil society organizations representing or dealing with the most vulnerable groups and gender equality issues.

⁶ European Commission, 2011, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/mn_report_2011_en.pdf

⁷ European Commission, 2011, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf

⁸ European Parliament, 2012, <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B7-2012-0190&language=EN>



THE INITIAL SHORTCOMINGS IN MONTENEGRO → POSSIBLE LESSONS FOR SERBIA

Montenegrin officials have stated in public their support towards the inclusion of civil society in the accession negotiation process. However, in practice, there are already numerous issues concerning the participation of civil society representatives in key negotiation structures. The Montenegrin Government adopted the Decision on establishing a negotiating structure for the accession of Montenegro to the European Union⁹ in February 2012. The Decision defined six main structures for the negotiation process: the Collegiums, the Negotiating Team, the State Delegation for Negotiations on the Accession of Montenegro to the European Union, working groups for negotiating chapters, the Office of the Chief Negotiator and the Secretariat of the Negotiating Team. It was defined that the structures will consist mainly of state officials, and the inclusion of CSO members in the negotiation structures was not directly foreseen by the Decision. Namely, it is only stated that the Chief Negotiator can, eventually, include national or foreign experts in the work of the Negotiating Team and assign them a consultative role.

“It was defined that the structures will consist mainly of state officials, and the inclusion of CSO members in the negotiation structures was not directly foreseen by the Decision.”

Furthermore, the Decision is characterized by a lack of clarity concerning the method of appointment of members in certain negotiation structures and their status, and insufficiently defined relation between the Collegiums and the State Delegation. Also, this Decision does not guarantee the involvement of civil society representatives in the negotiation structures; it only leaves the possibility to include them if necessary.

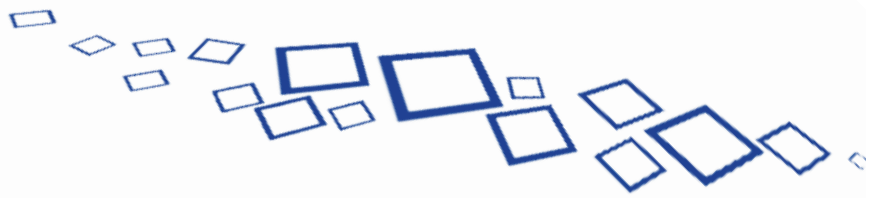
The Decision did not concern the role of the Parliament neither the formalization of the Government-Parliament relation during the negotiation process, but with the recent amendments to the Rules of Procedure of the Parliament of Montenegro, the establishment of the Committee for European Integration and the abolishment of the National Council for European Integration, the definition of Parliament's role in the negotiation process has finally started.

Even though this represents a significant and positive step forward, many things have remained undefined, especially the ways of future cooperation between the Parliament and civil society in the accession negotiation process.

Regarding CSOs' membership in working groups on accession negotiations, Montenegro, in theory, had a good start. Namely, two working groups (for chapters 23 and 24¹⁰) have been formed and six NGO representatives are its members. At the beginning of July, the Chief Negotiator's Office invited CSOs to propose representatives for participation in the working groups on the chapters Public Procurement, Science and Research, and Education and Culture, and recently also for participation in working groups for the chapters Agriculture, Social policy and employment, Telecommunication and information technologies and Freedom to provide services.

⁹ Government of Montenegro, 2012, http://www.mip.gov.me/en/images/stories/download/Predlog_Odluke_o_uspostavljanju_strukture_1.pdf

¹⁰ Chapter 23: Judiciary and fundamental rights, Chapter 24: Justice, freedom and security



However, certain discontent and shortcomings could be seen at the very beginning of the functioning of working groups. Members of the working groups representing NGOs were not present at the first meetings in Brussels which brings up a concern of possible future marginalization of civil society in the negotiation process. Furthermore, after stating in public some details from the meetings of the working groups, NGO representatives were confronted with other members and representatives of other negotiation bodies. It was stated by the Secretariat that, according to the Rules of Procedure,

“In Montenegro, members of the working groups representing NGOs were not present at the first meetings in Brussels which brings up a concern of possible future marginalization of civil society in the negotiation process.”

NGO representatives are full members of working groups, with the role to contribute and not to monitor the process, so they should not speak in public about the work of the working groups¹¹. Besides, there were some speculations that NGO representatives are about to leave the working groups on chapters 25 and 26¹² because they were not even invited on the first meetings¹³. Secrecy and this kind of treatment towards NGO representatives will prevent NGOs from playing their connecting role between the Government and administration, on one side, and the general population, on the other side, and the principle of participation will be violated.

After the most recent elections in Serbia, it is clear that both political parties that won the most seats in the Parliament have a similar agenda concerning EU integration. Even though there are doubts that the Serbian Progressive Party, which formed the new government, will remain on the path towards the EU, they appear determined to prove the skeptics wrong and the new prime minister in his keynote address said: “Meeting the criteria for Serbia’s admission to the EU should be considered working towards the general progress of society in our country. Our goal is accelerating the European integrations process, with maximal efforts to get the date for the beginning of EU accession negotiations.” As for the inclusion of the CSO representatives in the process, a limited number of them is included into the work of the Council for European Integration of the Government of the Republic of Serbia, a body formed in 2002, but that only meets twice a year. Better communication between the government and the civil sector, as well as formulating a legal framework for cooperation, are the necessary steps for fast and efficient accession talks, something that Serbia undoubtedly needs. No political party has rejected the possibility of including civil society in the accession process, yet it remains unclear whether there is an intention to engage the experts and keep the process open to the public. There is a general consensus among NGO activists that the sector is underrepresented in the policy making process and the struggle to improve their position is still ongoing. Considering the fact that Serbia is striving for the negotiations to begin as soon as possible, it is crucial to have a clear and consistent strategy that will not change with every new government or modification of the general conditions in the country.

“In Serbia, no political party has rejected the possibility of including civil society in the accession process, yet it remains unclear whether there is an intention to engage the experts and keep the process open to the public.”

¹¹ Portal Analitika, 2012, <http://portalanalitika.me/politika/vijesti/63090--lakojevi-uloga-nvo-sektora-je-da-do-prinese-a-ne-da-kontrolie-pregovaraki-proces-.html>

¹² Chapter 25: Science and research, Chapter 26: Education and culture

¹³ Portal Analitika, 2012, <http://www.portalanalitika.me/politika/vijesti/72733-civilni-sektor-naputa-radne-grupe-za-pregovore.html>

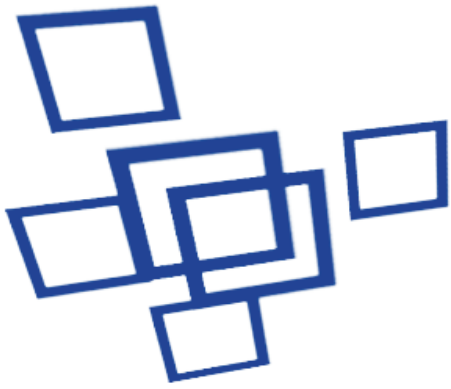


WAYS OF INCLUSION OF CSOs

CDT and ISAC Fund strongly believe that the representatives of civil society should be actively included in the accession negotiation process in Montenegro and, once accession negotiations are opened, in Serbia, because that is one of the key factors that will allow the negotiation process to be transparent and inclusive, which will significantly contribute to the efficiency and the quality of the process. An optimal negotiation model should include the Government, the Parliament, an active civil society and well informed citizens, all connected with strong and efficient mechanisms of monitoring and consultations and with constant dialogue.

“An optimal negotiation model should include the Government, the Parliament, an active civil society and well informed citizens, all connected with strong and efficient mechanisms of monitoring and consultations and with constant dialogue.”

- 1 – A representative of the civil sector should find its place in the negotiation team. Civil society should also be represented in the process of drafting negotiating positions at the level of working groups and through processes of regular consultations.**
- 2 – CSOs representatives should be equal members of working groups because they can significantly contribute with their knowledge, experience and working background.**
- 3 – Concrete consultation procedures and mechanisms, such as regular meetings and the establishment of consultative bodies consisting of CSOs representatives, should be defined in order to improve the consultation process and actively involve CSOs representatives in the accession negotiation process.**
- 4 – The Parliamentary body in charge of European integration should be opened to all professionals who can substantially contribute to its work. The procedures for their inclusion in the work of the body should be clearly defined. This would show the commitment of the Parliament to the principles of openness, participation and consultation, and would also contribute to the democratic character of the process, its better coordination and higher transparency.**



Deutsche Gesellschaft
für Auswärtige Politik e.V.

"The present policy brief was prepared in the framework of the TRAIN programme (Think Tanks Providing Research and Advice through Interaction and Networking) of the German Council on Foreign Relations".