

Civil Society in the EU Integration of the Western Balkans

Edited by Tomasz Żornaczuk



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EXECUTIVE SUMMARY

Among the Western Balkan countries covered by EU enlargement policy, Montenegro and Serbia are negotiating accession to the Union, Albania and Macedonia are official candidates, and Bosnia and Herzegovina and Kosovo are potential candidates. Within the EU's new approach, it pays special attention to chapters 23 and 24 of the negotiations, that is, to Justice and Home Affairs. An important condition under the political criteria remains cooperation between a country's government and its civil society during the accession process.

This report focuses on challenges to this cooperation in policy fields related to the two chapters, and includes six sub-fields for each country:

- monitoring during the EU integration process;
- human rights;
- migration policy;
- the judiciary;
- anti-corruption;
- civic education.

The authors map the challenges and provide recommendations for each field. The report is co-authored by 20 experts in this topic, representing 16 specialised civil-society organisations (CSOs) from the Balkans.

The study is published within the framework of the project “Thinking for Governance,” which aims to improve collaboration between civil society and public administration in the Western Balkans reinforced by the experience of the Visegrad countries. The best practices of these states were compiled at two related workshops organised in Warsaw and Bratislava, then used to formulate recommendations in this report.

To support Albania in meeting the requirements for open-accession negotiations, a High Level Dialogue with the EU was launched in November 2013. CSOs have reported some positive experience with monitoring the fulfilment of the Stabilisation and Association Agreement (SAA) commitments and consultations about the Action Plan to address the 12 priorities of the European Commission's (EC) opinion. Nevertheless, it is essential to create a unified and functional platform of communication between the CSOs and government. The membership of the country in the Open Government Partnership gives hope for such joint activities.

While a working group to address the ombudsman's recommendations on human rights was launched, with two NGOs involved in training and monitoring of police activities, the government should increase its focus on the rights of sexual minorities, unregistered Roma, and people with disabilities. Facilitated migration and "brain drain" are a constant challenge, although a number of NGOs have provided support to monitoring the implementation of the National Strategy on Migration. Corruption within the judicial system has resulted in what can be termed a "syndrome of impunity." Despite assistance from the EU through its permanent training mission, there are serious shortcomings in the implementation of reforms in the judiciary. Earlier, CSOs played a significant role in advocating for the fight against corruption, but their activities have lessened as their founding members became involved in politics. There remains potential for engagement in stimulating deeper cooperation between the sectors. Although civic education has been integrated into the curriculum, CSOs continue to play a significant role in promoting democratic values and attitudes.

In Bosnia and Herzegovina, cooperation between the government and civil sector exists and is supported by the international community, but it is not permanent. The inconsistency of these efforts was evident, for instance, in the Structured Dialogue on Justice with the EU, launched in 2011, in which civil society received very limited representation.

Bosnia and Herzegovina is party to all relevant international and European human rights treaties, although with limited implementation, as seen in the Sejdić-Finci case. The creation of a state-level ombudsman in 2010 was one of the few successes, though the office remains weak, nonetheless. Cooperation with CSOs has proved significant in addressing migration challenges. Monitoring mechanisms for the implementation of strategic reforms in the justice sector was established between the government and five NGOs. Continued work towards judicial impartiality will reinforce CSOs

as watchdogs of institutional integrity. Yet, the existence of four separate judicial systems and the absence of cooperation between them significantly impedes the fight against corruption. A focus on civic education is needed to enhance civic responsibility, democratic values, and citizen engagement. The continuous involvement of the international community is especially important since it is the largest source of support for civil sector activities.

Kosovo faces a number of challenges related to early stages of state-building and integration with the EU. New procedures adopted by the government and its strategy for cooperation with civil society create a framework for civic engagement in policymaking. Yet, collaboration between the sectors remains ad hoc, and drafts of public policies and legislation rarely mirror previous consultations with the CSOs, and their role as monitors of public institutions is still in its infancy.

The unresolved status of Kosovo and its ethnic composition constitute a challenge for human rights observers. The inclusion of marginalised ethnic groups in public processes requires more efforts. New laws on asylum and irregular migration are in place but the institutional capacities to implement them remain insufficient. The wider involvement of NGOs in monitoring judicial-sector reform is recommended to overcome the shortcomings of the judiciary, which otherwise faces a very low level of public confidence. The new anti-corruption strategy recognised the significance of CSOs' involvement but the government needs to make greater use of their expertise. Civic education is only a limited part of the NGOs' activities and the government is yet to recognise the importance of civil society in raising citizens' awareness about their involvement in governance.

In Macedonia, the strategies for governmental cooperation with CSOs and a number of similar documents are in place. Nonetheless, the consultation mechanisms are often conducted *pro forma* and the recommendations of the NGOs do not receive sufficient consideration. There is a need for effective CSO involvement in monitoring, which can serve as a long-term framework for cooperation with the government.

Consultation practices with CSOs on legal acts and public policy documents on human rights have not been sufficiently implemented, which leaves room for the adoption of potentially damaging and regressive policies in this area. An efficient legal aid system for asylum seekers and illegal migrants needs to be established through the adoption of relevant legislation. Issues with “fake” asylum seekers and denial of Roma rights to leave the country

remain challenges. Although numerous reforms have been undertaken in the justice system, its impartiality is disputed and the judiciary is seen by the public as the most corrupt sector. The failure to establish effective anti-corruption policies is linked to modest media freedoms and a lack of relevant laws. Civic education was incorporated into the national curriculum but greater NGO involvement faces difficulties due to a lack of support from the government. CSOs play a role in promoting a reduction in prejudices but ethnic tensions remain at a considerably high level and the implementation of national policy on integrated education faces early stage challenges.

Montenegro opened negotiations on chapters 23 and 24 in December 2013. Representatives of civil society, based on public pressure, were included in all 33 working groups for negotiations with the EU. A coalition of 16 NGOs prepared semi-annual “shadow reports” on progress in the negotiations in the areas of human rights, the judiciary, and the fight against corruption. For effective cooperation, the government needs to be completely open about the negotiations.

NGOs have made contributions to human rights protection by drafting some legislation, but shortcomings persist in the enforcement of rights. Although the government has adopted the Strategy on Integrated Migration Management 2013–2016, the Law on Asylum, and the Action Plan for Chapter 24, there is a need to raise awareness about migration and the integration of migrants and for policy options to dispel corrupt practices related to irregular migration. To improve the impartiality of the judicial system, it was amended to have judges elected and dismissed by the Judicial Council. Still, the public perception of the judiciary remains tempered by scepticism. CSOs play an important role in monitoring the impact of anti-corruption policies. The control function of institutions responsible for observing the implementation of the law on financing political parties and other laws should be increased. NGOs have proven effective in delivering human rights education programmes. Because these activities are not self-sustainable and depend on foreign donors, CSOs should raise awareness among public officials about the importance of financing these programmes.

In Serbia, the government adopted the so-called Slovak model, in which CSOs play an independent monitoring role while not being part of the formal working groups. Therefore, the possibility NGOs can be excluded from the negotiation process remains a challenge. Although inclusiveness, transparency and synergy were announced as the government’s principles for cooperation with civil society, the latter was left to organise its own initiatives, including

the Coalition PrEUgovor, which focuses on monitoring progress solely in chapters 23 and 24.

A number of CSOs are active in monitoring human rights-related matters, but the government needs to consult the civil sector more frequently. Adopting procedures for mandatory public hearings during drafting of legislative acts is recommended. Laws on migration need full implementation and ensuring the rights of asylum seekers is a challenge. Tighter cooperation with a policy-advocacy group of NGOs could serve to overcome these shortcomings. CSOs have to be able to monitor court practices, especially in relation to two issues—protection of human rights and the fight against corruption—in order to assert themselves as proper watchdogs of the judiciary, but such efforts are hampered by numerous factors. Although the anti-corruption strategy envisions a role for CSOs, the conditions for more active civic participation are yet to be created and the legal framework improved. NGOs remain involved in lobbying and advocating for education reforms, also as part of networks, and they would welcome more government openness to enable them to provide alternative services where state provision is absent or insufficient.

This report demonstrates that a number of challenges with good governance and cooperation between government and civil society are present throughout the Western Balkans, regardless of the stages of advancement in integration with the EU. Joint inter-sectoral activities occur mostly on an ad hoc basis and are usually not well institutionalised. Although adequate legislative and policy frameworks that encourage partnerships between governments and NGOs are in place in all of the countries of the region, they largely fail to establish sustainable mechanisms of cooperation and consultation. The reason is twofold: on one hand, the stakeholders involved are often multifarious; on the other hand, CSOs do not always act in unison, despite positive examples of relevant networks and councils.

Therefore, the common recommendations of this study call on NGOs to undertake joint actions to increase their effectiveness in sharing expertise with the government when key reforms on the path to the EU are conducted, and on government to establish sustainable inter-sectoral consultations and monitoring bodies for public policies. Joint activities within the action plan for the Open Government Partnership are expected to contribute to a tightening of cooperation between both sectors and toward increasing public trust in institutions and CSOs.

INTRODUCTION

The countries of the Western Balkans remain the only ones covered by the EU enlargement policy with a realistic prospect to join the Union. However, that is where the similarities end. The processes linked to accession have shown that the countries in the region differ in their development course, willingness and capacity to reform and, therefore, also in their stage of integration with the EU.

Because Croatia became an EU Member State in July 2013, this report covers the remaining countries of the Western Balkans. Albania received candidate status in June 2014. Bosnia and Herzegovina has yet to submit an application for EU membership. Kosovo¹ completed negotiations on the Stabilisation and Association Agreement with the EU and initialled the agreement in summer 2014. Macedonia² remains an official candidate since 2005, with no clear prospect to open negotiations due to the unsolved bilateral dispute over the name of the country with Greece. Montenegro has been negotiating accession to the Union since June 2012, having opened 12 chapters and closed two by the date of the publication of this report. Serbia

¹ In this report, “Kosovo” is used as the name of the country. Its constitutional name, used by most EU and NATO members in bilateral relations, is the “Republic of Kosovo.” Based on the document Arrangements Regarding Regional Representation and Cooperation (2012) between Serbia and Kosovo, the EC and UN use an asterisk (*), as in “Kosovo*,” with the note: “This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence.”

² Throughout the report, “Macedonia” is used as the name of the country. Its constitutional name, used by most EU, Council of Europe, and NATO members in bilateral relations, is the “Republic of Macedonia.” Due to the pending resolution of the name dispute, the UN and the EC use “the former Yugoslav Republic of Macedonia,” as per UN General Assembly Resolution 225.

started membership negotiations in January 2014, and the normalisation of relations with Kosovo is included in the negotiations framework.

Since the EU made the commitment to include the Western Balkans countries, its enlargement strategy has become more elaborate and developed. The EU puts an increasingly high premium on Justice and Home Affairs (JHA), that is, chapters 23 and 24 (out of 35 *acquis* chapters), which will now remain open throughout almost the entire negotiation process. Chapter 23 on the judiciary and fundamental rights covers the judicial system, anti-corruption policies, and human rights. In turn, Chapter 24 focuses on justice, freedom and security, and includes such sub-fields as migration, asylum, visas, external borders and the Schengen system, judicial cooperation in criminal and civil matters, police cooperation and the fight against organised crime, fight against terrorism, cooperation on drug enforcement, customs cooperation, and counterfeiting of the euro. As stipulated by various EU enlargement policy analysts, these areas are “the most important litmus tests for proper operation of public administration and thus the candidates’ capacities to introduce and enforce European legislation.”³ Moreover, cooperation between the government and civil society of an aspiring country continues to be a condition for successful completion of the membership talks with the EU. Meanwhile, there are numerous challenges for such effective collaboration in the countries of the region.⁴ Since the role of civil society is acknowledged as highly important by the Union, there is a need to advocate its legitimacy to governments as well.

This study focuses on challenges in cooperation between governments and civil societies in the Western Balkan countries in the fields covered by chapters 23 and 24, which are of particular significance and for which non-governmental assistance is of fair relevance, with the aim to enhance good governance in the region. The report covers six selected areas of civil society–government cooperation: effective monitoring by civil society of the implementation of action plans and strategies that form the basis for reforms related to integration with the EU; human rights, including the rights of minorities, which is of importance in the region; migration and asylum policies; the judiciary and justice system; anti-corruption policies and activities; and,

³ T. Strážay, T. Żornaczuk, L. Jesień (ed.), *The prospects of the EU enlargement to the Western Balkans, AD 2011*, PISM Report, Warsaw, November 2011.

⁴ See for example, R. Balfour, C. Stratulat, “Democratising the Western Balkans: where does the region stand?” in: E. Prifti (ed.), *The European future of the Western Balkans: Thessaloniki@10 (2003–2013)*, European Union Institute for Security Studies, Paris, 2013.

civic education as an instrument to raise public awareness of civic rights and responsibilities related to democratisation and European integration in the region.

This report places the countries examined in alphabetical order and each chapter discusses the six above-mentioned subjects. The authors map the problems in each by providing the existing framework of strategies, legislation, action plans and other documents regarding the given area within chapters 23 and 24, as well as the practical dimension of civil society–government cooperation in this regard. Finally, they offer several consolidated recommendations on how to enhance collaboration in each country in the particular areas. Therefore, some ideas in the recommendations may overlap with respect to the specificity of each case. Each country section offers advice to both the government and civil society, and the authors provide additional recommendations to the EU, the international community, donors, and other stakeholders whenever they found it relevant and useful.⁵

The study is co-authored by 20 experts from the Western Balkans—three or four from each of the six countries—who work for the most active civil-society organisations (CSOs) in the region and who provide analysis on chapters 23 and 24 within the EU accession agenda. The authors represent 16 institutions (one from Albania and three each from the remaining countries) and most are specialised in a specific subfield of these two chapters and have extensive experience in advising and drafting publications and monitoring reports in relevant areas.⁶ The publication was co-authored with respect to

⁵ Within a fixed structure, the authors named, according to their preferences, the subtitles in all six parts of the country contributions. Moreover, the authors were given liberty regarding which term to use to describe the non-governmental sector involved in civil society activities, based on the country's laws and traditions. The terms Civil Society Organisations, or CSOs, and Non-Governmental Organisations, or NGOs, are, therefore, used interchangeably, with the same meaning.

⁶ For example, all three contributors from Montenegro are individually involved in either the working groups on chapters 23 or 24, or in the national NGO coalition for monitoring these areas. A partner organisation for this report from Serbia, the Belgrade Centre for Security Policy, was named by the government of this country as the leading organisation of a group of NGOs tasked with coordinating civil society on matters related to IPA programming for Serbia. This organisation was assigned—together with Group 484, another partner in this report—to the Sectoral Civil Society Organisation for internal affairs by Serbia's European Integration Office. In the case of countries in which negotiations with the EU have not yet begun, the authors represent the key national experts and analysis providers in the areas covered by this report.

the ethnic composition of the Western Balkan countries and, therefore, has involved experts who represent the most relevant national minorities in the countries of their origin. This comprehensive combination of authors aims to make the report a unique publication of wide practical use.

The incentive for this report came from the workshops held within the framework of the project “Thinking for Governance,” aimed at enhancing interaction between civil society and public administration in the Western Balkans, reinforced by the experience of similar cooperation in the Visegrad countries. For this purpose, two workshops were organised: in Warsaw in the autumn of 2013, and in Bratislava in the spring of 2014. During these seminars, the authors of this study participated in sessions that discussed topics from the specific areas of chapters 23 and 24 covered by this publication.⁷ Observations compiled from these events were used in the report wherever relevant, with a reference or without for reasons of brevity. Besides stimulating and mobilising civil society from the Western Balkans to map the problems and give recommendations in specific areas of chapters 23 and 24, the project also aimed at tightening cooperation between CSOs in the region, as well as between NGOs and think tanks from the Visegrad countries and the Western Balkans.

Tomasz Żornaczuk

⁷ For more, including the detailed agendas of both workshops, see “‘Thinking 4 Governance’. Sharing V4 experience on NGOs, CSOs and think tanks’ interaction with administration,” www.pism.pl/research/projects/Thinking-4-Governance.

HUNGARY MOLDOVA
SLOVENIA
CROATIA ROMANIA

BOSNIA AND
HERZEGOVINA

SERBIA BULGARIA
MONTENEGRO KOSOVO
ALBANIA MACEDONIA
BULGARIA

VATICAN
ITALY

MALTA

GREECE

ALBANIA

GLEDIS GJIPALI (GROUP EDITOR)
BLERTA HOXHA
GERON KAMBERI



Introduction

EU membership represents a long road of negotiations between the candidate country and the European Commission regarding 35 chapters of the EU *acquis*. During the different stages of EU enlargement and the EU's own evolution, the focus and approach with respect to accession negotiations has evolved considerably. Albania, part of the Western Balkans region, has many challenges to overcome in the upcoming years. Recognised by the EU as a “potential candidate country” in 2000, Albania started negotiations on a Stabilisation and Association Agreement in 2003. This agreement was successfully agreed to and signed on 12 June 2006, thus completing the first major step toward Albania's full membership in the EU. Albania applied for membership in the European Union in April 2009. After several assessments by the EU Commission in October 2013, it recommended that Albania should be granted the status of candidate country for EU membership. Hence, officially, Albania received the status of candidate country on 24 June 2014.

Ten years since the first EU Commission Progress Report on Albania was commissioned in 2003, the country has been continuously challenged by the issues now included in chapters 23 and 24 of the EU *acquis*.¹ The dynamics in the process of accession require the earlier engagement of CSOs in the process of consultations, monitoring and implementation of new legislation. The relationship between the Albanian government and CSOs has evolved over the years, addressing the challenges and division of roles. In 1999, a law on freedom of access to public documents entered into force and it provided CSOs with a formal legal framework to further strengthen their monitoring and watchdog roles of public policies and government actions.² The institutional efforts of the government to provide support to CSOs in Albania were initiated with the establishment of The Agency for the Support of Civil Society (ASCS) in 2009.³ It aimed to encourage civil society to develop through both financial assistance and favourable conditions for civil initiatives with public benefits. Recently, the Strategy for Cooperation between Government and Civil Society

¹ The first EU Progress Reports on Albania first made reference to Cooperation in Justice and Home Affairs, and since the EU Progress Report of 2012, progress in these areas has been assessed and measured as part of chapters 23 and 24.

² Law No. 8053, dated 30 July 1999, on freedom of access to public documents (Official Journal No. 22, Year 1999, Page 739).

³ Law No. 10093, dated 9 March 2009, on the establishment and functioning of the Agency for the Support of Civil Society (Official Journal No. 37, Year 2009, Page 1993).

has been put in place, aiming to establish a mechanism to provide necessary tools for the implementation of good governance and accountability.

To support Albania in meeting the remaining requirements for open-accession negotiations, a High Level Dialogue between the EU and Albania was launched in November 2013. It focuses in part on key areas covered in Chapters 23 and 24. Since the talks officially assume the possibility for civil society involvement and consultation, it is important that actors working in these fields concentrate their efforts to make concrete contributions and assume responsibilities in helping speed up the reform process. A challenge to state institutions is to legally formalise avenues for contributions by civil society during the accession negotiations. The following sections give an overview of the challenges to cooperation between the CSOs and public administration in specific fields of chapters 23 and 24, as well as recommendations on how they can be addressed.

1. Strategic Framework, Action Plans and Effective Monitoring

Regarding the role of CSOs in effectively monitoring the negotiations, Albania has experience with similar initiatives, not as part of a strategic framework of action plans from the government, but through the continued support of the Open Society Foundation for Albania, which, since 2007, conducts an annual civic monitoring report on the fulfilment of the commitments undertaken by Albania within the SAA signed with the EU.⁴ Meanwhile, after Albania's government submitted its membership application to the EC in April 2009, the Commission issued an evaluation report identifying 12 priorities that the Albanian government should address before the status of EU candidate country can be given. Civic monitoring of the implementation of the Action Plan addressing the priorities of the 2010 EC

⁴ "Monitoring Report of Stabilisation and Association Agreement (June 2006–September 2007)," Network of Open Society for Albania (NOSA), Albanian Institute for International Studies, Albanian Helsinki Committee, European Centre, Tirana, 2007; and the following publications of the Open Society Foundation for Albania-Soros: "Monitoring Report: Albania in the Stabilisation and Association Process (1 October 2007–15 October 2008)," "Annual Monitoring Report of Albania Progress in the Stabilisation and Association Process (1 October 2008–15 September 2009)," "Civic Report: Monitoring of the Implementation of the Stabilisation and Association Agreement (October 2009–October 2010)."

report for Albania was another example of an expert assessment. Analysis and recommendations for the Action Plan to address the 12 priorities of the EC opinion were presented in a consultation meeting with CSOs and organised by the Ministry of Integration on 22 April 2011. The main goal of the report was to contribute to the elaboration of a feasible Action Plan, the implementation of which could effectively address the 12 EC priorities by complementing Albanian governmental expertise with expertise from civil society in the policy areas concerned. The document assesses the adequacy of the measures planned by the Albanian government in the draft Action Plan of January 2011 in each of the 12 areas against the EC priorities and the current situation.⁵

As part of the Open Government Partnership, the Albanian Government—a member since 2012—launched the second National Action Plan 2014–2016, a process which was supported by several consultative meetings between the Ministry of Innovation and Public Administration (national coordinator of the Open Government Partnership in Albania) and CSOs. Within this framework, efforts have also been made to institutionalise cooperation between CSOs and the Albanian government. On the other hand, a conference called “Social Partners–Time for Action” (December 2013, Tirana),⁶ aimed at establishing the groundwork for an official dialogue with the new government in order to create an enabling legal and practical environment and working towards the advancement of civil society as a social partner and an integral part of the policymaking and decision-making processes in the country.⁷

Meanwhile, regarding the role of CSOs in promoting EU integration since 2003, the Albanian Institute for International Studies (AIIS) publishes an annual national survey titled “The European Perspective of Albania: Perception and Realities.”⁸ On the other side, the European Movement of Albania (EMA)

⁵ “Civic Monitoring Report: The Action Plan to Address the 12 Priorities of the EC Opinion for Albania (2011);” and “Civic Monitoring Report: The Action Plan to Address the 12 Priorities of the EC Opinion for Albania (2012),” Open Society Foundation for Albania–Soros.

⁶ Statement by representatives of civil society in Albania on 16 December 2013 at the National Conference “Social Partners–Time for Action,” www.partnersalbania.org/Statement_of_civil_society.pdf.

⁷ “Participation of citizens and civil society in decision making. Study on legal and regulatory framework and practice in Albania,” Partners Albania, Tirana, 2013.

⁸ “The European Perspective of Albania: Perception and Realities,” Albanian Institute of International Studies, 2003–2014.

has played a crucial role in promoting EU Information Points, which have been set up by the EU delegation to Albania in order to bring the Union and Albania's integration process closer to the citizens. A special collaboration has been established with seven EU Information Points in the university towns of Tirana, Elbasan, Shkodër, Durrës, Vlorë, Gjirokastrë and Korçë. The Information Points will facilitate the flow of information and increase the scope of debate on European matters. EMA has also hosted informational events with students, various interest groups, politicians, and civil society actors to provide information to the Albanian public on the European Union and Albania's integration process. These activities are aimed at transforming EU integration from an elite-driven process to one accountable to citizens, explaining its "win-win" impact and the responsibility of all of Albanian society in making integration a success story.

Some positive developments took place recently at the institutional level, notably the joining of forces in the civil society sector and institutionalising input in policymaking. Parallel to the December Declaration of CSOs, some laudable attempts were made by the government to improve the legal framework concerning access to information and public consultation in the legislative process. The Ministry for Innovation and Public Administration hosted a series of public events aimed at harnessing the input of civil society on a draft law. The draft law introduces some legal improvements and generally adopts a more modern view of an open and transparent legislative process.⁹ However, the concrete impact of addressing the long-standing issues of limited access to information and closed legislative processes remains to be seen.

Recommendations

To the government

- Create unified and functional platforms of communication between CSOs and state structures to enhance the effectiveness of their cooperation. Use the suggestions of NGOs in this regard.
- Based on the action plan for Open Government Partnership, the Ministry of Integration should build a strategic framework and action

⁹ See the draft law on "Public Consultation and Information" ("Projekligji mbi Konsultimin dhe Informimin Publik"), [www.inovacioni.gov.al/files/pages_files/13-11-27-09-18-45Projekligji_p%C3%ABr_njoftimin_dhe_konsultimin_publik_\(final\).pdf](http://www.inovacioni.gov.al/files/pages_files/13-11-27-09-18-45Projekligji_p%C3%ABr_njoftimin_dhe_konsultimin_publik_(final).pdf).

plans to guarantee effective monitoring by CSOs during the negotiation process with the EU.¹⁰

- Invite CSOs to become implementing parties of the new Open Government Partnership action plan as a means of intensifying cooperation and merging expertise, with the final aim of opening up decision-making processes in the country.
- Facilitate the flow of information and increase the scope of debate on European integration. Host informational events with students, various interest groups, politicians, and civil society actors to provide information to the public on the EU and Albania’s integration process.

To civil society

- Create sustainable and transparent structures of cooperation between CSOs and the government. A joint CSO–Government Council would be the best option to institutionalise this cooperation, taking into account other examples from the region.
- Build capacities simultaneously in public administration and the CSO sector. Technical assistance provided through EU funds to institutions should also address CSOs’ capacities in that sector.
- Fund monitoring initiatives that cover wide areas of the EU integration process through the Agency for the Support of Civil Society.

2. Civil Society–Government Dialogue on Human Rights

Human rights defenders in Albania consist of a limited number of effective CSOs committed to the protection and promotion of human rights and fundamental freedoms. These CSOs operate in a non-restrictive environment, although undue pressure is occasionally exercised. The government has progressively consulted CSOs on draft laws and policies with a human rights dimension. However, there are no formal mechanisms in place for such consultations, and civil society participation in policymaking remains weak. Nevertheless, some human rights defenders are very visible and involved in active dialogue with the government authorities, and the

¹⁰ For more information, see: “Advocacy for Open Government: Civil society agenda-setting and monitoring of country action plans,” www.idmalbania.org.

international community is present in the country, especially through the Albanian Helsinki Committee (AHC), Albanian Group for Human Rights (AGHR), and Albanian Center for Human Rights (ACHR). These CSOs are often involved in the preparation and application of the local strategy for the implementation of the EU Guidelines on Human Rights Defenders. Together with these civil society organisations, the People's Advocate (ombudsman) is a key defender of human rights in Albania. As the independent national institution for the defence of fundamental rights and freedoms, as anticipated in the constitution, the ombudsman plays an active role in monitoring human rights and making recommendations to redress human rights breaches. This core function of the ombudsman is also supplemented by the establishment of the Commissioner for Protection from Discrimination, following the adoption of the Law on Protection from Discrimination.

According to the EC's 2013 progress report on Albania, regarding promotion and enforcement of human rights, the new ombudsman has taken on a proactive role since his appointment. However, the Office of the Ombudsman still has difficulties in securing sufficient funding to fulfil its legal obligations, notably for monitoring visits. As regards civil and political rights, there has been progress in the prevention of torture and ill-treatment in Albania during 2013. The General Directorate of the State Police set up a working group to address the ombudsman's recommendations and started cooperating with two NGOs for the provision of training and monitoring of police premises. There has been an increase in follow-up of the ombudsman's recommendations; yet, a number of recommendations remain unimplemented or partially implemented. Albania has further enhanced its legal and institutional framework for the protection of fundamental rights. However, there are still some legal gaps and the implementation of legislative and policy tools in the field of fundamental rights continues to be slow and largely reliant on civil society and donor funding.

Still, the country lacks synergy between CSOs and the two national bodies that monitor the implementation of human rights. The EU has always encouraged the Albanian authorities to further involve CSOs, including human rights defenders, in policymaking processes and subsequent implementation through monitoring activities.

Recommendations

To the government

- Continue improving the existing cooperation on human rights issues with CSOs by increasing the areas of collaboration and number of CSOs involved.
- Create a joint monitoring mechanism (government and civil society) on human rights to increase the credibility of the monitoring reports and identify other “hot” issues to address.
- Collaborate with the CSOs and use their expertise and observations when working on the social mechanisms and solutions regarding people with disabilities, sexual minorities, and unregistered Roma.
- Monitor the actual implementation of inputs from CSOs so that there is insight into the practical cooperation between government and CSOs and which would offer a picture of how CSOs’ inputs are accepted in reality.

To civil society

- Advocate for the creation of formal mechanisms that would ensure regular consultation with CSOs on drafting laws and policies.
- Seek feedback for unaccepted recommendations in order to make them more suitable in the future.
- Set up a functional network of CSOs dealing with human rights in Albania and possibly in the region. This network would serve as an advocacy network that puts pressure on state authorities as well as facilitates the exchange of experience and solutions to certain issues concerning the legislation, its implementation and best practices in human rights. It would also allow CSOs to access more information on what is happening in other countries of the region.

3. Immigration Issues in Civil Society–Government Interaction

The signing of the SAA between Albania and the EU in June 2006 marked a step forward in the country's path to EU integration. However, there remain some significant challenges, including the need for substantial improvement in terms of legislation and standards in order to meet the EU *acquis* on migration. In particular, the entry into force of the readmission agreement with the European Union required multiple efforts to meet the various implementation needs. In addition, renewed attention was to be devoted to such areas as facilitated migration and development, remittance management and “brain drain” initiatives. Meanwhile, after receiving public confirmation of the prospect of EU membership at the Thessaloniki Summit in 2003, the road towards visa liberalisation for Albanians was paved first by the Visa Facilitation Agreement, which entered into force in January 2008, and in the spring of the same year with the proposed Visa Liberalisation Roadmap. The presentation of the Roadmap initiated regular communication between officials of the Albanian government (through reports) and the European Commission (through expert missions and assessment reports), monitoring reform and progress in each area. This framework provided a good basis for interaction between Albanian NGOs and the government.

A number of Albanian NGOs, with expertise in related policy areas and supported by various donors such as IOM, EC, OSCE, and OSFA, provided support to the monitoring process of the full implementation of the National Strategy on Migration, which was approved in 2005. They also assisted in identifying timely and cost-effective ways of meeting migratory priorities in line with the EU alignment strategy. To promote safe migration and prevent human trafficking in Albania, the NGOs also developed and implemented a wide-reaching information campaign in the country. In addition, some Albanian NGOs provided brief reports and information in support of the efficient implementation of the measures of the Albanian National Action Plan on Migration related to addressing the root causes of migration, ensuring the successful return and reintegration of Albanian migrants, promoting the link between emigration and development, and elaborating on the appropriate legal and institutional framework for emigration and immigration.

Albanian NGOs, especially those dealing with human rights and victims of trafficking, also assist the government in successfully implementing the obligations that stem from the EC/Albania Readmission Agreement

ratified by the Albanian parliament. These activities involve capacity-building and the provision of training and legal support to Albanian authorities and administration, cooperative approaches to information exchange between administrations in the implementation of readmission agreements, and developing mechanisms for improving the reintegration of returning migrants in Albania, as well as reinforcing the capacity and actions of national institutions involved in this process. Before and after the Visa Liberalisation Process, Albanian NGOs such as EMA and IDM provided monitoring reports and information campaigns aimed at raising awareness of Albanian citizens through better explanations of the rights and obligations derived from the Visa Liberalisation Regime with EU Schengen countries.¹¹

Albanian territory is used as a transit country for irregular immigrants, mostly from Somalia, Eritrea, Afghanistan, Iraq, Tunisia, Syria and Palestine, on their way to Italy and other Western European countries. The immigration detention centre provides the necessary help to migrants who are subject to procedures that will return them to their country of origin or who in special cases are given asylum on an individual basis.

Recommendations

To the government

- Provide legal aid to immigrants in the country, along with healthcare and social protection.
- Establish a border monitoring system that will allow direct engagement with the ombudsman and the civil sector to ensure proper protection of human rights of immigrants in the country to make sure their rights are not breached.

To civil society

- Participate actively in the asylum application process, assist the applicants, and ensure they are treated properly.

¹¹ The Institute for Democracy and Mediation published a corresponding study that analyses the reasons and factors for the growth in the number of asylum requests in EU countries and the measures undertaken by the Albanian government to tackle this phenomenon. For more information, see: “Stories behind Visa Liberalization: Asylum Seekers and Irregular Migration,” <http://idmalbania.org/activities/stories-behind-visa-liberalization-asylum-seekers-and-irregular-migration>.

- Create working groups composed of both state and CSO representatives. These working groups would jointly monitor the asylum process and would seek ways to make the process more fair and just; this initiative would have a positive side-effect of building the basis for further and deeper cooperation in other areas.
- Address intensively the issue of discriminatory profiling of travellers leaving the country.
- Provide capacity-building support in the implementation of readmission agreements to reintegrate returning migrants in Albania.
- Based on the positive experience of cooperation with state institutions in drafting the Migration Strategy and Monitoring the Visa Liberalisation Process, civil society should continue actions in the area of readmission of Albanian citizens. Such cooperation should include vocational training for returnees, offering of social services, and continuation of an information campaign on the rights and obligations of regular and irregular immigrants.

4. CSOs as Watchdogs of the Judiciary's Impartiality and Integrity

Albania is still undergoing a difficult transition period. The fall of the communist regime, and especially the civil unrest that followed the collapse of pyramid schemes in 1997, created fertile ground for the development of criminal networks involved in various activities both within the country and beyond its borders. Some of these networks engage in such illegal activities as drugs and human trafficking and at the same time invest their illegally acquired money in the legal economy. Another concern related to the integrity of the judiciary is widespread corruption. Despite its institutional weakness and lack of resources, the judicial system has developed through corruption, what can be termed a “syndrome of impunity” as the EU defines it, especially in cases where high-level officials have been involved.

Regardless of these shortcomings, Albania has made some progress regarding the strategic and legal framework. With the EU's assistance through its permanent police-training mission, the Multinational Advisory Police Element (MAPE), the Police Assistance Mission of the European

Community to Albania (PAMECA), and the European Assistance Mission to the Albanian Justice System (EURALIUS) have been established in order to put in place effective legislation and structures to fight corruption and organised crime. However, rigorous implementation and enforcement of laws are still necessary to achieve tangible results.¹²

An example of Albania's commitment in this policy area was seen during the visa liberalisation dialogues, in which detailed roadmaps were applied and which led to substantial progress, especially in various Chapter 24 areas of the EU *acquis*. Cooperation with the CSO sector also intensified during this period, which was reflected in the tangible input provided for the strategic documents drafted at the time.

The autonomy enjoyed by the justice system per the Albanian constitution has negatively affected cooperation with the NGO sector. A mentality of non-interference in any aspect of their activities exists in the country's judicial institutions, thus making it difficult for CSOs to successfully engage with their initiatives. Some initial results have been achieved regarding free legal support. However, the shortcomings noticed in the implementation of legal aid legislation hinder effective access to justice, especially for vulnerable people. In this regard, Nils Muižnieks, Council of Europe Commissioner for Human Rights, recently stated that close cooperation with expert NGOs would be beneficial for the authorities.¹³

Recommendations

To the government and judicial institutions

- Create the required legal framework facilitating cooperation between CSOs and judicial institutions. Access to official documents should be facilitated for NGOs monitoring these institutions.

¹² Under the project "Consolidation of Law Enforcement Capacities in Albania," since 1997 the EU has funded a number of police assistance missions with experts from Member States. It started with MAPE (Mission of European Assistance for Police) and was followed in later years by the so-called PAMECA I, II, III (The Police Assistance Mission of European Community in Albania) projects. These are funded under the IPA's first component (assistance to institutions in transition and capacity-building). The latest, PAMECA IV, covers the period 2013–2017, www.pameca.org.al.

¹³ Declaration by Nils Muižnieks, Council of Europe Commissioner for Human Rights, 27 September 2013.

- Revise legislation enforcing more transparency and openness from judicial institutions in order to increase the interest of CSOs and other interest groups in cooperation.
- Vitalise and diversify the existing areas of cooperation with judicial institutions such as the School of Magistrates, Centre for Official Publications, and others, for wider inclusion of interested NGOs.
- Following the plan to reduce court fees in order to ensure effective access to justice, provide guidance to district and appellate judges concerning the implementation of the 2013 Constitutional Court decision in this matter.
- Expand cooperation with CSOs to cover pertinent issues such as corruption and political influence in the justice sector. A revision of legislation enforcing more transparency and openness from judicial institutions would increase the interest of CSOs in cooperation. The judiciary would benefit from such alliances with civic groups by improving its performance and exposing injustices, on one hand, and by reinforcing its integrity and independence from any kind of political influence, on the other.

To civil society

- Engage in case-based monitoring of the performance of the judiciary. The findings could be included in the evaluation criteria for judges' career advancement.
- Be active and cooperative in providing free legal support and raise public awareness through media.
- Direct your attention to EU initiatives and seek ways to boost and promote the efforts made by the EU to tackle the problems of the justice system.

5. The Role of NGOs in Exposing Corruption

With the introduction of the good governance agenda in the 1990s, corruption has been increasingly recognised as an impediment to democratic functioning and economic development. Albania has had a turbulent recent history, with fervent changes and troublesome transitions creating favourable conditions for corruption. The perception

of corruption remains high, leading Albania to drop further in the ranking of the 2013 Transparency International Corruption Perception Index, from 113 in the previous year to 116 that year. This constitutes yet again the lowest rating in the Western Balkans.

Despite the existence of the Law on Access to Public Information, NGOs still face difficulties in obtaining official documents, especially those related to public procurement and government contracts. However, Albanian NGOs experienced some successful interventions during the period 2002–2006 in this sector, which, nevertheless, did not last long due to a lack of funds. In 2002, the Citizens Advocacy Office (CAO) was established with the aim of providing legal assistance to citizens pressured to engage in corruption by public officials. CAO quickly became a watchdog organisation and started to compete in the area of citizen mobilisation with its MJAFT! programme—a youth movement operational since 2003 that used a massive promotional campaign to rapidly mobilise huge numbers of young people around the country. One of its core functions was to act as a watchdog and driver for promoting citizen activism. CAO continued to engage in watchdog activities related to corruption and focused its attention on corruption within the judiciary.¹⁴

During the same period, the newly established Albanian Coalition Against Corruption (ACAC) became very engaged in anti-corruption activities, lobbying for the adoption of anti-corruption policies and laws, as well as organising public awareness campaigns. After 2004, ACAC also became involved in public protests against corruption.¹⁵ However, all these initiatives have since stopped, with the exception of the MJAFT! movement, which now is less active than in the past as its founding and key active members are now involved in politics. Currently, Transparency International (TI) Albania is the only structured NGO to submit an annual update—its Transparency Annual Report on ICP (Index of Corruption Perception), which constitutes a benchmark for the Albanian public regarding the level of corruption and the efficiency of anti-corruption policies. Meanwhile, TI Albania signed a memorandum

¹⁴ “Third Sector Development in Albania: Challenges and Opportunities,” Tirana, 2009, prepared by the Human Development Promotion Centre within the framework of the project “Building from Within: Reuniting Europe by Strengthening and Connecting Its Third Sector,” financed by the British Foreign and Commonwealth Office and implemented by the Euclid Network and its partners in Albania, Kosovo and Montenegro.

¹⁵ *Ibidem*.

of understanding with the Office of the Ombudsman in Albania last year aimed at strengthening efforts to raise awareness about corruption cases.¹⁶

The new government has adopted a new approach to combat corruption by introducing a framework strategy widely consulted with interested parties. It focuses on three pillars: prevention, conviction, and raising awareness.¹⁷ The strategy foresees more controls and increased transparency in institutional activity, as well as the introduction of important legislation, such as that on whistleblower protection.

Albania is a signatory of the United Nations Convention Against Corruption (UNCAC). The convention recognises the role of civil society in combating corruption by calling on governments to increase transparency, improve public access to information, and promote public contribution to government decision-making processes. In this framework, there are several discussions on how civil society can be involved in monitoring the quality and delivery of public goods and services, mobilisation of resources, and how it can make the voices of ordinary people heard at the policy level. But the activism of civil society depends on the responsiveness and cooperation of the state as well.

Recommendations

To the government

- Recognise civil society as a partner and an intermediary in the fight against corruption to encourage civil society input.
- Support watchdog organisations by facilitating access to information. Current legislation on access to documents should be revised to improve implementation.
- Consultations with and the expertise of NGOs in the formulation and development of anti-corruption policies should be a legal requirement.
- Intensify capacity-building training for administration responsible for responding to requests for information of a public character.

¹⁶ For more information, see: www.tia.al.

¹⁷ Council of Ministers, “Struktura e Strategjisë Kombëtare Kundër Korrupsionit 2014–2017,” Tirana, 6 December 2013.

- Provide information regularly through an internet portal, not only on public procurement notices but even on monthly and annual reports by companies and on public contracts awarded to them.

To civil society

- Involve the business community in monitoring the process of public institutions through joint activities with the NGO sector. This cooperation will also address the issue of lack of funds for NGOs.
- Reach out to former key members of the most active NGOs who are now involved in politics to stimulate deeper cooperation and smoother communication. Insider's views and recommendations can make NGOs much more effective.
- Create a platform of cooperation for the fight against corruption between watchdog NGOs, investigative journalists, and representatives of public communities with the aim to publish the annual Public Institutions Civic Integrity Report, using both traditional and social media tools.

6. Involvement of NGOs in Civic Education

It is known that societies have long had an interest in the ways in which their individual members are prepared for citizenship and in how they learn to take part in civic life. Today that interest might best be described as a growing concern, particularly in Albanian society. The three essential components of civic education—knowledge, skills and disposition—have been widely explored through a series of initiatives by Albanian NGOs over the years. This is particularly the case regarding civic knowledge and skills.

Civic knowledge is a broad concept and is seen as such even in school curricula. After 1990, most Central and Eastern European countries, including Albania, realised that constructing a modern democracy also requires building a modern school system in which principal ideas and procedures of democracy are taught and implemented. UNESCO, within the CORDEE initiative, and the Austrian Ministry of Education and Cultural Affairs have provided assistance on curriculum development in civic education in order to exchange views on these concepts, on the legal status of civic education, and on the practice and problems of teaching civics

in Central and Eastern Europe, including Albania. It has focused on the problems of civic education at the secondary education level, i.e., pupils from 11 to 18 years old. It also looked at the following: 1) civic education in the institutional system of the respective countries (legal framework, pertinent institutions and their competences, actual problems and perspectives); 2) civic education in educational programmes for teachers (pre-service and continuing education, content, curriculum, institutions, actual problems and perspectives); and, 3) civic education and curriculum development in schools (lessons, content, learning aids, methods, actual problems and perspectives).¹⁸

Civic education is seen as the concept of teaching democracy and includes not only teaching about the constitutional, legal and political institutions of democracy but also the development of democratic attitudes, skills and behaviours.¹⁹ Albania experienced civic education as an important component of public participation during the constitution-drafting process, in which Albanian NGOs used public forums, radio programmes, pamphlets, newspaper columns, constitutional papers by experts, and essay-writing contests. Education on constitutional issues continued through the work of the OSCE after the constitution was approved in 1998. Meanwhile, the second essential component of civic education—skills—has been recognised as the most important, and an area in which Albanian NGOs have a key role to play. If citizens are to exercise their rights and discharge their responsibilities as members of self-governing communities, they need not only acquire a body of knowledge but also the relevant intellectual and participatory skills. Thus, in addition to the acquisition of knowledge and intellect, education for citizenship

¹⁸ For more information, see: <http://unesdoc.unesco.org/images/0011/001161/116144eo.pdf>.

¹⁹ For example, the project by IDM “Understanding Civic and Faith-Based Education in Albania” (2011–2012) aimed to promote and foster civic and religious values and religious tolerance and understanding in Albania. It has also encouraged and supported concrete efforts to establish cooperation among local stakeholders, including public and non-public educational institutions, religious communities, local authorities, civil society, and media. It has made efforts to affirm the active participation of religious schools within the framework of current institutional developments, to develop students’ civic knowledge and skills to engage in civic education projects of interest to their communities and develop public policies that address and seek to solve community problems. For more information, see: “Understanding Civic and Faith-Based Education in Albania,” www.idmalbania.org/understanding-civic-and-faith-based-education-albania.

has been focused on the skills required for informed, effective and responsible participation in the political process and in civil society. These skills have been categorised by NGOs as *interacting*, *monitoring*, and *influencing*. A number of projects funded by various donors have been implemented so far by NGOs in Albania related to local participation in budgeting, influencing policy and in making progress and preparing shadow monitoring reports on certain public policies and strategic frameworks.

The third essential component of civic education is disposition. This refers to private and public traits. The necessary experience should engender an understanding that democracy requires responsible self-governance of each individual, that is, moral responsibility, self-discipline and respect for the worth and human dignity of every individual. These are essential to the maintenance and improvement of constitutional democracy in Albania but are developed slowly over time and as a result of what one learns and experiences in the home, school, community and civil society.

Recommendations

To the government

- Develop a volunteer/community service programme that will be integrated into the curriculum of primary and secondary education. Civil society can contribute greatly in this regard by engaging youth in these projects.
- Develop indicators for monitoring and evaluating the effectiveness of what students are taught in school as part of civic education. Based on the information that will result from this evaluation, the government can decide what further steps to take toward improving civic education in schools.
- Improve legislation and institutional mechanisms that enable citizens to increase their civic skills through participation in public policy and decision-making.
- Support awareness campaigns that provide a sense of civic disposition to Albanian citizens through a better understanding of the need to be self-responsible.

To civil society

- In cooperation with public education bodies, participate in drafting curricula targeting youth. This will raise awareness of the need for public participation in the decision-making process.
- Engage more strongly in monitoring and influencing public policies on relevant key public priorities through the establishment of civic actions such as the Raise Your Voice campaign.
- Build a civic education network aimed at establishing an Annual Civic Education Award for an individual, NGO or communities that promote such values of civic disposition as moral responsibility, self-discipline, and respect for human worth and dignity.

Conclusion

As the EU integration process intensifies, greater interaction between government and civil society is becoming a necessity. Since the genesis of its EU integration aspirations, Albanian civil society has strived to be active on several fronts. However, it faces many challenges in playing a meaningful role in the EU integration process, and in particular with regards to the negotiations on chapters 23 and 24. Although the process would benefit from rigorous monitoring, policy analysis and input from CSO experts, capacities within the sector remain limited. Moreover, the problems of transparency and inclusion in the policymaking processes persist among government institutions. Such serious obstacles to constant constructive communication often leaves both Albanian CSOs and the international community with the notion that the public administration lacks the will to improve cooperation with the non-governmental sector.

Despite some improvements in recent years, the Albanian political environment has maintained its practice of closed-door policymaking and lack of formal channels for contributions to it. Still, there are encouraging cases of cooperation between the government and civil society, such as the consultation process for the Open Government Partnership action plan, which proves it is not always that state institutions are necessarily against engaging CSOs in policymaking processes. This is something that further cooperation could be built on. As the country heads towards the opening of accession negotiations, starting with chapters 23 and 24, civil society

must intensify its role in monitoring the achievement of commitments and in policy input. To this end, legal and practical improvements in access to information and institutionalisation of government–CSO relations remain a precondition.

BOSNIA AND HERZEGOVINA

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Introduction

After the war in Bosnia and Herzegovina (BiH) in the 1990s, civil society was at the centre stage of democracy as a means of holding the government accountable and bringing balance to the governmental sector. Following the international community's recognition of the role civil society actors can play in BiH, building civil society became the focus of donor support and activities in the country, which facilitated the growth of the non-governmental sector. In 2007, the BiH Council of Ministers adopted an "Agreement on Cooperation between the Council of Ministers of BiH and the Non-Governmental Sector in BiH,"¹ which provided a promising framework for policy dialogue between the two spheres of BiH society. Yet, the envisaged institutional mechanisms, for instance, the Office for Cooperation with the NGO Sector or the Civil Society Council have never been operational, meaning that in practice cooperation between public administration and CSOs in all areas of the *acquis* remains very weak.²

There are, nonetheless, exceptions of cases of effective cooperation, depending on the initiatives and preparedness of specific institutions (particularly at the sub-state level). For instance, after several years of CSO lobbying and dialogue, the Law on Volunteerism was adopted by the Parliament of the Federation of BiH in 2012. Indeed, some CSOs have managed to establish a formal dialogue with the governmental sector through the signing of various memoranda of cooperation. But such status is limited and reserved only for a small number of the biggest and financially most capable NGOs, and is not applicable to BiH civil society in general. Effective cooperation between civil society and the government that bears fruit in practice remains more of an exception than a rule.

The problem is not only the fact that the government is often unprepared to turn formal agreements into more than dead letters and systematically accept CSOs as an asset in policymaking processes but also that there are many CSOs

¹ "Agreement on Cooperation between the Council of Ministers of BiH and the Non-Governmental Sector in BiH," adopted on 26 April 2007 by the Council of Ministers of BiH. Full text available at: www.civilnodrustvo.ba/files/docs/Agreement_on_cooperation.pdf?phpMyAdmin=4dbc505c79a6t34771d80r81d7&phpMyAdmin=687c50a0fa0ct42d51eb1r81d7.

² For several years in a row this has also been a conclusion in the EC Progress Reports. See, for example, "EC Progress Report on Bosnia and Herzegovina, 2013," p. 11, http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/bosnia_and_herzegovina_2013.pdf.

and they remain fragmented in their approach. According to the most widely accepted data, there are more than 12,000 NGOs operating within the country. With no unified state register of NGOs or an efficient coordinating body in existence, it is difficult to keep track of how many of these NGOs are in fact operational and what their activities entail. What is often lacking, too, is effective coordination and cooperation among CSOs that could build momentum and a push for large-scale political change or vital reform.

1. The Strategic Framework, Action Plans and Effective Monitoring

With the SAA signed in 2008, and to date ratified by all EU Member States, but not yet in force, BiH remains a potential EU candidate; as such, it is included in EU enlargement policy, but is nowhere near the point where one could discuss negotiations or related strategies, let alone the role of civil society in them. The SAA was negotiated quickly, in about two years, as BiH negotiators benefited from the momentum that existed back in 2005 and 2006. There was, however, no substantial involvement of CSOs in this process at the time, as civil society was only slowly beginning to realise the importance of BiH joining the EU and its own role in these processes.

In terms of BiH's progress towards the EU, not much has been done since. The March 2011 Conclusions of the Council of the EU³ outlined four key issues that need to be addressed if BiH is to demonstrate its commitment to join the EU, and thus provide the basis for submitting a credible membership application. The adoption of census and state aid laws are the two conditions that have been fulfilled, while addressing the contentious Sejdić-Finci issue, along with the establishment of a coordination mechanism on EU affairs are still outstanding. In terms of vital state-level reforms that would show the transformative effect of the EU accession process, the dynamics of decision-making are very slow. According to the website of the Parliamentary Assembly of BiH, during the current parliamentary mandate, which started in November 2010, only 76 laws have been adopted,⁴ which is only slightly more than the

³ "Council Conclusions on BiH," Council of the EU, Brussels, 21 March 2011, http://consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/BosnieHEN21031101.pdf.

⁴ This number excludes laws related to the annual state budget and includes laws and amendments adopted until 25 July 2014.

60 laws that the Croatian Parliament adopted during the first half of 2013, just before joining the EU.

Considering the complexity of BiH's administrative structures, and the profound transformation of its political culture that still awaits, CSOs' active involvement in the negotiations and other earlier stages of EU accession would indeed further slow the process as it would mean the involvement of more stakeholders and diverse agendas. However, given the fact that the first steps towards the EU—negotiating the SAA and some measures to ensure its enforcement—were taken without much civil society involvement and did not bring about much progress in practice, it is then perhaps precisely that increased CSO participation in all phases of the policymaking process is needed, especially in key *acquis* chapters 23 and 24.

The EU–BiH Structured Dialogue on Justice, launched in 2011 to support justice system reforms in BiH and bring the system closer to the EU's, is one of the examples underpinning the above points. The mechanism was established to provide an opportunity for genuine progress in “one of the most challenging sectors in the path towards EU membership,”⁵ and even though the EU Delegation to BiH claims that civil society's voices were heard in the process, a recent call by the CSO consortium Initiative for Monitoring BiH's European Integration proves that this was not (entirely) the case. In a joint open letter, a number of BiH NGOs and think tanks called for a more transparent and broader Structured Dialogue, which would above all not only include BiH political elites and EU officials but also a third actor: CSOs.⁶ Indeed, the same was also recognised by the EU in February 2014 after the European Commissioner for Enlargement and European Neighbourhood Policy Štefan Füle announced a new EU approach towards BiH and focus areas, which would mean broadening the Structured Dialogue, and “intend[ing] to involve civil society fully in this.”⁷ At the beginning of April 2014, this call was

⁵ “10 Facts to Know About the EU–BiH Structured Dialogue on Justice,” EU Delegation to BiH, 2011. Available at: <http://europa.ba/Download.aspx?id=736&lang=EN>.

⁶ “CSOs Appeal to the BiH Institutions and EU to make Structured Dialogue on Justice More Transparent and Efficient, Open Letter of BiH Civil Society Organisations to the BiH Council of Ministers, the BiH Directorate for European Integration, the EU Delegation in BiH and the European Commission,” Sarajevo Open Centre, 2014, <http://soc.ba/en/civil-society-organisations-appeal-to-the-bh-institutions-and-european-union-to-make-structured-dialogue-on-justice-more-transparent-and-efficient>.

⁷ “Bosnia-Herzegovina–EU: Deep Disappointment on Sejdić-Finci Implementation,” European Commission Memo, 18 February 2014, http://europa.eu/rapid/press-release_MEMO-14-117_en.htm.

echoed in the Council of the EU's Conclusions on BiH,⁸ in which the foreign ministers of the EU28 urged BiH institutions and leaders to reach out actively to civil society, including in the areas of strengthening the rule of law and anti-corruption.

Recommendations

To the government

- Strive towards engaging productively with CSOs that have a recognised profile.
- in either dealing with EU integration or with topic areas related specifically to chapters 23 and 24. In this way, the government and BiH society in general could best benefit from the existing know-how.
- Include CSOs in all phases of the EU integration process, starting with the development of strategic frameworks, their implementation, as well as monitoring.
- Invest full efforts into integrating and making civil society an equal partner in the Structured Dialogue on Justice as pushed for by both CSOs themselves and the EU.

To civil society

- Jointly utilise EU support for CSOs' participation in policymaking processes by offering constructive critique, which would make it more likely for the government to accept CSOs as equal partners in the process.
- Approach the government's role in policymaking with all seriousness, responsibility and commit to provide timely, useful and realistic suggestions for the improvement of reform processes.
- Continue being vocal and work on their own exposure towards both public administration to increase pressure and the public in general to raise awareness.

⁸ "Council Conclusions on BiH," Council of EU, Luxembourg, 14 April 2014, www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/142215.pdf.

To the European Union

- Maintain the push for active involvement of civil society in the dialogue with public administration by, for instance, bringing CSOs to the table as equal partners and thus providing legitimacy to their voices.
- Encourage programmes that offer exchange of expertise in relevant topic areas, which would additionally build the capacities of recognised CSOs and make their active and effective involvement in the EU accession process and corresponding reforms more realistic.

2. Human Rights and Civil Society–Government Dialogue

As regards human rights issues, BiH is a party to all relevant international and European human rights treaties, including the 1950 European Convention on Human Rights and Fundamental Freedoms, the principles of which have also been made part and parcel of the BiH Constitution. Thus, a large portion of the legal provisions necessary to guarantee human rights are in place, but as with many other issues in BiH, what is lacking is their implementation.

To date, human rights reforms that have been carried out in BiH have largely been pushed by the international community. Such was the example of the institution of ombudsman reform, which was presented as a precondition for BiH proceeding successfully in its visa liberalisation process. The merger of three separate ombudsmen into a state-level institution was completed under strong international pressure in 2010, even though this institution at first in fact left BiH citizens with a lower level of support and protection than the three separate ones. To date, it remains weak.

The same is true for another specific human rights concern that is by far the most exposed on the human rights agenda in BiH at the moment; the resolution of the so-called Sejdić-Finci issue has, similar to the ombudsman institutional reform, been turned into a condition by the EU if BiH wishes to continue its path towards European integration. The 2009 European Court of Human Rights judgment in the case of Sejdić-Finci⁹ found the BiH constitution and electoral law to be discriminatory in that they do not allow minorities to

⁹ “Case of Sejdic and Finci v. Bosnia and Herzegovina, European Court of Human Rights, judgment of 22 December 2009,” [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-96491#{%22itemid%22:\[%22001-96491%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-96491#{%22itemid%22:[%22001-96491%22]}).

run for positions in the House of Peoples or the presidency. The EU, especially Commissioner Füle and the EU Delegation in BiH, have invested much effort to reach a compromise and implement the Sejdić-Finci judgment—so far, without success.

As the process of finding solutions to this conundrum was mainly limited to political elites' dialogue with the EU, the engagement of civil society and the space it got to participate *de facto* in decision-making (be consulted and equally involved) when it comes to one of the key human rights issues remains questionable. Although the Council of Ministers adopted the “Rules of Consultations in Drafting of the Legal Regulations” in 2006,¹⁰ it means little in practice as their implementation is limited. In the Sejdić-Finci case, numerous analyses have been produced, initiatives have been started and proposals have been made by CSOs in BiH, but were not taken into consideration by the government.

In the same case, the EU declaratively—although not substantially—strongly encouraged CSOs to take on a more proactive approach and to participate in consultations. To a greater extent this was the case, especially after a more successful example of civil society exerting pressure on politicians in the case of delays in adopting the law on a Single Reference Number, which prevented newborn children and their mothers from gaining access to health, social benefits and travel documents. Following these events and the February 2014 protests, the EU increasingly began calling on the government to make civil society and citizens more important players in finding a solution to human rights, or specifically the Sejdić-Finci case. While it might remain limited to the rhetorical level, it is indeed a step forward. But the fact that it is the EU that has to do so is indicative of a general situation in which it is clear that civil society–government cooperation within the human rights field is not organic. Rather, it requires strong international support at all times.

¹⁰ “Pravila za konsultacije u izradi pravnih propisa,” Vijeće Ministara, 7 September 2006, www.ads.gov.ba/v2/index.php?option=com_content&view=article&id=98%3Apravila-za-konsultacije-u-izradi-pravnih-propisa&catid=40%3Aother-documents&Itemid=92&lang=en.

Recommendations

To the government

- Fully implement the existing legislative framework related to cooperation with CSOs, especially by establishing a joint and operational state-level registry and an empowered body for cooperation with CSOs.
- Implement the rules of consultations with CSOs in policymaking, and begin taking CSOs and their expertise into consideration by guaranteeing regular engagement with different types of CSOs. Go beyond *ad hoc* and selectively accepting only certain CSOs as partners.
- Conduct an in-depth analysis of the ombudsmen merger (as a case study), with the participation of multiple stakeholders—including civil society—ensured as part of the process.
- Commit to an inclusive social dialogue on finding realistic and implementable solutions to the Sejdić-Finci issue that would take into consideration the views and proposals of CSOs and society more generally.
- In general, be more open to communication with CSOs so that their actions are understood by the state and they are positioned to become actual partners in human rights-related decision-making processes.

To civil society

- Improve coordination and cooperation activities in unified networks or platforms in order to come out with a less disintegrated, stronger voice and in this way increase leverage.
- Take an active stance in claiming a role in dialogue with civil servants by offering constructive critique and contributing to prosperity, rather than take confrontational and overly critical standpoints.
- Pressure and work side-by-side with domestic actors in BiH to look for alternative approaches to finding a solution to the Sejdić-Finci case.
- Raise awareness of the international stakeholders working in BiH on the specifics of the Sejdić-Finci question, the relevance of such reform for the current BiH human rights context and possible alternative ways forward.

To the European Union

- Lead by example and establish models for continuous cooperation with local BiH CSOs while standing by its recent focus on the CSOs

and offer genuine support to the involvement of CSOs in human rights-related public affairs in BiH.

- Accept the distinctiveness of the Sejdić-Finci issue and in line with that adopt a more flexible approach to BiH constitutional reform and in cooperation with the CSOs seek innovative methods to find a solution.

3. NGO–Government Interaction and Immigration Issues

Due to new dynamics underpinning immigration issues, an area once considered of secondary or tertiary importance to EU states and other actors now plays centre-stage on the European political agenda. As a result, states and the international community have begun to seek out a framework in which to address immigration as a comprehensive issue encompassing voluntary and involuntary movements, based on the notion that states and other actors share common ground on many immigration interests and concerns, and focusing on strengthened cooperation and coordination.

In BiH, the role of civil society, specifically of domestic NGOs monitoring such developments, providing direct assistance and performing advocacy work on immigration issues has—as in other areas—been fairly limited thus far. Most NGOs working in this field focus on only one aspect of human migration, such as human trafficking or migrants’ human rights, while at the same time ongoing levels of increased migration are countered by the state with restrictive immigration barriers, resulting in people entering irregular migration channels. There is a growing proportion of migrants moving through alternative channels and without authorisation to enter the state and others who make recourse to asylum procedures without fulfilling the conditions for refugee status or other forms of protection. The result is a growing perception that the asylum systems are being abused and undermined. Such challenges have heightened states’ attention to the complexity of contemporary migration flows.

In such circumstances, a vibrant, strong and free civil society is essential to the development of immigration policies and, above all, the protection of human rights in line with international standards. As with the general role of civil society in BiH, its part in immigration policies has long been acknowledged

by the international community. During the early 2000s, the overall “golden age” for civil society in development, there was international recognition of the role of civil society actors in promoting and protecting the rights of immigrants. A good example can be found in the case of the Association *Vaša prava BiH*, which in 2004, with the support of UNHCR, initiated a free legal aid project targeting persons in BiH who sought international protection from persecution faced in their country of citizenship, or in their country of regular residence. The project gained the endorsement of the BiH Ministry of Security, which signed a memorandum of understanding with the association and thus formalised the cooperation between the state and this specific civil society actor. This cooperation has become a backbone for the protection of asylum seekers, refugees, persons under subsidiary protection, victims of trafficking and other vulnerable individuals in BiH and, at the same time, opened the arena for more significant involvement of other civil society actors. The latter, however, still remain involved at a very low level, which again points to the fact that BiH’s government cooperation with CSOs is selective at best.

Regarding asylum, amendments to the BiH Law on Movement and Stay of Aliens and Asylum have been adopted, further aligning the law with EU and international standards; however, the field of asylum remains all in all a topic of very low interest in BiH. Asylum (and immigration) represent relatively new issues for BiH, and the authorities are experiencing difficulties in grappling with the complexity of the issues that have emerged. Besides that, the people of BiH are—for their needs and problems in their country—not yet prepared to accept an asylum system. There is a feeling among the people of BiH as well in the ministry bodies in BiH that there is neither the need nor any recognisable interest in giving this field any particular attention.

Recommendations

To the government

- Establish a state system for asylum, as well as functional capacities for implementation of international protection (which includes asylum and subsidiary protection).
- Develop the responsibility to welcome asylum seekers in a dignified manner, by ensuring they are treated fairly and that their case is examined to uniform standards.
- Undertake concrete steps and proactive measures towards systematising cooperation with NGOs that are active in this interest area so that the

country would be brought closer towards the implementation of its international obligations, and the public would be better informed of the immigration issues in BiH.

To civil society

- Play a critical role in BiH immigration policy development first and foremost to ensure that the immigration agenda reflects existing international legal standards protecting refugees, internally displaced persons and migrants.
- Consolidate itself in terms of connecting NGOs and developing coalitions of interest, which would boost its influence in being a critical point for defining the political agenda, advocating for key principles, developing its content, providing timely and reliable information, imposing its moral authority in this field and monitoring implementation of the obligations of states.
- Engage actively in raising public awareness in BiH of the asylum system and immigration situation in order to gradually build an environment that is more hospitable and welcoming towards asylum seekers and refugees.

4. NGOs as Watchdogs of the Judiciary's Impartiality and Integrity

There is a strong realisation on the side of the government that economic reform requires an updated legal framework and a well-functioning judiciary that can interpret and enforce laws in an equitable and efficient manner. Much of the same can be said regarding poverty alleviation: laws and legal systems need to be responsive to the needs of the poor, with the resulting economic benefits flowing to both the disadvantaged and society as a whole. A well-functioning judiciary should provide predictability and resolve cases in reasonable periods of time. It should also be accessible to the public.

With this in mind, the government and the people of BiH have taken upon themselves the further responsibility to work together towards achieving EU standards of governance, including those that require raising the condition of access to justice for all its citizens, men and women. Accordingly, BiH's Ministry of Justice completed a comprehensive Justice Sector Reform Strategy in 2008, designating Access to Justice as one of the four main pillars of the

reform. The aim is to improve access to justice by increasing the quality, efficiency, and transparency of dispute resolution. In this way, the overall objective is to create trust in a judicial system that is both independent and accountable.

One way to achieve this objective is through the participation of civil society in designing and monitoring the reform process. Civil society, as all organisational activity falling outside the orbits of the government or for-profit sectors,¹¹ can then contribute to the implementation of the activities in a reform programme.

In February 2010, five partner CSOs signed the “Memorandum on the establishment of monitoring and evaluation mechanisms for the implementation of the Action Plan of the Justice Sector Reform Strategy in Bosnia and Herzegovina” (JSRS) with the chairman of the Conference of Ministers of Justice of BiH, president of the High Judicial and Prosecutorial Council of BiH and the Judicial Commission of Brčko District of BiH.

The established mechanism is unique, not only in BiH but in neighbouring countries as well. As such, it relies on the best practices of democratic societies of Western Europe in terms of participatory monitoring and evaluation of public policies by civil society organisations. Drawing on many years of advocacy experience in the field of democratisation and human rights protection, as well as the knowledge of issues in the justice sector in BiH, these organisations have become involved in the process of monitoring, evaluation and reporting on this important reform policy in order to thus contribute to the efficient establishment of a justice system in BiH that is accountable to all citizens, in full conformity with EU standards and best practices, and guarantees the rule of law in the country.

The establishment and functioning of an independent mechanism for monitoring, evaluation and reporting on the implementation of JSRS for civil society organisations is an indisputable indicator of positive changes and the opening up of institutions in the BiH justice sector to civil society. Civil society has also provided a voice to different perspectives and experiences, and often helps to bring to the surface more difficult issues. CSOs can make the government listen and can help secure greater sustainability in the reform process by promoting a participatory approach.

¹¹ *The Bank's Relations with NGOs: Issues and Directions*, Social Development Papers No. 28, World Bank, 1998, <http://siteresources.worldbank.org/INTRANETSOCIALDEVELOPMENT/Resources/SDP-28.pdf>.

Recommendations

To the government

- Show stronger commitment and proactive approach towards achieving EU standards of governance, including those that require raising the condition of access to justice for all its citizens.
- Develop, as far as is practical and in conformity with legal principles and governing traditions, administrative and management systems for efficient, flexible, and transparent legislative processes at all levels of government.
- Establish an independent, functioning mechanism for monitoring, evaluation and reporting on the implementation of JSRS in BiH, drawing on years of CSO experience in the field of democratisation and human rights protection, as well as the knowledge of issues in the justice sector in BiH.

To civil society

- Send an unequivocal message to all responsible institutions in BiH that consistent and timely implementation of the JSRS AP has no other alternative if the justice sector in BiH wishes to contribute to building a European future for citizens in the country.
- Consider weaknesses and features of CSOs, especially by combining their varied agendas, improving their technical expertise and thus raising legitimacy among peers, as well as improving communication with different branches of government so as not to create tension.
- Work more strategically and actively on improving communication with the public on the work of the government and cooperation with it, thus to raise public awareness about the activities (or the absence thereof) of the government.

5. The Role of NGOs in Exposing Corruption

When it comes to detecting corruption in BiH, the NGO sector is still not strong enough. In the current period, the activities of CSOs in exposing corruption in BiH have been partially expressed through the research activities on the prevalence of corruption, raising public awareness and by monitoring the operation of certain institutions. However, as the existing legal framework

in BiH does not meet the requirements of an efficient system of processing and placing sanctions on corruption, to the same extent, the activities of NGOs and other stakeholders in identifying corruption remain unsuccessful in practice.

There are several problems in communication between NGOs and state authorities, as explained in the example of Transparency International BiH (an NGO that has for more than a decade exclusively been dealing with issues of combating corruption but has only seen minimal progress in cooperation). The same can be concluded in relation to the recent adoption of the Whistleblower Protection Act, which is extremely valuable in terms of detecting and preventing corruption. This law was initiated by a network of NGOs in BiH, with the aim of encouraging the largest possible number of people to report corruption and legally guaranteeing them protection. Again, however, the implementation of this law in practice remains questionable, along with the systemic approach of institutions to this issue.

On the other hand, the existence of four separate judicial systems, overlapping responsibilities and lack of coordination is a problem that seriously affects the efficiency of the judiciary in BiH. All this has resulted in uneven jurisprudence and unequal treatment in the courts in same or similar cases. With an aim of prosecuting corruption, the prosecutor's office and the Court of BiH established a Department for the Prosecution of Organised Crime and Corruption, while in *Republika Srpska*, this function is performed by the Special Prosecutor's Office for Prosecution of Criminal Offences of Organised Crime and Corruption. However, these institutions cannot take pride in the number of prosecuted cases.

The "Analysis of Justice Statistics" published by Transparency International BiH, which contains data for 2009 and 2010, primarily indicates that the prosecution of corruption in the courts and prosecutors' offices in BiH is hampered by a lack of will among the responsible institutions to solve this problem.¹² The analysis showed that in the 2009–2010 period almost no progress in increasing the number of adjudicated corruption-related offences had been achieved. The lack of convictions for criminal offences of corruption for several consecutive years is also noted in the European Commission Progress Report on BiH. The European Commission Report on BiH's progress in 2010 states that "the backlog in the prosecution of corruption offences

¹² See more at: http://ti-bih.org/wpcontent/uploads/2011/03/Monitoring_provodjenja_antikorupcionih_reformi_u_BiH-drugi_periodicni_izvjestaj.pdf.

is still the biggest problem facing the judiciary in BiH, there is no effective investigation, prosecution and conviction of high-level corruption, the judicial follow-up of cases of corruption remains slow ...”¹³ To date, the situation has not changed much.

Numerous research on corruption perception in recent years show that corruption is present in the judicial bodies of BiH as well. A survey conducted by Transparency International BiH, “Analysis of the results of the first part of the quarterly survey of citizens’ perceptions of corruption in BiH,” shows that the average amount of the bribes given to judges or clerks of the court is about BAM 2,049 (equal to €1,047), which means the judiciary receives the highest bribes in relation to other institutions.¹⁴ Judging by this analysis, scandals of this kind covered by media have never received any institutional response, which leads to the conclusion that judicial reform in BiH has brought about very few substantive changes.

Recommendations

To the government

- Improve coordination mechanisms between judicial institutions and law enforcement agencies in terms of better prevention and coordination in the fight against corruption.
- Improve the transparency and accountability of judicial authorities through the effective implementation of the existing legal framework.
- Ensure better training of investigators of all police agencies, which should deal with detection of these crimes and identification of perpetrators, as well as better training of prosecutors at all levels of government, which would be focused primarily on investigation and prosecution of these crimes.

To civil society

- Work toward improving the capacity of the civil sector to identify corruption by strengthening it with new tools, exchange of regional experience, and international support. Improve cooperation among

¹³ “Godišnji izvještaj,” High Judicial and Prosecutorial Council of BiH, 2010, www.hjpc.ba/intro/gizvjestaj/pdf/VSTVBiHGI2010web.pdf.

¹⁴ See more at: http://ti-bih.org/wp-content/uploads/2011/02/Korupcija_u_BiH.pdf.

CSOs in order to prevent duplicating anti-corruption projects and activities.

- Require police and judicial authorities to investigate and combat these forms of crimes through research and monitoring. Strengthen CSOs' role in monitoring and following up on cases during the investigation and court proceedings.
- Provide training for law enforcement officials responsible for investigation of corruption.
- Focus more on monitoring the implementation of anti-corruption laws, e.g., Whistleblower Act, Law on Confiscation of Illegally Acquired Property, Law on Combating Corruption and Organised Crime as well as the Criminal Code.
- Advocate coordinating mechanisms amongst the four judicial systems in order to ensure adoption of best practices from countries such as Slovakia, and for building on their experience from transition.
- Make efforts to increase awareness and draw public attention to corruption in the judiciary itself.

6. The Involvement of NGOs in Civic Education

All of the numerous NGOs that exist in BiH, generally speaking and depending on the areas in which they operate, have an important role in educating the wider BiH public. However, as has been pointed out above, there is no reliable data on how many out of the approximately 12,000 NGOs registered in BiH are actually operational, and in particular how many of them are focusing their activities on civil education. Certainly, only a number of them, thanks to diligent work and good cooperation with the government sector, are recognised as successful or as leaders in the country, region and beyond.

Also, Bosnian civil society, within the scope of providing civil education, lacks the material and technical capacities that would allow them to position themselves at the desired level. Due to unclear funding structures of NGOs, some of these organisations, in the absence of overall resources, voluntarily end up in the service of politics and political interests,¹⁵ and thus lose legitimacy in the eyes of the broader society.

¹⁵ "The NGO Sector in BiH," Centre for the Promotion of Civil Society, 2004.

Increased funding for the NGO sector in BiH seems additionally useful since the previous grants that have been in circulation for the financing of specific projects by local authorities have proven insufficient for the sustainability or independence of the NGO sector. It is similar with grants that come from international donors, which often support CSOs to the extent and in the manner that suits their interests. As a consequence, a number of NGOs have pushed their original objectives, including continuously communicating with the general society or being constantly present at the lowest, local levels, to the background and adapted to the interests and objectives of either domestic policies or some third countries' foreign policy.

Recommendations

To the government

- Develop educational programmes aimed at raising awareness about democratic values and citizenship, regardless of ethnicity.
- Plan a budget that supports the NGO sector, the activities of which will contribute to solving some of the priority issues in the local community and beyond.
- With the EU's support, create and strengthen mechanisms for information exchange and dialogue at the local and national levels in order to systematically improve the participation of the NGO sector in the construction of political and social processes in BiH, which would ensure that they effectively participate in the formulation, implementation and evaluation of specific policies and programmes at various levels.

To civil society

- Intensively raise awareness about improving the state of the NGO sector in BiH, primarily by improving coordination.
- Avoid addressing large-scale political issues, and instead focus on more practical, small-scale concrete issues that can lead building sufficient momentum that would indeed allow them to gradually take their proper place in society.
- Take a step back and reassess each CSO's image, as well as civic education efforts and their connectedness to the society in general, so that in the future they are able to better echo the general public's needs and mobilise citizens to action.

Conclusion

By providing an overview of the state of play regarding the dialogue and cooperation between the public administration and CSOs within the context of *acquis* chapters 23 and 24, the preceding sections demonstrate that the level of cooperation between the two sectors in BiH so far remains underdeveloped and underutilised. Despite their growing importance, CSOs in BiH remain only partially understood. Even basic information that exists about these organisations, such as number, size, area of activity, sources of revenue and policy framework within which they operate, is not available in any systematic way. In addition, the civil society sector, as it is officially defined, embraces entities as diverse as village associations, grassroots development organisations, agricultural extension services, self-help cooperatives, religious institutions, schools, hospitals, sport clubs and associations, human rights organisations, and business and professional associations. As such, a comprehensive and representative understanding of the role and significance of the civil society sector continues to be a major stumbling point, particularly in the context of cooperation with public administration.

However, with a more orchestrated approach of CSOs towards public administration, civil society in BiH could further good governance. The government should establish a comprehensive operational framework and thus provide the foundation for continuous cooperation with civil society and CSO engagement in tackling key policy issues related to good governance; first, by policy analysis and advocacy; second, by regulation and monitoring of state performance and the actions and behaviour of public officials; third, by building social capital and enabling citizens to identify and articulate their values, beliefs, civic norms and democratic practices; fourth, by mobilising particular constituencies, particularly the vulnerable and marginalised sections of masses, to participate more fully in politics and public affairs; and fifth, by development work to improve the well-being of their own and other communities. In order to bring that about, public administration should begin genuinely engaging with CSOs that possess the relevant expertise or know-how in a certain topic area. The CSOs should communicate better with the general public as well as among themselves and thus increase their leverage, improve their image, and recover their legitimacy. Finally, these processes should be accelerated, not to tick off boxes in the EU integration process, but with an awareness of what fruitful cooperation can bring to the country as a whole, especially in areas as vital as fighting corruption or building judicial independence.

KOSOVO

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Introduction

Over the past two decades, Kosovo has gone through war, an interim administration, and supervised independence to near-complete sovereignty, although it lacks universal recognition within both the EU and the UN. Therefore, along its EU path, Kosovo is formally blocked and not sufficiently enabled to access all SAP¹ instruments available to other countries in the Western Balkans. Kosovo is the only country in the region without an SAA, and with a visa regime to enter the Schengen zone. However, after reaching relevant agreements (regional representation, freedom of movement, university diplomas, etc.) within the Belgrade–Pristina dialogue in 2012, the EC conducted a feasibility study for negotiating an SAA² on Kosovo, and in November 2013, the EU launched negotiations that would mark its first contractual relationship between the country and the Union.

Still, Kosovo continues to suffer from opaque and unaccountable governance, corruption, weak public institutions, poor governance standards, the lack of an impartial judiciary and an underperforming economy. In order to address these challenges, civil society should be consistently empowered and it must take advantage of the opportunity offered by the EU's reform agenda by helping civil society and public institutions take critical steps towards advancing Kosovo's EU integration prospects. In this respect, the EC Progress Report for Kosovo (2013)³ notes: "Cooperation between civil society organisations and the institutions of Kosovo continues to be ad hoc. Even when public consultations on draft legislation take place, follow-up is often unsatisfactory."

Meanwhile, new rules of procedure for the government have introduced binding requirements for public consultations at the central level. Likewise, the Law on Local Self Government obliges transparency for each municipality. In addition to recognising the importance of civic inclusion in policymaking, the government's strategy for cooperation with civil society⁴ was adopted in

¹ The Stabilisation and Association Process (SAP) is the EU's framework policy for enlargement towards the Western Balkans that aims to bring these countries closer to the EU and resulting in eventual membership.

² See the EC recommendation: http://ec.europa.eu/enlargement/pdf/key_documents/2013/ks_recommendation_2013_en.pdf.

³ For the full report, see: http://ec.europa.eu/enlargement/countries/detailed-country-information/kosovo/index_en.htm.

⁴ For the full strategy, see: [http://civikos.net/repository/docs/Eng_Strategjia_qeveritare_per_bashkepunim_me_shoqerine_civile_drafti_perfundimtar\(1\).pdf](http://civikos.net/repository/docs/Eng_Strategjia_qeveritare_per_bashkepunim_me_shoqerine_civile_drafti_perfundimtar(1).pdf).

July 2013. A government decision in April 2014 established the council to follow up on its implementation. In parallel, Kosovo institutions have adopted the “National Strategy for European Integration–Kosovo 2020.”⁵ This strategy aims at supporting Kosovo’s aspirations for EU membership. In order to reach this goal, five priority objectives have been set: 1) governance effectiveness; 2) fight against corruption and organised crime; 3) economic development; 4) engagement of stakeholders; and 5) contractual relations with the European Union.

Nevertheless, much more can be achieved within the existing legal and administrative framework. Cooperation between civil society and public administration can deliver reforms. The soft power of the EU, including the accession experience of the Visegrad countries, could be better used to push for domestic governance reforms and to create momentum to inspire steps forward in meeting EU political, economic and *acquis* standards.

1. The Strategic Framework, Action Plans and Effective Monitoring

European integration retains the overwhelming support of both Kosovo’s citizens and the entire Kosovan political spectrum, including majorities. Likewise, the setting of a strategic framework, action plans and priority objectives in support of Kosovo’s aspirations to join the EU enjoys a mass of support from all layers of society. In this spirit, the “National Strategy for European Integration–Kosovo 2020—a participatory approach” was prepared and adopted. The fourth objective of the strategy explains the importance of engagement of various stakeholders, state and non-state actors, in advancing institutional life, as well as their importance in terms of improving and monitoring policymaking. However, in order to have genuine, substantial and extensive inclusion of all stakeholders, it needs to be based on the actual needs of the society. For this purpose, the role, contribution, cooperation and monitoring of CSOs is essential to the fulfilment of the main goal, though closely linked with the potential, focus and interest of stakeholders to be an active part of this process.

⁵ For the full strategy, see: [http://www.president-ksgov.net/repository/docs/National_Strategy_for_European_Integration_Kosovo_2020_ENG_\(1\).pdf](http://www.president-ksgov.net/repository/docs/National_Strategy_for_European_Integration_Kosovo_2020_ENG_(1).pdf).

Within EU–Kosovo relations, numerous strategic documents and action plans provide good ground for civil society monitoring: a visa liberalisation roadmap, action plan to implement a feasibility study for an SAA, EC annual progress reports, EC enlargement strategy, SAP dialogue conclusions, etc. On the other side, a set of bodies and administrative structures has recently been established to boost Kosovo’s EU integration prospects. However, neither these documents nor the institutions provide sufficient transparency to enable proper monitoring.

In particular, the negotiations for an SAA operate behind closed doors as it is considered to be exclusively government business. The usual justifications include claims that it is at a critical stage, that drafts include sensitive information, or even that the EC is suggesting documents be kept away from the public and CSOs. Moreover, the bodies established and responsible for leading this process, such as the National Council for European Integration, Ministry of European Integration, Assembly Committee for EU Affairs, and numerous working groups linked with SAA negotiations or the visa dialogue, are short of resources, side-tracked by political exigencies, managed ineffectively, and opaque in their operations and communications. Often they are not held accountable for their shortcomings and in particular when it comes to assessment reports, action plans and especially draft chapters of the SAA are compiled largely out of the public eye.

These factors have reduced interest and made it impossible for CSOs to effectively monitor the strategic direction, SAA negotiations, performance, and delivery of results in meeting midterm feasibility study requirements. Negotiating the SAA has been a completely closed process, whereas the government, without any EC assessment, claims that midterm feasibility requirements, i.e., public administration reforms, rule of law, minority protections, have been fulfilled. Only a few papers and reports have been issued by CSOs. This reality does not provide the grounds for a civil society contribution, involvement or monitoring of the European integration process in Kosovo.

To effectively address these complex issues, strategic cooperation must be sustained over time. Kosovo’s civil society is almost entirely funded by international donors, and civic groups tend to prioritise grant-seeking rather than pursuing long-term EU agendas. Few organisations in Kosovo persist with the latter since donor priorities and preferences shift quickly, and the “newest” topic is often the most fashionable. This undermines the effective monitoring of the SAA and future EU negotiations.

Recommendations

To the government

- Deliver on agreed strategic directions for Kosovo within the European integration agenda and build a cooperation platform with CSOs. Bring to the discussion strategic documents that will guide Kosovo on its EU path.
- Strengthen administrative and human resources handling the work with CSOs, in particular, the consultation and inclusion process.
- Acknowledge that Justice and Home Affairs issues take a long time and involve multilateral screening, including changes in legislation and administrative structures.
- Focus on implementing strategic documents by informing media and civil society in a timely fashion. Prepare and share relevant reports with CSOs in order to improve the institutions' output and transparency.
- Establish a system for monitoring the work of the Ministry of European Integration, in particular against its own action plans, results, commitments and documents.

To civil society

- Critically analyse the design, performance, transparency, financial commitments, administrative capacity and political willingness to fulfil the mandate and ensure inclusion in various bodies established to boost EU accession process. Analyse key strategic documents of the EU agenda to become informed players in the process. Consult and gather input from a wide spectrum of CSOs.
- Demand transparency by seeking access to negotiation meetings and reports and by following up with advocacy—especially that which puts pressure on officials to be accountable for their commitments.
- Demand that strategic documents be reviewed regularly to take stock of progress and hold accountable those who do not carry out the decisions.
- Offer contribution and constructive alternatives and propose solutions to key reforms being discussed.
- Bring public concerns about the European integration process and/or the visa dialogue to the attention of the institutions.

- Use media to keep the public informed of all developments—*positive or negative*—related to the EU integration process so as to galvanise general support for the upcoming phases of negotiations, also in the north of Kosovo, where public awareness of European integration is even lower.

To the European Union

- Recognise the role of CSOs in the EU integration agenda and encourage participation in negotiations on the SAA and monitor implementation.
- Continue funding and support for CSOs contributing within the EU agenda, focusing particularly on stimulating projects that deal with the long-term accession process.
- Closely monitor the work of CSOs, their contributions and remarks, and give advice on how to enhance their effectiveness.
- Advocate that meetings, documents, and reports be made public or available to CSOs.

2. Human Rights and the Protection of Minorities⁶

Kosovo's constitution lists international human rights instruments that are directly applicable in this country and form an integral part of its legal framework. As Kosovo is neither a party to any of international human rights instruments nor a member of the Council of Europe, its reporting remains a challenge. As regards the promotion and enforcement of human rights, the key challenge is to improve implementation of the existing legal framework and enforcement of decisions remedying human rights infringements.

Freedom of assembly and association is duly exercised in Kosovo. During the last year, there have been several public protests and gatherings against the government, Assembly (Kosovo's parliament) decisions and at a public university that resulted in success, i.e., amendment of an amnesty law and the resignation of the university's rector. The public and opposition movements are free to express their discontent with government policies. Freedom of thought, conscience and religion continues to be exercised in Kosovo. As regards women's rights and gender equality, the government adopted implementing legislation

⁶ This section predominantly takes as a reference the "EC Progress Report for Kosovo, 2013."

for the law on protection against domestic violence. On freedom of expression, the Assembly modified the two articles of the criminal code on criminal liability of media and protection of journalists' sources.

Following the end of supervised independence in September 2012, Kosovo's legal framework continues to guarantee minority representation. It upholds the rights of persons belonging to minorities, and protects vital interests and cultural rights, including those of the Serbian Orthodox Church. The Serb-majority municipalities in the south of Kosovo have been gradually strengthening their capacity. They also participate in bodies such as the Association of Kosovo Municipalities. The Office for Community Affairs increased its assistance to socially vulnerable families and infrastructure projects. Most recently, Serbs living in Kosovo participated for the first time in local elections which resulted in nine municipalities now belonging to Serb political parties.

The Serb community has not undergone an economic transition and still largely depends on the public sector (of both Serbia and Kosovo) for employment and social welfare. It has been insufficiently engaged in public life in Kosovo, as evidenced by the low election turnout, avoidance of the census count and limited internal debates. The focal point for interethnic relations is Mitrovica, but in reality most Serbs live south of the Ibar River in increasingly decentralised and autonomous population areas. Although they share a small country, Serbs and Albanians live largely in parallel worlds.

Despite having four reserved seats in the Kosovo Assembly, the Roma, Ashkali and Egyptians (RAE) are the most marginalised people in Kosovo. They suffer from severe impoverishment and have extremely limited negotiating power. The government has committed to a robust RAE integration strategy but thus far, according to RAE CSOs, it has not been implemented sufficiently. Employment quotas for Roma have not been met, and the rights of Roma being deported from abroad to Kosovo have been neglected. Kosovo is also populated by other communities, including Turks, Bosniaks and Gorani, whose social and economic status is improving and who face the same challenges as the majority.

Recommendations

To the government

- Focus on implementation. Even though Kosovo’s legislation is broadly in line with international standards, some important laws still require both an update and improvement.
- The complex and overlapping institutional setup dealing with the protection, promotion, enforcement of and reporting on human rights needs to be simplified and streamlined, both at the central and local levels. Inter-institutional coordination, including between different administration levels, needs to improve.
- The mechanisms and the overall consciousness and willingness to address anti-discrimination issues have to be further strengthened.
- Enforcement and protection of property rights is a challenge that needs to be approached more effectively. In particular, Kosovo’s judiciary needs to improve its efforts to resolve cases rapidly.
- Spatial planning needs to take into account the requirements of historical and cultural heritage sites. Robust action needs to be taken to stop illegal construction and to correct illegal construction that has already taken place.

To civil society

- Attend the plenary sessions of local Assemblies and be familiar with their work. This will provide the CSOs with the information essential for good governance and transparency.
- Create a special “civilian media” in which CSOs can give their suggestions, criticise irregularities, etc. The existence of such media will ensure that the policymaking process is transparent and clearly visible to all interested citizens.
- By cooperation and joint actions, strengthen the existing networks and associations of Kosovan CSOs such as CIVIKOS⁷—a platform that needs to point objective criticism at human rights challenges.

⁷ The CIVIKOS association consists of more than 130 member CSOs from all parts of Kosovo. For more, see: www.civikos.net.

- Be more focused on the daily issues of citizens and be more responsive to them, in order to gain the necessary confidence and seek accountability.
- Monitor the strategy for integration of RAE communities (2009–2015) which seeks a proper budget allocation, better cooperation between central and municipal authorities, and better cooperation between the government and civil society organisations.

3. Immigration Challenges

After the declaration of independence in 2008, Kosovo began to establish institutions to deal with the Refugee Status Determination (RSD) process, as well as legislation in this area together with the package of laws known as the Ahtisaari Plan, and a package of laws was approved on asylum, citizenship and foreigners.⁸ As a first step of the RSD process under the Law on Asylum of 2008, the Department for Citizenship, Asylum and Migration (DCAM)—responsible for initial determinations of refugee status—was established within the Ministry of Internal Affairs (MIA). The National Commission for Refugees was established in 2010, and since then has dealt with appeals of initial decisions. An administrative dispute before the court begins with a lawsuit in the Basic Court, while the second level is the Appeals Court and, in rare cases, the Supreme Court is the third.

The Law on Asylum was considered by civil society and international organisations to contain high standards of protection of human rights. However, in 2011, the government passed a new law on asylum designed by MIA without taking into account the observations of civil society and international organisations in Kosovo, which raised concerns that the law was not in accordance with the Geneva Convention of 1951 and its protocol of 1967. This led to the drafting of yet new asylum law in 2013, which included EU directives in this area. Bylaws for the implementation of the law are also in place. Also, a technical agreement between UNHCR and MIA was signed to facilitate access of persons in need of international protection and to asylum procedures by providing monitoring of all Kosovo border points by a group composed of

⁸ From 1999 to 2008, the RSD mandate in Kosovo was under the UNHCR. During this period, the UNHCR recognised international protection for 26 persons in Kosovo, mainly from Iraq and African countries. Until 1999, the mandate for refugee status determination in Kosovo was under the Commissariat for Refugees of the Republic of Serbia.

officials of the Kosovo Police, MIA, UNHCR and the Advocacy and Training Resource Centre (ATRC). This agreement is considered a great achievement by all of the parties in the process. The group monitors the borders twice a week as well as has regular meetings and issues reports every three months.

In 2009, the first arrivals of asylum seekers to Kosovo took place and their number reached 32. That number in 2010 increased to 271, though there were only 62 asylum seekers in 2013. Almost all of them use Kosovo as a transit country to continue their journey to the EU. For the first time, the authorities in Pristina recognised subsidiary protection for one asylum seeker from the Democratic Republic of Congo who had left Kosovo without giving information on where she went. Three asylum seekers from Syria in 2013 and one in 2014 were granted subsidiary protection by the authorities. Still, thus far the Kosovo authorities have not recognised the refugee status of any asylum seekers.

The Civil Rights Programme in Kosovo (CRP/K), as an NGO and implementing partner of the UNHCR in Kosovo for all its programmes, is the only CSO that offers free legal aid and assistance to asylum seekers and refugees in Kosovo. Since 2010, such assistance covers the whole procedure before administrative and judicial bodies in all instances. In addition, from 2012, the Kosovo Rehabilitation Centre for Torture Victims (KRCT)—another CSO and UNHCR implementing partner in the respective protection programmes—provides psycho-social assistance to asylum seekers placed in the receiving centre.

Recommendations

To the government

- Increase the capacities of the decision-making bodies in Refugee Status Determination process, i.e., Department for Citizenship, Asylum and Migration (DCAM) and National Commission for Refugees (NCR) officials.
- Improve the competences of the judiciary to deal with asylum cases through training and other forms of capacity-building.
- Create a sector within DCAM to prepare Country of Origin Information (COI), which at this stage represents one of the main weaknesses within the system. Such documents are very important during the RSD process in order to evaluate the claims of asylum seekers related to their country of origin.

- Initiate the establishment of a regional pool of interpreters for the various languages used by asylum-seekers in order to facilitate the RSD process.

To civil society

- Organise various seminars/roundtables with all actors involved in the asylum process in the Balkan region in order to exchange information and best practices among all stakeholders in the asylum issue.
- Be more proactive in raising the awareness of Kosovo's population on asylum seekers' rights in order to prevent xenophobia and other negative phenomena by using media in this regard.
- Initiate the establishment of a refugee law clinic in order to equip students with practical knowledge and experience in refugee law and related areas of human rights. The clinic should be operated under the supervision of university professors and lawyers from CRP/K, which is the only organisation that provides legal assistance and advice to asylum seekers in Kosovo.

4. CSOs as Watchdogs of the Judiciary's Impartiality and Integrity

The experience of the Visegrad countries (i.e., Slovakia) shows that establishing an independent, impartial, politically neutral and professional justice system is a key to success in this domain. In the past 15 years, numerous steps have been made under the supervision of the international community to reform Kosovo's judiciary system and bring its legislative structure into line with international best practices. New laws on courts, the state prosecutor, Kosovo's Judicial Council and Kosovo's Prosecutorial Council came into force in January 2013. These reforms resulted in a process of vetting of new judges and prosecutors in an internationally supervised process, which was the cornerstone for a new infrastructure of rule of law in Kosovo. The Judicial Council was established in order to ensure independence, impartiality and professionalism of the judicial system, and to facilitate the appointment of new judges. Since 2008, EULEX (EU Rule of Law Mission) has played an

instrumental role in building Kosovo's legal system. With its focus on the judiciary and the fight against corruption and organised crime, it has made some progress in terms of sustainability, accountability, freedom from political interference, and compliance with European best practices.⁹

Despite some success, the judicial system in Kosovo remains weak, with its impartiality and independence contested, and political interference in the work of the judiciary has been observed. The 2013 Progress Report criticised in particular the decision of the Assembly to debate cases that involved crimes of former members of the Kosovo Liberation Army, and attempts to adopt a decision interfering with the judicial process. At the same time, other reports¹⁰ contained information about the constant pressure and threats to which judges and prosecutors are exposed, and the inability of institutions to protect them. Tied to that is the inability of the local judiciary to work on high-profile cases, particularly ethnic conflict-related and war crimes, and cases of organised crime. Multi-ethnic crimes committed by both Kosovan Albanians and Serbs are particularly illustrative of the social pressure facing the judiciary. Serious criticism has been levied on the election of the Kosovo Judicial Council as well, as two members are still to be appointed and at the same time four members of the council are elected by the Assembly, which gives an opportunity for political influence to be exerted on their appointment and to question their political background.¹¹

Considering the shortcomings of the judicial and legal system, there is room for substantive involvement of CSOs to conduct monitoring and oversight of judicial sector reform. The main argument for this involvement is that the judiciary is still not fully independent of political interference, threats and intimidation. Also, according to "The Justice and the People Public Opinion Poll—Kosovo 2011,"¹² 64.7% of respondents report an extremely low level of confidence in the judiciary, while the main reasons for impartiality of the justice system according to two thirds of respondents is the perceived

⁹ "The Impunity in Kosovo: Inexplicable Wealth," KIPRED, www.kipred.org/advCms/?id=50,146,146,146,e.

¹⁰ "Independence of the Judiciary in Kosovo: Institutional and Functional Dimensions," OSCE, www.osce.org/kosovo/87138.

¹¹ "EC Progress Report for Kosovo, 2013."

¹² "The Justice and the People Public Opinion Poll—Kosovo 2011," www.justiceandthepeople.org/wp-content/uploads/First_Polling_Report_ENG.pdf.

ability of rich clients to exert influence on judges through bribes, and that pursuing justice is too complicated and expensive.

Civil society in Kosovo is still too weak to exercise its watchdog role in the area of justice. However, serious efforts have been made by donors to influence capacity-building of CSOs in this respect, in order to expose more people to the court system and create avenues for citizens to promote justice-sector reforms and improve court performance. Organisations such as the Balkan Investigative Reporting Network are working on monitoring the court network in Kosovo for several years now and have identified persistent weaknesses and violations in the process, including procedural, legal, technical and ethical lapses.¹³ At the same time, 13 organisations in several regions of Kosovo are working on raising citizen awareness and participation in the justice system in order to increase the number of citizens engaged in court monitoring activities and to increase community knowledge about the courts.

Recommendations

To the government

- Create institutional channels of communication between CSOs and government in order to facilitate civil society input in the adoption of legislation on the judiciary. Initiate closer cooperation with CSOs in order to achieve the full effect of judicial reform.
- Enable amendments to the Law on Courts in order to improve the relationship with the general public by creating a position of court spokesperson to increase the transparency of the court system.
- Ensure the right to public access to court hearings is respected at all times and in all courts.
- Support the monitoring of the court system by CSOs initiated by the donor community.
- Seek the experience of V4 countries on a witness protection programme, community policing, data protection act, and promotions within the justice system.

¹³ “Court Monitoring Annual Report 2012,” Balkan Investigative Research Network, Pristina, January 2013, <http://birn.eu.com/en/file/show/birn%20raporti%20i%20monitorimit%20te%20gjkatave%202012-2013%20anglishtja.pdf>.

To civil society

- Advocate for higher participation and influence of CSOs in the adoption of legislation on judicial reform.
- Help judicial reform through a process of monitoring the judicial system, thus providing greater transparency by informing citizens of judicial proceedings.
- Raise the capacity for monitoring the judicial system by properly focusing donor support. Ensure an increase in the overall number of citizens involved in the court monitoring process. Use information gathered through judicial monitoring to recommend improvements to stakeholders.
- Inform the public about political interference in the judicial system, judicial impartiality and instances of threats and pressure placed on judges or prosecutors.
- Pressure the judiciary and government to ensure access to justice for minority and vulnerable communities (women, disabled, children).

To the European Union

- Continue to support reform of the justice system through the extension of the EULEX mandate.
- Consult CSOs for input on judicial reform in Kosovo's EC Progress Reports, as well as on financial support to conduct monitoring of judicial reform and court cases.
- Exert pressure on the government to establish a system that will enable CSOs to monitor the performance of authorities dealing with migration issues.

5. The Role of CSOs in Exposing Corruption

The high level of corruption still remains one of the biggest challenges in Kosovo's EU accession process. According to the 2013 Progress Report, the legislative framework for combating corruption is largely in place, but the main issue of concern is the implementation of relevant "legal and policy

frameworks.”¹⁴ The report also finds that cooperation among key agencies responsible for combating corruption is weak.

In February 2013, the Kosovo Assembly passed a new anti-corruption strategy and action plan for the period 2013–2017, which was among the priorities in the 2012 Kosovo Feasibility Study.¹⁵ The 2013 Progress Report recommended that a “corruption risk assessment” be presented along with the strategy. In addition, Kosovo’s Anti-Corruption Agency (ACA) adopted a five-year Anti-Corruption Strategy (2012–2016), followed by an action plan. Apart from synthesising the role of the responsible public authorities and agencies in combating corruption, the strategy recognised the role of CSOs in “analyzing anti-corruption laws, instruments and implementing measures of the Action Plan” and aimed to increase the level of cooperation between civil society, public institutions and media in raising awareness of corruption.¹⁶

Besides the establishment of judicial and law enforcement institutions, in particular, the Special Prosecution Office of the Republic of Kosovo (SPRK) in 2008 and the SPRK Special Anti-Corruption Task Force in 2010, Kosovo has also established a number of agencies that are tasked with combating corruption, including the Kosovo Anti-Corruption Agency as “an independent and specialised body responsible for implementation of state policies for combating and preventing corruption in Kosovo.”¹⁷ However, the lack of coordination with other competent authorities means the agency lacks the information needed to carry out its mission.¹⁸ Furthermore, cooperation with the prosecution offices in Kosovo is below the required level, which results in just a few indictments in cases processed by the agency—less than 10% of cases were followed by prosecution.¹⁹ Another institution for combating corruption is the National Council against Corruption (ACC), established by the president of Kosovo. As with the other agencies, it has not produced significant results and has failed to fulfil its mandate, which included

¹⁴ “EC Kosovo Progress Report 2013,” p. 12.

¹⁵ “Feasibility Study for a SAA between the European Union and Kosovo,” http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf.

¹⁶ “ACA Anti-Corruption Strategy 2012–2016,” p. 28, http://akk-ks.org/repository/docs/Draft_Anti-Corruption_Strategy_2012%20_%202016.pdf.

¹⁷ Law on Anti-Corruption Agency (LAW No. 03/L-159), Article 3.

¹⁸ See “EC Kosovo Progress Report 2013,” p. 13.

¹⁹ *Ibidem*.

coordination, strengthening of existing anti-corruption mechanisms and initiating or enhancing anti-corruption laws.²⁰

Thus, combating corruption largely depends on political will, given that the legal, policy and institutional frameworks are in place. Yet the results are still weak. Given the nature of the ACA Anti-Corruption Strategy, the role of CSOs in Kosovo is particularly important in activities that raise awareness of corruption and its negative effects, as well as monitoring the work of anti-corruption institutions and agencies.

Recommendations

To the government

- Ensure efficient implementation of legal and policy frameworks in combating corruption.
- Ensure effective coordination of various state actors involved in combating corruption.
- Give priority and constant support for the work of anti-corruption agencies, in particular the ACA.
- Allocate sufficient funds to agencies responsible for combating corruption.
- Support CSO involvement, in particular in projects aimed at raising awareness of the importance of anti-corruption efforts.

To civil society

- Build own capacities for anti-corruption efforts, both in terms of education and advocacy, and by establishing anti-corruption networks and coalitions in order to articulate demands more efficiently to the government and its respective institutions.
- Extend the powers of CSOs in anti-corruption activities and provide for efficient coordination between public institutions and CSOs.
- Request a reaffirmation of the ACA Anti-Corruption Strategy, which in part calls for strengthening cooperation between CSOs and public institutions in monitoring the implementation of anti-corruption policies.

²⁰ “The Impunity in Kosovo...” *op. cit.*, p. 10.

- Analyse Kosovo’s anti-corruption laws and strategic documents, including the findings and recommendations of Progress Reports on a regular basis.
- Establish partnerships with media in order to keep the public informed about developments in anti-corruption efforts.

To the European Union

- Support Kosovo’s institutions to improve legal mechanisms for the implementation of anti-corruption legal and policy frameworks.
- Urge Kosovo’s government to support the work of anti-corruption agencies and bodies by concrete means, especially in terms of funding and prevention of political interference.
- Support CSO anti-corruption activities, through grant and funding programmes.
- Closely monitor the results of combating corruption and CSO involvement in the process, and provide feedback when needed.

6. CSO Engagement in Civic Education²¹

Following a memorandum of understanding between the government and civil society in 2007 and a long process drafting it, a government strategy for cooperation with civil society was adopted in July 2013. Although the action plan within the document includes estimated costs for each of the planned activities, until now there has been no allocated budget for implementation. The strategy and action plan were developed jointly, with civil society collecting and providing most of the data and expertise. The drafting process involved many CSOs from different areas of interest. The government recently decided to establish a national council for the implementation of the strategy, a procedure that has still not started, with the mechanisms of implementation only being in the process of design. Although it is too early to demonstrate any improvement from this document, the strategy is planned to be continuously monitored by both sides, as well as periodic evaluation and

²¹ This section is predominantly based on the findings of the KCSF publication “Monitoring Matrix on Enabling Environment for Civil Society Development,” Section 3.1, March 2014, www.kcsfoundation.org/repository/docs/17_03_2014_827819_Kosovo_CSDev_Matrix_Final_eng.pdf.

revision while the design of the implementation modalities is being conducted in close cooperation with civil society. Recently, the Assembly of Kosovo and a number of CSOs initiated the drafting of a declaration by the Assembly that would recognise the role of the sector and would plan a number of measures for improving cooperation and supporting civil society.

The importance of developing such cooperation is still not fully recognised by the state, and the operation of relevant institutions is at very early stages. Concretely, the Office for Good Governance within the Office of the Prime Minister (OGG/OPM) is the central unit to facilitate cooperation between the government and civil society. Following the adoption of the governmental strategy for cooperation with civil society, OGG/OPM has also been tasked to serve as the secretariat for the Joint Advisory Council, which is to be established as an advisory body for the implementation of the strategy. With this task among many, OGG/OPM has insufficient human and financial resources to serve as both CSO-government dialogue facilitator and secretariat to the Joint Advisory Council. In turn, although its name indicates a mandate to cooperate with civil society, the CSO Registration and Liaison Office within the Ministry of Public Administration deals only with registration of CSOs and public benefit status, whereas liaison and cooperation with civil society is almost inexistent. At the level of the Assembly of Kosovo, a civil society liaison officer was recently appointed, with the aim to serve as a contact point for CSOs that are interested in becoming involved in the work of the Assembly and its committees. The results of this initiative by international organisations have yet to be seen.

Recent studies show that around 8% of CSOs' funds come from government sources, while there is neither official public funding for such an aim nor criteria and procedures on disbursing and using such funds. This has been observed despite the fact that the Law on Freedom of Association of CSOs requires all public institutions that cooperate and financially support civil society to have pre-determined and transparent criteria for this support.

With regards to civic education through which citizens can be well informed and actively involved in their own governance, Kosovo is lacking. Civic education in Kosovo most assuredly needs to be concerned with promoting an understanding of the ideals and a reasoned commitment to the values and principles of democracy. This assignment currently is only part of CSOs' projects and activities. Conversely, the curriculum of the formal

educational system in Kosovo has limited civil society-related topics—mostly in the primary level of education through the subject Citizenry Education. Several private universities provide some opportunities for students to engage with CSOs, while public universities still lag their counterparts.²²

Recommendations

To the government

- Recognise the role, importance and relevance of CSOs in the EU accession process, using best practices from Visegrad countries.
- In cooperation with civil society, enable the CIVIKOS platform to appoint a member of the council in order to facilitate the implementation of the strategy for cooperation with civil society.
- Allocate funding for implementation of the government strategy for cooperation with civil society. Design transparent and open tender procedures. Organise intensive education and capacity-building activities for civil servants on this strategy and their role in its implementation.
- The Office for Good Governance within the Office of the Prime Minister should establish a specific unit for cooperation with civil society, with a mandate to facilitate government–CSO cooperation and invest in enhancing its human and financial capacities.
- The Kosovo Statistical Office should cooperate with civil society development organisations in collecting and publishing relevant data on the civil society sector.
- Include civil society-related topics in the official curriculum of the educational system in cooperation with CSOs, and public and private schools and universities should create more opportunities for their students to engage with CSOs.

To civil society

- Be precise in reflecting public interest while advocating for laws and policies or in decision-making processes. Be aware that timely information on public administration work is a precondition for any type of cooperation between CSOs and public administration, and a key element of advocacy initiatives.

²² *Ibidem*, p. 21.

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- Strengthen own capacities and profiles in order to improve communication with public administration, get access to information and public documents, contribute and have an impact on policymaking, writing laws, and reflecting constituency needs while preparing local administration rules and procedures.
 - Actively engage in drafting various public policy documents, such as laws, policies, secondary legislation, municipal regulations, acts, etc.
 - Become informed and seek accountability on reforms and results within the EU integration agenda, i.e., Visa Dialogue, Rule of Law Dialogue, Public Administration Reform, European Partnership Priorities, SAA negotiations and draft agreement.

Conclusion

It is crucial that Kosovo remains engaged in the EU integration process and therefore motivated to fight corruption and organised crime, improve law enforcement and set up an independent judiciary, observe human rights and protect minorities. In this respect, the recently adopted governmental strategy for cooperation with civil society provides a comprehensive framework for CSO involvement. However, the current institutional setup and human and financial resources do not guarantee its proper implementation.

Meanwhile, the CSO sector generally acknowledges the importance of these processes. Therefore, strengthening cooperation between the public administration and civil society will in part contribute to overcoming the above-mentioned challenges. On the other hand, all of the civil society organisations need to be well-prepared and equipped, and with their various strengths act as one whenever possible in order to maintain their role in state reforms. Valuable experience can be gained from countries that have already journeyed to EU membership. A lot of this experience lies with the experts and institutions in the Visegrad countries. Building bridges of communication, strengthening existing networks, exchanging lessons learned and legislation, or using these resources on the Kosovo side is instrumental for its preparations for the next phases of EU accession. This is yet another argument that allows one to conclude that it is the right time to establish healthy relations between the government (and all other public institutions) and CSOs in order to be able to act as one against numerous challenges concerning *acquis* chapters 23 and 24.

MACEDONIA

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Introduction

The EU integration process of Macedonia has encouraged numerous legislative and policy reforms that aim toward the improvement of cooperation between government and civil society organisations. The Strategies for Cooperation of the Government with Civil Society (2007–2011 and 2012–2017) recognise it is in the interest of the government to facilitate the development of civil society and enhance its partnership with CSOs. In this spirit, in 2011 the government also adopted a Codex of Good Practices for the Involvement of Civil Society in Policymaking, which defines the means through which effective cooperation between the government and civil society can be established through informational sessions, consultations, dialogue, and partnership.¹ Due to these efforts, after a regular decline until 2007, Macedonia is slowly improving its scores in the Civil Society Organisations Sustainability Index (CSO SI) for advocacy every year.²

Moreover, in 2011 Macedonia expressed an interest to join the Open Government Partnership global initiative, which in part requires the government to open up decision-making processes, and is now implementing the second action plan for 2014–2016.³ It has also adopted a Law on Free Access to Information of Public Character (2006)⁴ and launched the Unique Electronic National Registry of Regulations (2012),⁵ which improved the working environment of CSOs by giving them access to more information and more opportunities to monitor policies and influence them.

All of these efforts have been particularly encouraged by the EU integration process in Macedonia, which is why the improvement of the government's cooperation with civil society is also part of the National Strategy

¹ “Codex of Good Practices for the Involvement of the Civil Society in Policy-Making in 2011,” *Official Gazette of the Republic of Macedonia*, 99/2011, 22 July 2011.

² “CSO Sustainability Index 2010,” “NGO Sustainability Index 2011,” “NGO Sustainability Index 2012,” USAID, www.usaid.gov/sites/default/files/documents/1863/2012CSOSI_0.pdf.

³ The Open Government Partnership is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. For more, see: www.opengovpartnership.org/about#sthash.DhWffqUk.dpuf.

⁴ “Law on Free Access to Public Information,” *Official Gazette of the Republic of Macedonia*, 13/2006, 1 February 2006.

⁵ Unique Electronic National Registry of Regulations (ENER), <https://ener.gov.mk>.

for EU integration.⁶ In practice, however, CSOs report that they are not always informed of consultation sessions on public policies with government institutions and even when recommendations are submitted they are rarely applied to the final versions of official documents. The CSO SI report on Macedonia shows that the local government is slightly more cooperative with CSOs in policymaking processes. Nevertheless, it is important to note that the insufficient professional capacities and expertise of the civil sector is also a legitimate justification for their limited influence on public policy.⁷

1. The Strategic Framework, Action Plans and Effective Monitoring

CSOs' involvement in the EU accession process, including in the negotiations, should be consistent, effective, and encouraged and supported by the government if it is to fulfil one of its most important goals—the effective participation of CSOs in policymaking and monitoring adopted legal and policy frameworks, including the work of relevant institutions. Such involvement presupposes that these organisations will be involved in strategic planning, in developing action plans regarding the negotiations and, later on, in monitoring.

The negotiations and accession process of the Central and Eastern European countries shed much-needed light on the importance and difficulty of instituting reforms and substantial changes. Moreover, as observers of the 2004 and 2007 enlargement point out, justice and anti-corruption were largely underestimated in that round, causing the EU to later focus more on those areas⁸ and to amend the accession process rules and stages (for example, keeping specific chapters open throughout the whole negotiation process). The EU's normative power in a post-enlargement context has also been the focus of research showing that once the “monitored” become part of the “monitor,” declines in reform efforts in areas such as human rights and minority rights

⁶ “National Strategy for the Integration of the Republic of Macedonia in the European Union”, Government of the Republic of Macedonia, 2004.

⁷ “CSO Sustainability Index 2010,” p. 14.

⁸ M. Nič, “The Strategic Framework, Action Plans and Effective Monitoring during the Negotiations” (panel), *Visegrad for Strengthening Democracy in the Western Balkans: Slovakia's Experience with Cooperation between Civil Society and Public Administration* (20–21 March 2014).

are to be expected.⁹ The reasons for this are complex and well beyond the scope of this paper. Nevertheless, the role of CSOs in democratic societies is one of vital importance, with or without an ongoing accession process, so that CSOs should continue to be effectively involved in national public policy processes even after the negotiations are completed, including monitoring, and even more so to expand their work on a larger scale by also participating in EU policy processes.

In view of this, the involvement of CSOs during and after the negotiation processes needs to be looked at through more strategic lenses and as long-term cooperation. Thus, the governments need to find a model that will allow inclusion of CSOs via instituted mechanisms for cooperation in the negotiations process, which will ensure their continuous effective involvement.

Recommendations

To the government

- Plan all actions by observing the principles of transparency, accountability and participation.
- Discuss and agree on a model of meaningful and effective CSO involvement in this process, which can serve as a long-term framework, and which can continue to function even after the country joins the EU in order to serve as a watchdog against regression.
- Open a broad consultation process with CSOs on all issues of importance to the negotiations, including issues usually seen as preparatory only, as they can be of utmost importance.
- Introduce guarantees for cooperation with CSOs in the negotiations process by amending the laws and policies in place, and by adjusting the relevant institutional framework.

⁹ Sasse discusses the EU's political leverage in the post-accession period, commenting that, "In this period the scope for EU involvement in minority issues is gone, the OSCE is politically weakened, and the Council of Europe remains the only international institution with a mandate to monitor minority issues in Europe." Source: G. Sasse, "The politics of EU conditionality: the norm of minority protection during and beyond EU accession," *Journal of European Public Policy*, vol. 15, no. 6, 2008, pp. 842–860. For an earlier work, see also: G. Sasse, "Gone with the Wind? Minority Rights in Central and Eastern Europe before and after EU Enlargement," draft paper based on the workshop *Ethnic Mobilization in the New Europe* (Brussels, 21–22 April 2006), 2006.

- Use CSOs' capacities for identifying and prioritising issues and areas of importance, and for developing strategic planning.
- Develop realistic and implementable action plans, which also include feedback from the CSOs. Allow sufficient time and resources for the meaningful inclusion of CSOs.
- Report on all important developments regarding the negotiations and leave an open channel for communication, including by publishing data that will enable effective monitoring of the process by CSOs.

To civil society

- Enhance cooperation among CSOs by acting through formal and informal networks. Explore the potential of engagement of various actors from civil society.
- Be an advocate in front of and cooperate with the government to establish a mechanism for CSOs' meaningful and effective involvement in EU negotiations-related processes.
- Continuously and fully exploit existing legal mechanisms for consultations on acts via online tools provided by the government on all issues of importance to the negotiations with the EU.
- Demand feedback on consultations and a continuous update on the progress of negotiations.
- Regularly report on the outcome of involvement in these processes, via available print and online media and other outlets (including CSOs' own websites and social media accounts), as well as through reports to and meetings with international representatives, including those from the EU.

To the European Union

- Request the government maintain both high standards of involvement and consultations with CSOs, as well as information about CSO involvement in the processes taking place at the national level at all stages, including requiring sufficient feedback and elaboration on the final outcomes of these processes.
- Provide assistance and/or advice to domestic CSOs for effective and meaningful participation.

2. Civil Society–Government Dialogue on Human Rights: Enforcing and Expanding Mechanisms

Consultation mechanisms with CSOs on both legal acts and, to some extent, public policy documents in general (therefore also including those pertaining to human rights issues) are in place. Nonetheless, the general remark stands, as these mechanisms are inadequately implemented. Consultations are often conducted *pro forma* and feedback and/or recommendations from the CSOs do not receive sufficient consideration. Bylaws can often have an enormous impact on the implementation of laws. However, the bylaw drafting process is still a grey area when it comes to CSO–government consultations.

The practice thus far provides examples of dialogues that have been open, but have in the final stage failed to reflect the input provided by CSOs during the consultation process. For instance, the consultation process on the drafting of the Law on Prevention and Protection against Discrimination lasted for about three years and ended without taking into consideration or reflecting properly the comments, observations and recommendations of the working group assembled for this task and comprised of both government and civil society representatives. This experience resulted in lower trust in the government’s intentions and commitment to including CSOs in consultation processes. CSOs are often convinced their time and effort spent in these discussions are in vain.

Moreover, when it comes to CSO–government dialogue on human rights issues, the implementation of these mechanisms does not seem to be adjusted to the specificities of the area. They do not provide for mandatory wider participation of all interested parties, nor do they provide guarantees for timely and meaningful consultations. The lack of human rights impact assessments in the process of drafting of laws and policies is also notable, leaving room for the adoption of potentially damaging and regressive policies in this area.

Recommendations

To the government

- Establish a practice of consultation with CSOs on bylaws.
- Introduce special guarantees for participation and consultation with various communities, including ethnic ones, and of marginalised and vulnerable groups.

- Plan all actions to include observing the principles of transparency, accountability and participation from the very start and for the duration of the consultation process, and report on the outcomes of consultations, allowing for sufficient feedback and elaboration on the final (public policy and/or legislative) choices, by publishing data and allowing uninterrupted access to them (under the Law for Access to Public Information), which will enable effective monitoring of the process by CSOs.
- Conduct human rights impact analyses, employing the Human Rights-Based Approach, and including a gender assessment.
- Promote national human rights institutions stewardship in cooperation with CSOs, with their inclusion in the consultation processes.
- Work with CSOs on joint positions, papers, proposals, etc. in relation to consultation processes.

To civil society

- Enhance cross-thematic cooperation among CSOs by acting through formal and informal networks, including those from among the whole range of civil society actors.
- Further explore the possibilities for actions in parliamentary procedures, including indirect participation via cooperation and promotion of stewardship of human rights with targeted members of parliament.
- Use the potential of international actors when pushing for public or legal policy reforms, or issues in the country.
- Explore the online tools provided by the government on all issues of importance to the negotiations with the EU.
- Demand feedback on consultations, especially on dropped recommendations on public policy choices and proposed legislative amendments, including comparisons of these with the relevant findings of the conducted human rights impact analysis.
- Report on the outcome of the consultations and disseminate the results of the consultations as clearly and as widely as possible among both the domestic public and the international community.

To the international community

- Double-check information from the government on the participation of CSOs regarding the course and results of consultations.
- Use reports from human rights bodies to highlight the importance of consultations on human rights issues, in view of safeguarding the participation principle.

3. Immigration Issues in NGO–Government Interaction

Due to its geographic location at the crossroads between the EU and the Middle East, Macedonia is a significant transit point for illegal immigrants striving to enter one of the countries of the EU. Macedonia was also adversely affected by the devastating wars of the 1990s in the Balkans, which had a long-term effect on the region (by creating weak democracies, endless transitional economies, and unresolved transitional justice issues), serving as an impetus for immigration and refugees, and making the country fertile ground and a key route for organised crime and human trafficking. This situation started to change after the region began the EU integration process, more specifically the stabilisation and association phase. With the obligation to meet high standards for border control, Macedonia reformed and, in certain ways, improved its system for addressing immigration properly. However, the cooperation between the government and CSOs is very limited and if it takes place is encouraged, or at times even imposed, by some international donors (such as UNHCR).

Today, Macedonia is a candidate country for EU membership with visa-free travel to the EU. The current immigration flows are mostly for economic purposes and use Macedonia as a transit country, with the EU as the final destination; however, the number of asylum seekers is growing annually, with most coming from Syria, Somalia and Afghanistan. An illustrative example of the scale to which immigration is an issue is the case of the small village of Lojane in the north of the country near the Serbian border which became an unofficial stop-over on illegal migration routes as it is controlled by local criminals, not law-enforcement agents. This problem needs to be properly addressed by the government, and the best solution can be achieved by cooperating with CSOs.

With the liberalisation of the visa regime with the Schengen countries in 2010, Macedonian citizens obtained the right to travel to the EU without visas. This led to a rise in the number of “fake” asylum seekers (citizens of Macedonia seeking asylum in Germany or Belgium, the majority of them from the Roma population who were living in extreme poverty and seeking asylum for economic reasons), which these countries regarded as a misuse of the visa liberalisation process and warned Macedonia’s government that re-establishment of the visa regime was possible if it continued. With this threat, Macedonia responded by denying only Roma the right to leave the country without determining any intention or probable cause that they will seek asylum in EU. The government’s action was seen by CSO’s and even by national courts as clear discrimination and racial profiling. This practice continued in the following year and even until now, and efforts need to be made in order to eliminate it.

Recommendations

To the government

- Establish an efficient legal aid system for asylum seekers and illegal migrants through the adoption of relevant legislation that will provide full access to justice in administrative and court procedures within the domestic legal system, thus facilitating the protection of human rights through relevant international law. The legal aid system should include CSOs as providers of the service.
- Provide the basis for effective border monitoring, an organised and systematic activity aimed at observing and documenting procedures involving foreigners and potential asylum seekers at the borders and in related facilities (police stations, detention centres for irregular immigrants, etc.). This activity will increase trust in the rule of law among those groups that would otherwise be most vulnerable and exposed to mistreatment: foreigners who do not speak the language, do not know the legal system and have no social network in the country to ask for assistance when in need. Secure the participation of CSOs and/or the national ombudsman in the process of border monitoring.
- Develop and implement programmes aimed at social protection, basic healthcare services and education for asylum seekers and immigrants stationed at reception centres, in cooperation with relevant CSOs.

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- Refrain from using the fulfilment of the obligations under the visa liberalisation process as an excuse for racial profiling and discrimination against Roma. Revise relevant policies, procedures and the implementation of practices that can potentially lead to racial profiling and discrimination, taking into consideration recommendations by CSOs that have worked on this issue.
 - Adopt the necessary legal framework for sanctioning hate speech against foreigners and immigrants and ensure its proper implementation.
 - Develop and support an awareness-raising strategy for combating xenophobia and misleading information for immigrants.
 - Conduct a review of the alignment of domestic laws and policies with EU and Council of Europe standards in relation to the integration of foreigners, and include relevant CSOs in the process. The use of the Migrant Integration Policy Index (MIPEX) tool to this end can be of great assistance to both the government and to CSOs.

To civil society

- In view of the interplay and often contrasting arguments amongst national security and the protection of the rights of immigrants, and especially their human rights, devote special attention to capacity-building to be able to conduct advocacy activities on this issue.
- Design and develop reasonable and feasible programmes for the protection of human rights of immigrants, with a focus on access to legal aid, border monitoring, social protection, healthcare, education, and participation in public life.
- Design and implement campaigns against xenophobia and hate speech against immigrants.
- While implementing activities related to immigration, establish formal or informal coalitions among CSOs for information exchange and sharing experience, both on the national and regional levels.
- Monitor the work of public authorities and law enforcement, and engage in a public-policy dialogue (including producing policy documents) and advocacy activities.

To the international community

- Continue and strengthen donor support for joint actions implemented by the government and CSOs aimed at improved cooperation and coordination in addressing immigration-related issues.
- Support regional cooperation by providing an attractive framework for it as well as financial support, with the aim to enable countries to share information and best practices more effectively.
- Provide grounds for implementation of broad actions against human trafficking and migrant smugglers.
- Make efforts to initiate and facilitate exchange of experience and best practices between the countries from the Balkan region and countries with highly developed immigration systems that meet international human rights standards.

4. NGOs as Watchdogs of the Judiciary’s Impartiality and Integrity

The judiciary in Macedonia has been undergoing deep structural reforms aimed at strengthening its independence and integrity for more than 10 years now (including the strategy on reforms of the judicial system of 2004, amended in 2009). The reforms were comprehensive and focused on: the institution charged with the selection of judges from the parliament to the Judicial Council, establishment of an academy for judges and public prosecutors, adoption of new procedural laws (civil, administrative and criminal), law on the implementation of the ECHR judgments, and new laws on courts and court administration.

This wave of reforms has also raised serious concerns among the professional and academic community. They based their doubts about the impact of the reforms on the strong political influence of the judiciary effectuated through highly questionable disciplinary procedures that have resulted in the dismissal of judges who reached decisions “unfavourable” to the ruling political elite, and at the same time the promotion of judges affiliated with the elite. These ties and influence, ultimately resulting in “selective justice,” are also evident in some high-profile cases.¹⁰ All these serious claims

¹⁰ See the cases Ramkovski, Boskovski, Kezarovski, Sipovic, etc.

and conclusions are noted in relevant international and national reports.¹¹ However, no efforts at a rebuttal have been made by the judicial institutions.

Consequently, the independence, impartiality and integrity of the judiciary are seriously disputed and there is a growing negative perception among the public about the justice system. The intention to increase the independence of the judiciary by transferring all competences to a single institution, the Judicial Council, had a negative side effect on its accountability, as no effective check-and-balance system was established. This also caused a lack of transparency, which, in a certain period, was used to establish political influence over the institution.

In such a situation, the role of CSOs in addressing independence, impartiality and integrity stands out as highly challenging and demanding. Usually the activities of CSOs in this area are focused on material rather than procedural or organisational issues, for example, bringing cases, analysing court practices, or conducting capacity-building activities for courts dealing with issues such as discrimination, organised crime, torture, freedom of expression, etc., but not activities on issues such as procedures for the appointment and promotion of judges, case distribution and management, independence, integrity, impartiality, etc. The reasons for this include a lack of confidence in the judiciary, the inadequate capacity of CSOs to perform high-quality monitoring, a closed-door culture, and an inadequate legal framework.

Recommendations

To the government

- Amend the Law on Courts and the Law on the Judicial Council in a manner that will increase the transparency of the procedures for the selection, appointment, promotion and dismissal of judges, and that provides the legal basis for CSOs, academia and media to be properly informed about these procedures.
- Increase the transparency of the processes of drafting strategic documents (strategies and action plans) in the areas of the judiciary and justice and ensure the participation of relevant CSOs in all drafting and adoption stages.

¹¹ See the U.S. State Department country reports on human rights in Macedonia in 2012 and 2013, and the EU and progress reports for EU accession of Macedonia in 2010, 2011 and 2012.

To the judiciary

- Increase the transparency of the Judicial Council, especially with regards to the cases of dismissal and/or appointment and promotion of judges. This can be achieved through open access to all documents relevant to the procedures that are not confidential, publishing the decisions online, allowing the participation of media and CSOs at its meetings, online streaming of meetings in which important decisions are made, such as the selection of new judges and dismissal of judges on grounds of misconduct.
- Fully implement a “merit system” in the promotion of judges prescribed in the Law on Courts. Provide the basis and tools for greater CSO involvement in monitoring the work of the Judicial Council, and the judiciary in general, to support publicity and transparency as core principles of the judiciary under Article 10 of the Law on Courts. Such tools include regularly informing the public and CSOs about the agenda of the Judicial Council, participation of CSOs in all meetings, except those from which the public is forbidden by law.

To civil society

- Establish an effective and efficient monitoring system capable of observing the work of the Judicial Council with special attention to the following areas: disciplinary procedures for misconduct, selection and appointment of new judges, and promotion of judges from lower to higher courts. Monitoring should be conducted through access to all relevant documentation (excluding files that are in procedures declared as confidential) and participation at meetings of the Judicial Council.
- Monitor the hearings and procedures in general in high-profile cases, including cases related to organised crime, serious human-rights violations, defamation cases against journalists and all other cases in which there are well-founded concerns about selective justice.
- Conduct monitoring of the case distribution system as a key precondition for impartiality of the judiciary, and regularly publish and disseminate the findings of this monitoring through the media and online, in order to inform the general public. To this end, establish close cooperation with media and independent journalists that are covering this area of the judiciary.

- Enhance cooperation with associations of legal professionals (Association of Judges, Association of Public Prosecutors, Bar Chamber).

5. The Role of NGOs in Exposing Corruption

Corruption is perceived to be a serious problem in Macedonia, surpassed only by unemployment and poverty.¹² It heavily burdens the socio-economic and institutional development of the country. However, as it is embedded in the political culture of Macedonia, it is a persistent practice, despite a well-developed anti-corruption legal framework. The State Commission for the Prevention of Corruption (hereinafter: the commission), established in 2002 under the Law on Prevention of Corruption, is the main guardian of the foundational anti-corruption laws (the Law on the Prevention of Corruption, Law on Prevention of Conflicts of Interest, Law on Free Access to Public Information). Nevertheless, its work is significantly hindered by its lack of independence, lack of public trust, and limited human and financial resources.

The EU integration process has had a positive impact on the adoption of significant anti-corruption laws and the ratification of international conventions against corruption (United Nations Convention against Corruption, Criminal Law Convention against Corruption and the Civil Law Convention against Corruption). Yet, the implementation of these laws remains limited, mainly due to the absence of the rule of law, low public trust in institutions charged with maintaining integrity, and the absence of a culture of integrity.

Besides the lack of a culture of integrity in dealings with the government in the country, the bottom-up reaction and fight against corruption is additionally hampered by the limited freedom of expression (Freedom House Press Freedom Index 2013: 56/100), the absence of a law on whistleblower protection, and the perception of the judiciary as the most corrupt sector in the country (68%).¹³

¹² “Corruption in the former Yugoslav Republic of Macedonia: Bribery as experienced by the population, 2011,” TI Index 2013, UNODC.

¹³ Global Corruption Barometer 2013.

Recommendations

To the government

- Guarantee media freedom and refrain from restraining investigative journalism so as to support a bottom-up fight against corruption, and simultaneously contribute to the development of a public culture of integrity.
- Amend the Law on Prevention of Corruption to include clear provisions about whistleblower protection.
- Create ownership of policies through closer cooperation with CSOs in policymaking and policy implementation.
- Build capacities to proactively publish information of a public character online, including annual budgets and every amendment, and grow more efficient in responding to requests for access to public information.
- Allocate a larger budget to the commission so it can form a bigger team to conduct effective supervision and monitoring of the compliance of public officials with anti-corruption rules, and to enforce sanctions in cases of inappropriate conduct, as its current limited resources leaves many offenses unaddressed.
- Require state institutions to act proactively, with the aim being to fight corruption from within by monitoring and enforcing compliance of officials with the anti-corruption provisions of the institutional Code of Ethics (e.g., regular updates of declarations regarding changes to assets, conflicts of interest, gifts, etc.), which will alter the perception of the commission as the only institution responsible for fighting corruption.

To the judiciary

- To boost public trust in the judicial system, appoint public relations officers in the courts who will communicate to the public the opportunities available to denounce corruption and submit complaints, and widely publicise the availability of court decisions online, as well as other efforts of the court to maintain transparency. The absence of successful public relations is part of the reason for the low level of trust amongst citizens.

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- Update the Code of Ethics for judges to be in line with anticorruption standards on gifts, asset declarations, conflicts of interest, and other activities. It should also define the rules on judges' communication with third parties outside of the formal procedures, as well as include clear standards with specific explanations. Apply the same to the Code of Ethics for public prosecutors.
 - Accompany the decisions of the Judicial Council on the promotion of judges with communication about the reasons for the decision, with the possibility of invoking a legal remedy.
 - Delineate a clearer definition of the conditions when a judge can be dismissed. Use this tool only in the most serious cases of misconduct. Apply the same to the dismissal of prosecutors.
 - Separate the authority that initiates proceedings and investigates them from the authority that decides sanctions, i.e., a member of the Judicial Council should not be able to initiate a disciplinary procedure against a judge, sit on the commission that the council establishes for the investigation of a case, and then decide on the disciplinary sanctions in an equal position as other members of the council.

To civil society

- Work in coalitions so efforts can be coordinated and tasks divided according to expertise so each CSO can focus on particular forms/appearances of corruption, hence avoiding duplication. Such collaboration among CSOs can both ensure a greater policy impact and raise the chances of representative participation in national and international forums.
- Complement the activities of the commission by performing a watchdog role by: monitoring the lifestyles of public figures (observing potential changes in asset ownership of public figures who do not submit a new statement of asset declaration and conflicts of interest); measuring and monitoring levels of participation and transparency in the budgeting of public institutions; and exposing cases of corruption by also protecting whistleblowers.
- Monitor the implementation of national legislation and international conventions and publish annual reports as alternatives to those of the European Commission.

- Continue to play a significant role in the education of citizens and state administration about how to recognise corruption, how to refrain from committing it, and how to denounce it.

6. The Role of CSOs in Civic Education

The government has promoted and worked toward the incorporation of civic education into the national curriculum for elementary education since the late 1990s, for which it has received considerable assistance from international organisations and CSOs. Yet numerous concerns remain regarding the quality and originality of textbooks and in the way they portray the ethnic makeup of the state. Certainly, ethnic conflict in the country has politicised and undermined the development of civic education and, therefore, Macedonia requires a growing focus on integrated education.

On the other hand, civic activism and public awareness of civic rights remain low in Macedonia, and this raises concerns over the effectiveness of the national curriculum to achieve its goals. When civic education was incorporated into the national curriculum in the early 2000s, teachers received training on interactive methods of teaching, but these methods are rarely employed. Therefore, critical thinking and debates are not encouraged and students do not, in practice, learn to respect diversity and apply democratic principles. Additionally, student associations carry little, if any, significance in the decision-making processes in their schools and communities. Programmes for extra-curricular activities and community service within the activities of the school are rarely implemented.

The deficiencies of the programme call for closer cooperation with CSOs that have more expertise in informal education addressing civic rights and responsibilities. Yet, the efforts of CSOs to influence policymaking in relation to education are generally fruitless, as the policies are decided on in quite centralised circles of the government. The government sometimes contracts CSOs to offer particular training, but their scope and impact is limited. For example, despite workshops offered by CSOs that promote prejudice reduction and ethnic peace, ethnic tensions remain at a considerably high level, since the environments in which youth spend most of their time are mono-ethnic, and although the government has a national policy on integrated education, the process is stagnant. Also, gender equality is not sufficiently taught in the Macedonian educational system. Enhanced and genuine cooperation between

the government and CSOs would allow for the division of tasks and effective policies toward civic education, as recommended below.

Recommendations

To the government and relevant public institutions

- The Bureau for Educational Development, in partnership with local CSOs, needs to offer intensive training to teachers (in both elementary and high schools) for more active methods of teaching, including the use of audio-visual tools, as well as provide teachers with educational material so as to introduce a more participatory, thought-provoking classroom environment to encourage respect for differences and the practice of democratic principles from an early age. Furthermore, it should offer workshops to Parents' Councils, Student Councils, and school leadership in order to encourage these associations to be active and effective participants in the decision-making processes within schools on issues that directly concern them and their community.
- The Ministry of Education and Science needs to develop the parameters and standards for long-term monitoring and evaluation of the effectiveness of the educational programme in place, and apply necessary changes in a timely manner.
- School principals, teachers and parents should work together to initiate community-service projects to engage students in civic activism from an early age.
- For the purpose of integrated education, students from schools of different ethnic groups should be expected to socialise and work together in extracurricular activities, community service programmes, and subjects that require fewer language skills, such as physical education and non-verbal arts.
- All municipalities, in cooperation with CSOs, should adopt youth strategies to jointly contribute to the improvement of civic education and activism at a local level, with special emphasis on integrated education, encouragement of marginalised groups to actively advocate for their cause, and the involvement of youth in policymaking and decision-making processes.

To civil society

- As part of a joint network, CSOs and media should offer training and promote civic education, targeting the population without formal civic education, in order to inform them about democratic means of influencing policies, as well as to serve as facilitators of the process.
- Establish close cooperative relations with student governments at universities to strengthen their democratic capacities and engagement in the decision-making processes within their universities and communities. Provide them with training on how to actively take part in the public life of their local community and at a national level, and how to influence and initiate the adoption of policies. Moreover, facilitate cooperation between the schools and their student councils, through joint community-service programmes, also with the aim to strengthen their sense of ability to make change and improve interethnic relations.
- Encourage school principals and teachers to cooperate with CSOs to open branches of different student-led organisations, such as after-school clubs and extra-curricular activities, while simultaneously engaging them in activities in their communities.
- Assess how the initiative for integrated education can be unblocked and intensively advocate and lobby for this cause.
- Pay particular attention to the promotion of equality among all citizens irrespective of their gender, and simultaneously encourage women to take leadership roles in their communities, as they remain underrepresented in public life.
- Target rural communities through active citizenship training and assist with the organisation of interest groups.

Conclusions

The recommendations offered in this paper refer to six specific areas covered by *acquis* chapters 23 and 24. Guided by the Visegrad countries' experiences, the recommendations aim to facilitate the negotiation processes in Macedonia; yet the general call for cooperation with CSOs and transparent and open processes apply to all spheres of governance just as much. Although the legislative and policy framework on CSO–government cooperation has

improved, and online tools for facilitating this cooperation have been put in place, technical improvements of the tools and their further promotion among the CSOs are needed in order to cultivate and ease this cooperation.

The remaining inadequacies of the government's cooperation with CSOs—be they technical, organisational, or due to lack of interest—cause distrust among citizens over how genuine the interest of the government in listening to the recommendations of the CSOs is and, as a consequence, citizens lack the incentive to actively participate in decision-making processes. The existing understanding that the government's and CSOs' positions are inherently opposing needs to be challenged and changed, thus adding to the impetus for thorough, strategic and effective reforms, and facilitating their implementation. On the other hand, CSOs need to organise themselves in coalitions for issues at hand to combine their expertise and share experiences. By doing so, CSOs can more efficiently communicate with the government by articulating and harmonising the views for which they will advocate together.

MONTENEGRO

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Introduction

Strengthening cooperation between civil society and state authorities in Montenegro was a strong condition from the European Commission in its opinion on Montenegro's readiness for EU membership in 2010.¹ Since then, the NGO sector has been a valuable partner in the process of European integration, and this cooperation has resulted in the involvement of NGO representatives in various working groups dealing with public policy changes. The most important step in this direction was the inclusion of NGO representatives in the negotiating working groups, which is unique among candidate countries for EU membership so far. During this period, the legal framework for cooperation with civil society was also improved. A Law on Non-Governmental Organisations was adopted in 2011. Also, in late 2011 and early 2012, two significant regulations were adopted to specify participation of civil society in the creation of public policies.² Moreover, a strategy for the development of the NGO sector for the period 2014–2016 was adopted in December 2013. Therefore, the current legislation on NGOs provides a good framework for cooperation with the government.

However, the established institutional framework for cooperation between the state authorities and NGO sector is weak. The Office for Cooperation with NGOs, which organisationally is within the government's secretariat general, has limited capacity. Contact persons in charge of cooperation with NGOs in state bodies do not have clearly prescribed responsibilities. Funds allocated from the budget for NGO projects are reduced each year.

Therefore, in order to further improve the channels of communication between the two sectors and to influence the sustainability of the NGO sector it is necessary to redefine the mandate and the role of the Office for Cooperation with NGOs, strengthen its capacities (i.e., increase the number of employees) and ensure a separate budget for the activities of this office. It is also essential to strengthen the capacities of contact persons for cooperation with NGOs among state authorities through regular training in order to be able to introduce new models of NGO involvement to public policy preparation and

¹ Commission opinion on Montenegro's application for membership in the European Union, Brussels, 9 November 2010.

² A decree on the manner and procedure for cooperation between state authorities and non-governmental organisations adopted by the government of Montenegro on 22 December 2011, and decree on the procedure for and conduct of public debates in preparing legislation of 2 February 2012.

implementation. Also, more funds should be allocated from the state budget to NGO projects and the distribution model improved.

1. The Strategic Framework, Action Plans and Effective Monitoring during the Negotiations

Montenegro has so far opened and provisionally closed two chapters of the negotiation process—chapters 25, Science and Research, and 26, Education and Culture. Negotiations for the additional 10 chapters, including the most demanding, 23 and 24, were formally opened in December 2013, and March and June 2014. The government, under public pressure, included representatives of civil society³ in all 33 of the negotiating working groups established so far. The working group for Chapter 23, Judiciary and Fundamental Rights, includes five representatives from the NGO sector.

Civil society participation in the monitoring process through activities concerning sectoral policies or by overseeing the implementation process, in addition to direct participation in working groups, uses the best practices of associations of NGOs and joint participation in monitoring the negotiations on individual chapters. Specifically, a coalition of 16 Montenegrin NGOs was established in 2012 within the framework of Chapter 23. The central activity of the coalition is the semi-annual preparation of so-called shadow reports on progress in the negotiations in the areas of the judiciary, human rights and the fight against corruption. In these reports, CSOs usually offer their own view on the actual progress achieved in the negotiations, with the aim of presenting the real progress, gaps and recommendations for improving these areas.

Even though NGO representatives are included in many groups dealing with legislative changes, advisory bodies, and negotiating working groups, etc., there are still many limitations regarding their impact on policymaking or where their position in these working bodies is concerned. These restrictions range from institutions that are still closed to the influence and inclusion of civil society in work on legislation to those that are unable for various reasons to obtain feedback on their proposals or take suggestions during public debates (there are cases in which the competent institution fails to make a report on a public debate despite an obligation). Finally, representatives of the NGO sector in the working group for Chapter 23 have selective access to reports on implementation of the action plan,

³ Representatives of NGOs, universities, businesses, trade associations, etc.

and their work is held back by other issues related to the untimely and incomplete reporting of information of relevance to their work.

Recommendations

To the government

- Make public the opening and closing benchmarks and other relevant documents (screening reports) during the negotiations in order to allow interested parties to monitor the process.
- Provide NGO representatives in the negotiating working groups with complete, not selective information in relevant areas, as the latter has been the case so far. This is a precondition for both the constructive contribution of NGO representatives to negotiating working groups and for the complete transparency of the negotiation process.
- Develop a model that will allow representatives of the NGO sector to participate in the monitoring of compliance along with requirements for completing the negotiations in Chapter 23. Inform the interested parties regularly (on a quarterly basis) on the dynamics of the process by the government and parliament.

To civil society

- NGO representatives in the working groups should regularly present their views on activities related to the implementation of action plans to interested parties and to the public, which would allow other actors in the process to provide their position on these important issues in the negotiation process.
- Harmonise the activities among specialised NGOs in relevant fields of the *acquis* in order to approach the government in a coordinated and unified manner regarding the monitoring of the negotiation process (through building coalitions, such as the one that already exists for Chapter 23).
- Advocate for the importance of joint and frequent organisation of roundtables, conferences, and thematic forums with EU representatives on important issues that are the focus of the negotiation process. Such events would be a good opportunity for the presentation of critical NGO research, findings and recommendations relevant to the process.

2. Human Rights in the NGO–Government Dialogue

Effective human rights protection requires continuous efforts by numerous actors, including non-state entities, such as NGOs, human rights defenders and, finally, individuals. Although primary responsibilities for human rights remain with the state, NGOs are the first to point to violations and enhance the compliance with human rights standards. For a state that values this compliance, the dialogue between NGOs and the government represents one of the fundamental elements of a well-functioning human rights system.

In recent years, Montenegro has invested considerable efforts to advance its legislation and implementing mechanisms in the field of human rights. The proliferation of the NGO–government dialogue has gone hand in hand with these developments. NGOs have made important contributions to setting human rights standards by drafting human rights legislation, promoting peace and reconciliation, and crafting transitional justice initiatives. They provided reliable information to supervisory bodies and assisted individuals who suffered human rights violations to bring complaints to relevant international bodies and the European Court of Human Rights. All of these factors have contributed to making the work of NGOs essential in addressing human rights issues in Montenegro, especially those described as “traditional,” such as violence against women or discrimination against ethnic and sexual minorities.

However, despite these developments, shortcomings still persist in the enforcement of rights, especially in the area of discrimination against vulnerable groups, notably by judicial authorities. Administrative capacity and financial means to implement relevant policies remain limited.⁴ Activists are still exposed to discrimination.⁵ Mechanisms for ensuring effective and accountable investigations are still not in place. Consequently, important disparities remain between the proclaimed standards and their implementation in practice.

In addressing human rights infringements, it is of utmost importance to ensure that all actors dealing with human rights maintain or enhance their collaboration around key human rights issues. The dialogue between the government and NGOs seems to become even more important with EU

⁴ “EC Progress Report on Montenegro, 2013,” p. 9.

⁵ *Ibidem*, p. 10.

accession, as NGOs are seen as a distinctive force through which human rights accession benchmarks are voiced.

Recommendations

To the government

- Include representatives of specialised human rights-based CSOs in all phases of human rights-related processes, notably in the creation and monitoring of relevant policy documents.
- Make additional efforts to include human rights activists and defenders in the policy dialogue in order to attract the attention of policymakers to specific threats affected persons are facing in their attempt to promote and exercise their own rights and the rights of persons they represent.
- Provide adequate support from public funding for the purpose of further strengthening of existing human rights coalitions and associations in order to contribute to the programmatic and financial viability of human rights-based NGOs and sustain the effectiveness of their dialogue with the government.

To civil society

- Keep monitoring the implementation of legal remedies and affirmative actions in situations in which an individual or a group of individuals have been denied their human rights. Place particular focus on law enforcement bodies, notably the police and prosecution.
- Present lessons learned to the government through various consultation channels, including in-person meetings, online consultations and briefings.
- Advocate for guarantees of independence and pluralism of human rights institutions, in order to build constructive linkages with such institutions and provide them with necessary support and assistance.
- Use the reporting mechanisms under the auspices of the UN treaty-based system, the Council of Europe system and the EU, in order to ensure participation in government-led processes, i.e., in reporting to supervisory bodies and the EC.
- Prepare regular monitoring reports on the implementation of the action plan for Chapter 23 to outline implementation gaps, exert

- pressure on the government and secure support from a wider range of human rights stakeholders.
- Participate in the Universal Periodical Review,⁶ either by taking part in the development of government reports or through shadow reports to raise additional human rights issues that have not been covered by the state's reports.
 - Take a leadership role and bridge gaps between public institutions and local communities by providing a broad overview of the services that are lacking and assisting direct beneficiaries to claim their rights before national bodies and hold institutions accountable for their actions.

3. NGO–Government Interaction on Immigration

In light of the sharp increase in asylum-seekers moving from African and Asian countries to the EU, the fight against irregular migration clearly constitutes an important policy priority for Montenegro in terms of its EU accession prospects. Recent discussions about a suspension clause in relation to the visa-free regime between the EU and the Western Balkans supports the thesis of an evolving preoccupation among the EU Member States, especially those that are enlargement-reluctant, with the capacity of acceding countries to withstand migratory pressure. EU membership status is, therefore, likely to remain gatekept for newcomers until full compliance of national legislation and practice with the conditions of accession in this field, as seen from the examples of Romania and Bulgaria.

The EU requirements in this field have already posed strong legislative and institutional challenges for Montenegro through Croatia's membership in the EU. In order to address them, the government has adopted several policies, such as the Strategy on Integrated Border Management 2013–2016, Strategy on Integrated Migration Management 2011–2016, the Law on Asylum, and the recent and most comprehensive document—the action plan for Chapter 24 that identifies the key assets, strengths and needs in this field, while proposing a set of countermeasures.

⁶ The Universal Periodic Review includes a review of the human rights records of all UN members under the auspices of the Human Rights Council. It provides an opportunity for governments to declare actions taken to improve the human rights situations in their countries, but it also allows CSOs to point to human rights infringements as well as a government's shortcomings in addressing these infringements.

According to data by the Ministry of Interior, most irregular migrants are coming to Montenegro along the route from Turkey to Greece then Macedonia and from Macedonia to Albania and Kosovo, and then continuing farther towards the EU. When apprehended by police, these persons often claim asylum, since they mostly travel without identification documents. In the first eight months of 2013, 2,879 asylum applications were submitted, in comparison to 1,529 applications in 2012 and only nine in 2010.⁷ However, only 10 persons have been granted asylum protection so far, relative to a total number of 5,687 asylum claims submitted from 2006 through the first six months of 2014. As stated in the Bilateral Screening Report for Chapter 24, national legislation is only partially aligned with the EU *acquis*.

The Division for Foreigners and Suppression of Illegal Migrations has been established, along with the Asylum Office within the Ministry of Interior, but administrative capacities for dealing with immigration are still weak.⁸ Reception and integration capacities are at an embryonic level as well. The profile of the migrants is also rapidly changing, from so-called economic migrants seeking a better life to refugees coming from less-democratic systems and escaping war. However, despite these daunting challenges that have placed new demands on all stakeholders, substantive NGO–government interaction does not exist as a lack of capacity prevents NGOs from pursuing asylum and migration reform.

Fortunately, 2015 is likely to be a turning point, given that the opening of chapters 23 and 24 demands strikingly different strategies that are expected to advance cooperation between the government and NGOs and cause a great surge of independent information provided in part by civil society.

Recommendations

To the government

- Involve NGO representatives in working groups for drafting a new Law on Asylum and amending the existing Law on Foreigners as well as by organising early consultations with civil society actors on these two draft laws.

⁷ “Policy Report on Asylum and Irregular Migrations,” Centre for Democracy and Human Rights (CEDEM), November 2013.

⁸ “Action Plan for Chapter 24,” p. 30, June 2013.

- Raise awareness among relevant state institutions of mixed migration and integration of migrants by conducting regular training of border police and migration officers to EU standards and practices in the field of asylum and migration.
- Ensure proper conditions for reception and initial treatment of persons at border crossings (by providing detention facilities where they can receive food and separate offices where they can give statements; by providing first aid, etc.).
- Develop an effective integration assistance structure, such as through improved reception conditions and proper integration programmes and others for protection and rehabilitation of minor and female asylum seekers—particularly those unaccompanied—especially knowing that the perception of Montenegro as a final destination is likely to rise with EU approximation.
- Develop tools for proper recognition of persons who have the intention to file asylum applications, by using a screening interview conducted by border police and ensuring the presence of an interpreter and NGO representative in dealing with the provision of legal aid at border crossings.

To civil society

- Build the capacity for proposing quality policy options and dispelling corrupt practices related to irregular migration by drawing on the experiences of civil society in EU Member States, notably Croatia, and the lessons learned during the 2007 enlargement. To this end, establish and maintain workable linkages with EU-based think tanks and policy associations.
- Assist the process of harmonising immigration legislation with the *acquis* by providing analysis and comparative studies, as well as by fostering public debates and advocating for asylum and migration standards. Consider conducting an Impact Analysis of the new legislation on the administrative and technical capacity of asylum authorities, as proposed by the action plan. Adopt best practices from the EU, including the V4 countries, and conduct performance assessments of the EU asylum system.
- Contribute to the implementation of the action plan's measures. Given the experience in capacity-building, consider designing and delivering

Training for Trainers on asylum policy and mechanisms, for border police and civil servants, as proposed by the action plan for Chapter 24, as well as delivering training on humanitarian law standards and practices to employees in immigration services and reception centres and, thus, contribute to building a common understanding of international standards among migration officers.

- Provide EU stakeholders with situation reports, case studies and evaluations of the progress achieved during the negotiation process, hence, arguably contesting the government's achievements and proposing up-to-date recommendations for improvements.
- Work on raising awareness of migration challenges and mitigation measures in order to mainstream citizens' expectations and make the negotiation process more transparent. Also, provide support in informing migrants of their rights through free phone lines and simplified leaflets containing key contacts and FAQs.

4. NGOs as Watchdogs of the Judiciary's Impartiality and Integrity

In Montenegro, as a country that has undergone transition, the judiciary itself has been required to become independent and impartial against a backdrop of political and economic opposition, while struggling to maintain public trust in its ability to deliver unbiased justice on a case-by-case basis. As this opposition derives from the historic domination of executive power, credible participatory processes to build constituencies for reform and allow the judiciary to function independently have proven to be as important as any reform measure.

Recognising the essential role of the judiciary, efforts have been made to improve the efficiency of judicial reform in Montenegro, notably the calibre and impartiality of judges, including security of tenure and relative autonomy over court budgets and internal governance. As of 2008, judges are elected and dismissed by the Judicial Council, established as an autonomous body to ensure transparent and fair judicial appointments. It is comprised of representatives of the executive, judiciary and the legislature, as well as members of the public. The constitutional amendments from 2013 introduced changes related to the

position of the Judicial Council, so as to strengthen its position and reduce excessive influence by the judicial leadership and political elites.

Nevertheless, public perception of the judiciary in Montenegro is tempered by scepticism and best reflects the unsustainable nature of externally driven reforms. Often only high-profile cases come to the attention of citizens and very few courts have developed public relations capacities, while conversely incoherent court practices affect the public's perception that judicial outcomes are just and devoid of any undue pressure. As the judiciary's integrity is intertwined to the extent to which the public perceives it as such, building public support seems to be of paramount importance as well.

Alongside the legal profession and media, NGOs have addressed many of these challenges incrementally by carrying out independent research looking at factors relating to judicial reform in greater depth, while allowing improper restrictions under international standards to be observed and addressed through verifiable recommendations. Several trial-monitoring projects have been launched, especially in the cases of war crimes, organised crime and corruption. NGOs taking the lead in judicial reform monitored retrospectively the way legislation renders judges' decisions, with the aim of deterring potential abuses and increasing protection for the victims of crime. As a result, NGOs have managed to establish themselves as one of the key counterparts to government and judicial stakeholders in their attempt to sustain the results of judicial reform.

Recommendations

To the government

- Involve NGO representatives in the process of amending the Law on Judicial Council, the Law on Courts and the Law on the State Prosecutor (in line with amendments to the constitution) as well as to the rules of procedure of the Judicial Council.
- Foster linkages with potential allies from both inside and outside stakeholders in the judicial arena, i.e., judges, executive branch officials and NGOs, in order to counter opposition to judicial reform and sustain changes in the level of the judiciary's impartiality and integrity. Enhance cooperation with associations of judges and prosecutors as well as with NGO watchdog groups in order to provide an effective forum for mutually reinforcing reform efforts.

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- Introduce a single countrywide merit-based recruitment system and a transparent periodical assessment of judges' performance in order to prevent regression in judicial capacity.
 - Strengthen accountability and integrity safeguards through de-politicised appointments of Judicial Council members,⁹ the greater involvement of NGO representatives in judicial bodies, and the consistent implementation of the code of ethics of judges and related integrity mechanisms.

To civil society

- Build a long-term commitment to judicial reform through strategic investment in human capacity with a view to secure staff with relevant background and expertise to work on judicial integrity.
- Apply external monitoring of court practices in order to compile reliable data, ensure greater information density on judicial decisions, target systemic deficiencies and compound the impact of judicial reform. Continue the efforts to analyse court statistics, policy documents, “standing orders” and opinions, by using the Judicial Information System and good case tracking.
- Advocate for alternative court measures, such as mediation and alternative criminal sanctions, to reduce caseload and soothe an overstressed court system.
- Provide analysis of the legislative framework and examine the effects of its application regarding the independence of the judiciary, combined with recommendations for improvements.
- Publicise judicial vacancies, the names and backgrounds of candidates in order to help safeguard transparency, reduce the risk of executive or Supreme Court control and enhance the quality of candidate selection. Monitor disciplinary proceedings that may be brought for political reasons or against judges who render decisions contrary to the views of their superiors.
- Monitor the disclosure of judges' assets, income and benefits to ensure that judges declare their assets in accordance with the code of ethics and laws regulating conflicts of interest to foster effective mechanisms to prosecute instances of corruption within the judiciary.

⁹ “EC Progress Report on Montenegro, 2013,” *op. cit.*, p. 44.

- Mobilise public opinion and enhance media scrutiny of courts by conducting polls and sectoral surveys of judges, the business sector and the public, as envisaged in the action plan for Chapter 23. This will serve to feed policymaking and inform citizens about key issues relating to the judiciary's integrity.

5. The Role of NGOs in Exposing Corruption

By opening EU accession negotiations on chapters 23 and 24, Montenegro has continued with intensive reforms of its legal and institutional framework against corruption. Implementation of the government's anti-corruption policies is still limited and the establishment of a solid track record of investigations, prosecutions and convictions in cases related to offences involving elements of corruption is still missing. In its last progress report, the European Commission stated that efficiency in the country's fight against corruption is constrained by frequent legislative changes and the lax attitude among law enforcement authorities to investigate corruption allegations, especially those involving high-level officials. The role of CSOs in exposing corruption in Montenegro is very important and is mainly oriented towards the monitoring of effects of anti-corruption policies in various social spheres. Representatives of CSOs provide expert support for the creation of anti-corruption policies through active participation in different working groups established by the government of Montenegro, which are working on the preparation of laws and key strategic documents in this area.

A lack of a clear vision of the state in the fight against corruption is perhaps the most visible in the field of financing of political parties. Frequent changes to the legislative and institutional set-up are a reflection of unsustainable anti-corruption policies in this area. The State Electoral Commission (SEC), with its very limited human and technical capacities, has no institutional potential for efficient enforcement of the law on financing of political parties. In current practice, the SEC has regularly published all reports by political parties, but unfortunately its function is reduced to simply informing the public through publishing reports, without any kind of control mechanisms for enforcement of the law. So far, there have been no judicial proceedings against political parties or representatives of political parties due to breaches of the law on financing of political parties. Numerous allegations of misuse of state resources in the election campaigns of high-level officials were not investigated or prosecuted.

Legislation in the field of public procurement in Montenegro is largely harmonised with the EU *acquis*. Yet there are many problems in the implementation of this legislation, ranging from poor control of implementation of the contract to the separation of unique procurements into multiple smaller ones. However, there have been a negligible number of criminal prosecutions, and still no final decision on corruption in public procurement. The institutions responsible for public procurements are largely closed to cooperation with NGOs, as representatives of the non-governmental sector have not been involved in the working group that prepared amendments to the Law on Public Procurement nor in the composition of the coordinating body responsible for monitoring the strategy for the development of the public procurement system.

The healthcare system has also been recognised as a social sector vulnerable to corruption and its negative consequences. According to the latest public opinion surveys, public trust in the integrity of the healthcare system in Montenegro is very low, with 41% of people believing that corruption is present in the healthcare system. In the past three years, an insignificant number of criminal charges and indictments for corruption in healthcare have been submitted, and only one final conviction for corruption in the health sector has so far been secured.

The EC in its last progress report on Montenegro (2013) stated that spatial planning and construction continues to be extremely vulnerable to corruption. In this area, intensive legislative and institutional reforms were carried out in previous years. They were intended to eliminate problems in the implementation of the legal framework that led to violations of the law, but in fact they only increased the scope of corruption and created an atmosphere of systematic insecurity in this area. According to unofficial data, more than 100,000 structures were illegally constructed in Montenegro in the last reporting period. Currently, there are numerous criminal cases pending before Montenegrin courts which are prosecuted due to misuse of official position and illegal activities in the area of spatial planning and construction.

The education system and its anti-corruption policies were also evaluated and researched by Montenegrin CSOs. So far, an effective internal mechanism for reporting corruption in the education system that can guarantee anonymity and protection from negative consequences has not been developed. Also, the system of hiring and promoting professional staff in educational institutions is not fully transparent. Financial management of educational institutions is also not sufficiently transparent, particularly in public procurement, off-

budget revenues and expenditures, and additional benefits for teaching staff and administrative managers. In recent years, there were no indictments or proceedings for criminal offences related to corruption against representatives of educational institutions.

Recommendations

To the government

- Strengthen the control function of institutions that control the implementation of the law on financing political parties (State Electoral Commission and State Audit Institution).
- It is necessary to propose a Law on the Legalisation of Informal Structures that will be based on clearly defined goals of development of all municipalities in Montenegro in the area of spatial planning and adopted planning documents.
- Increase the transparency of overall financial operations and compliance with public procurement procedures in all educational institutions (budgetary and extra-budgetary revenues and expenditures) as well as total income and property of teachers and heads of administrative bodies at the state university and other educational institutions.

To the judiciary

- Effectively investigate and prosecute allegations and evidence of misuse of state resources and official positions in election campaigns.
- Establish cooperation between the Directorate for Inspection Control and the State Prosecutor Office in terms of preventing illegal procedures, with an emphasis on corruption in the area of spatial planning and construction.
- Put more effort into the investigation of cases of informal payments, bribery and other forms of corruption in the healthcare system.

To civil society

- Continue activities to monitor the effects of anti-corruption policies in Montenegro, with a special focus on the effects of the implementation of measures from the action plans for chapters 23 and 24.
- Raise public awareness about the possibilities of reporting corruption and advocate for a strong protection system for those who report it.

6. Involvement of NGOs in Civic Education

According to data by the Statistical Office of Montenegro (MONSTAT) for 2013, only 3.1% of Montenegrin citizens participate in lifelong learning programmes. In light of this fact, there is clearly room to work on strengthening lifelong learning, both in terms of its promotion and practical application. NGOs are particularly well-placed to design and implement informal education programmes to increase the participation of adults in lifelong learning. Namely, the implementation of such programmes constitutes an important strategic direction of the development of NGOs in Montenegro. The Strategy of Cooperation between the Government and NGOs from 2009 as well as the recently adopted Strategy for the Development of the NGO Sector for 2014–2016, both envisage this principle among their main objectives for creating a sustainable environment for further development of NGOs. Recent legislative amendments in education and culture have opened the door to strengthening normative conditions for NGO participation in lifelong education and the development of learning to learn skills and civic responsibilities.

So far, NGOs have organised a number of educational programmes (schools, seminars, conferences, workshops, training, etc.) for representatives of state and local government, judiciary, representatives of business organisations and citizen associations. NGOs have proven particularly effective in delivering human rights-related education programmes, which have significantly contributed to fostering the culture of human rights dialogue and raising greater respect for the equality of citizens, irrespective of their national origin, social status or other personal characteristics. The preamble to the Universal Declaration of Human Rights also proclaims that “every individual and every organ of society shall strive by education to promote respect for human rights and freedoms.” The Charter of the Council of Europe on Education of Democratic Citizenship and Human Rights Education also states the importance of NGO involvement in civic education.

However, due to the exit from Montenegro of a large number of foreign donors in recent years and years to come, financing informal education programmes implemented by NGOs is reported to be a main obstacle to a viable system of civic education. Financial resources provided by foreign donors and partners cannot be replaced by local sources of funding. Domestic NGOs can hardly rely on fees for their educational programmes due to the lack of a culture of paying for education, especially concerning informal educational programmes that are not accredited nor perceived as part of the

education system. The Council for Higher Education has accredited almost none of the educational programmes, therefore diplomas and certificates acquired from the educational programmes of NGOs have no legal or institutional significance. Furthermore, only three NGOs submitted requests for accreditation of their educational programmes in 2013.

Recommendations

To the government

- Promote more heavily the importance of NGO involvement in civic education. Ensure consistent implementation of the Law on National Vocational Qualifications, which stipulates the acquisition of vocational qualifications for different target groups and provides a framework for a variety of carrier development programmes.
- Develop a unique database of citizens participating in lifelong learning in order to obtain data on the number and profiles of citizens involved as well as on the overall financial allocations for those programmes.
- Translate vocational education programmes into corresponding training modules adjusted to the needs and capacities of participants in order to maximise the impact of the programmes.
- Develop tools for proper recognition of the skills and competencies acquired through prior learning and conduct regular external evaluation of informal education programmes in order to assess the progress made in raising professional qualifications of those participating in lifelong-learning programmes.

To civil society

- Formally license NGO educational programmes and actively seek potential financial sources among partners from state institutions, local governments and the business sector in order to contribute to building a society of active and responsible citizens.
- Become more involved in lifelong-learning education processes.
- Work on strengthening cooperation with the government by organising workshops and creating working groups that include representatives from both sectors to discuss the possibilities for making educational programmes more credible and tailored, while maintaining, at the

same time, independence and impartiality in proposing the content of those programmes.

Conclusion

The role of Montenegrin NGOs in public policymaking and monitoring has improved significantly compared to the period before 2010. It was based on several factors, primarily the European Commission's recommendations that cooperation of state and non-state actors should be enhanced. Additional explanations for this increase are found in the limited administrative capacity of public administration and, to some extent, expertise developed in certain areas by NGOs.

Representatives of civil society remain a significant part of the negotiating working groups. NGOs in Montenegro are also used to building coalitions for joint monitoring of strategic documents, actively contribute to the improvement of the legislative framework, and, therefore, have an important role in the negotiation process.

However, despite the development of cooperation between the state authorities and interested parties (primarily NGOs) and the improved legal framework for such collaboration, numerous problems still exist, as regards the financing of NGOs from public funds, redefining the role and position of the institution responsible for cooperation between NGOs and the government, the availability of certain documents for working group members from NGOs during the negotiation process, etc.

SERBIA

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Introduction

Serbia started EU accession negotiations on 21 January 2014. However, following the focus on the rule of law and justice and home affairs,¹ the EC launched a comparative analysis of Serbian national legislation and the EU *acquis* beforehand. The process started with explanatory screenings for chapters 23 and 24, and in these areas it was completed in early December 2013. Recognising the importance of these two chapters, CSOs in Serbia were prompted to engage in the negotiation process as a third party, monitoring and consulting early on, so as to avoid the Croatian scenario.² CSO involvement is high on the EU agenda, since it is stipulated in the Lisbon Treaty, Article 11, and it is explicitly mentioned in the EU's Negotiation Framework for Serbia.³ Nonetheless, when it funds policy-monitoring efforts, the EU still perceives NGOs as “service providers,” essentially “hired hands” to explain to the wider public, for instance, changes in legislation.

The Serbian government, on the other hand, has pushed for the so-called Slovak model, in which CSOs are not part of formal working groups and do not participate directly in the negotiations, but perform an independent, monitoring role of the government's actions during the negotiations. This seems more in line with the basic function of CSOs, which is to serve as watchdogs, to make the negotiation process more just, inclusive and open to the public. However, this also means that CSOs could be more easily set aside and excluded from the process, especially in an atmosphere that lacks transparency and where legal provisions regulating the role of civil society in the process are missing, which seems to be the case with Serbia.

Apart from the EU Negotiation Framework, a Serbian parliament resolution clearly stipulates that CSOs should be included in the EU negotiation

¹ “Enlargement Strategy and Main Challenges 2013–2014,” European Commission, October 2013, p. 27.

² In Croatia, due to insufficient transparency of the negotiation process with the EU, CSOs were prevented from effectively monitoring the process. It was only just before the negotiations were concluded that Platform 112 was formed, with the aim of influencing policies that were deemed unsuccessfully implemented by the government. Concerning the lack of transparency in Croatia, see: M. Skrabalo, “Transparency in Retrospect: Preliminary Lessons from Croatia's EU Accession Process,” discussion paper, Greens/EFA, 2012.

³ The EU Negotiation Framework for Serbia explicitly mentions the involvement of CSOs in the negotiation process in order to make it more transparent and inclusive (para. 30), as does the “Opening Statement of Serbia” for the first Serbia–EU intergovernmental conference (para. 34) of 21 January 2014.

process, together with other interested parties. However, the model for their involvement remains to be operationalised and translated into concrete measures.⁴ So far, CSO inclusion has been ad hoc and based on discretionary invitations of the Serbian government, extended to interested parties for the presentation of screening results. In addition, under the auspices of the European Economic and Social Committee, an EU–Serbia Civil Society Joint Consultative Committee is being established, which should serve as a joint body for monitoring the accession process from a civil society perspective.

1. Effective Monitoring during Negotiations

After the screenings for chapters 23 and 24 were concluded, the EU screening reports for these two areas were scheduled to be released in April 2014. However, due to early parliamentary elections in Serbia, their release was postponed and they were published only in late July 2014. Based on these screening reports, the government is supposed to draft action plans that will serve as the opening benchmarks for the said two chapters. Only when these documents are adopted will it be possible to effectively perform a monitoring function. However, if this nascent negotiation process is to be judged, up to this point it has been characterised by the lack of transparency and the failure to effectively include CSOs in the process because of the lack of a strategic framework for meaningful civil society inclusion.

Although Serbian Chief Negotiator Tanja Mišćević heralded inclusiveness, transparency and synergy⁵ as the three main principles of the government's approach to European integration, it is actually a lack of all of these concepts that has characterised CSO involvement in the process thus far. As far as inclusiveness is concerned, although some CSOs have been invited to participate, the selection criteria are not clear. As independent reports have shown,⁶ the lack of transparency has so far been a major issue since the

⁴ “Resolution on the Role of the Serbian Parliament and Principles for the Accession Negotiations of Serbia with the EU,” 16 December 2013, paras. 24 and 25.

⁵ In her presentation “Fostering Civil Society in the Candidate and Potential Candidate Countries,” European Movement International, Montenegro Congress, Budva, 22 November 2013.

⁶ “Written Contribution to the European Commission 2013 Progress Report on Serbia,” *prEUgovor*, September 2013, p. 4, http://bezbednost.org/upload/document/2013-10-01_eng_preunup_joint_progres_report_%28final.pdf.

negotiation structure was unclear, the actors involved unknown, and relevant documents often out of the public eye. There even were attempts by the government to declare the information from the explanatory screening with the EU a state secret.⁷ Finally, synergy is hampered by the involvement of numerous actors and institutions without proper coordination on the part of the Serbian European Integration Office.

Therefore, it has been left to civil society to organise itself and influence the negotiation process. Consequently, several initiatives have been founded in response to Serbia starting accession negotiations, with the aim of monitoring the process. The National Convent for the European Union is the widest one, covering all policies in 35 chapters and serving as a consultative and monitoring body whose work is tied to the parliament.⁸ The Coalition PrEUgovor is the second one, composed of seven NGOs that focus on monitoring the progress exclusively in chapters 23 and 24.⁹ Last, there is the Let's Speak about the Negotiations, an initiative led by a single organisation with vast experience in dealing with EU policies.¹⁰ In addition, some other CSOs are inclined towards monitoring the accession process through their regular activities.

Although these initiatives and networks have both the necessary expertise and experience with monitoring, the strategic framework that would define their role and models of inclusion is still lacking. The only comprehensive effort has so far been the Strategy for Creating the Enabling Environment for Civil Society 2014–2018, which is currently being drafted. Therefore, CSOs' monitoring activities have hitherto been on an ad hoc basis and still need to be acknowledged by the Serbian government as an integral part of the accession process, cooperation stipulated also in relevant EU documents.¹¹ In addition to this, the lack of transparency surrounding the accession process is an obstacle that needs to be dealt with, together with the poor access to funding for the purposes of monitoring the negotiations. With these issues in mind, the government of Serbia and relevant international stakeholders need to take

⁷ R. Šabić, "Službena tajna ne postoji," *Politika Online*, www.politika.rs/rubrike/Sta-da-se-radi/Sluzbena-tajna-ne-postoji-Rodoljub-Sabic.lt.html.

⁸ More info on the National Convent at www.eukonvent.org.

⁹ For more, see: www.bezbednost.org/BCSP-News/5271/prEUgovor-Government-of-the-Serbia-to-make-the.shtml.

¹⁰ For more, see: <http://eupregovori.bos.rs>.

¹¹ These include the Lisbon Treaty, Article 11, and the EU 2013 Enlargement Strategy.

further steps in order to create an environment that would facilitate CSOs' effective inclusion in monitoring Serbia's EU accession process.

Recommendations

To the government

- Adopt a strategic framework for consultations with CSOs and other interested parties in procedures for adopting legislative acts, such as that which exists in Croatia.¹² The Serbian model should also prescribe obligations on the part of the government with the aim of facilitating the consultation process with civil society representatives, based on principles of cooperation, trust, transparency and accountability.
- Increase the transparency of the accession negotiations to the extent that all the screening reports, action plans and other relevant documents are made publicly available.
- Disclose all the relevant information on the negotiation schedule, composition of working groups and institutional involvement in order to make it easier for CSOs to prepare in a timely manner and monitor the process more effectively.

To civil society

- Monitor the government and legislative process even if not invited to do so. Because of their external role and lack of direct inclusion, CSOs should provide analyses, policy proposals and monitoring reports, to both the government and international stakeholders, even without being invited by government representatives.
- Call for increased transparency of the negotiation process with the EU and put pressure on the government to clarify who is involved in the process, in what capacity, the time frames and scheduled topics. Insist on making all documentation related to the negotiation process and all adopted positions publicly available.
- Create extensive networks and coalitions in order to maximise impact and increase visibility. Cooperate horizontally—on the national, regional, or even European level—which might give momentum to

¹² The inclusion of Croatian CSOs in the legislation process is regulated by the “Code for Consultations with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts,” *Official Gazette* (Croatia), no. 140/2009, November 2009.

the reform process due to the increased exchange of best practices and experiences. In order to make this exchange of practices especially beneficial, focus networking efforts on NGOs from new Member States, such as Croatia.

To the international community

- Provide financial support to CSOs dealing with monitoring accession negotiations—a time-consuming and resource-demanding process. Without a streamlined approach from the international community, including donors, it is likely that the efforts of CSOs will fail to achieve results.
- Provide technical support, including capacity-building measures, sharing best practices, and creating a stimulating environment conducive to CSO engagement in the process.

2. Developing NGO–Government Dialogue in the Field of Human Rights

The recent start of the accession negotiations provides a unique opportunity for civil society in Serbia to advocate and propose policies to the government in the field of human rights issues, which constitute a solid part of Chapter 23. Nonetheless, there have been numerous obstacles to establishing an effective dialogue between CSOs and the government in this regard. Dominika Bychawska identified three difficulties encountered by NGOs in Poland in their efforts to engage the government during accession negotiations with the EU, namely lack of invitations to participate, failure to respond to NGO inputs, and quick deadlines.¹³ Serbian CSOs have faced each of these as well. The government of Serbia does not consult CSOs when it is not absolutely required to do so; the format of the consultation requests is often inappropriate—filling out template forms handed down by the ministries; the deadlines are often quick, leaving no time for quality analysis or to provide meaningful input; there is no clear timeline for the topics of negotiations, making preparation of input from NGOs more difficult.

¹³ D. Bychawska, presentation at the conference “Visegrad for Strengthening Democracy in the Western Balkans: Poland’s Experience with Cooperation between Civil Society and Public Administration,” Polish Institute of International Affairs, Warsaw, 29 October 2013.

Still, apart for the previously mentioned prEUgovor, there are good examples of CSO activities specifically in the human rights area, such as the House of Human Rights and Democracy—a network of five organisations dealing with human rights issues in Serbia, although its activities are not limited to the EU accession process. There are also individual NGOs embarked on ambitious monitoring programmes. Centre for Human Rights from Nis has, with EU support, analysed some 139 criminal cases and petitioned for legal remedy in 12 cases going all the way to the highest instance—the Supreme Court of Cassation.¹⁴ The Humanitarian Law Centre has concentrated on monitoring material reparations paid to victims of violations of human rights in Serbia.¹⁵ The Belgrade Centre for Human Rights has been monitoring the influence of decisions made by the European Court of Human Rights,¹⁶ advocating for respect of its norms and decisions. Finally, the Committee of Lawyers for Human Rights YUCOM is currently working on an ambitious “Map of Prosecutors Offices’ Conduct in Relation to Protecting Human Rights,” to identify problems in practice, assist public prosecutors in the protection of human rights, and analyse cases.¹⁷

As put forward in the EC progress report, the conditions in Serbia regarding human rights are characterised by some degree of progress, with reforms on the right track, the actual implementation of which “will test Serbia’s preparedness and willingness to proceed”¹⁸ This is especially important in the field of minority rights, where there are very sophisticated provisions laid down so as to guarantee the rights of, for example, sexual minorities, whereas for many years they have been denied the right to free assembly and freedom of expression.

¹⁴ Centre for Human Rights, “Monitoring Courts’ Work in Criminal Cases,” February 2014, www.chr-nis.org.rs/wp-content/uploads/2014/02/Izveštaj-Monitoring-rada-sudova-u-krivичnim-postupcima1.pdf.

¹⁵ Humanitarian Law Centre, “Material Reparations for Past Violations of Human Rights,” March 2014, www.hlc-rdc.org/wp-content/uploads/2014/03/materijalne_reparacije_za_povredu_ljudskih_prava_u_proslosti.pdf.

¹⁶ For more, see: www.bgcentar.org.rs/zastita-ljudskih-prava-pred-srbijanskim-sudovi-madoprinos-monitoringu-reforme-pravosudja.

¹⁷ For more, see: www.uts.org.rs/index.php/component/content/article/11-dokumenti/dokumenti/766-764.

¹⁸ “EC Progress Report on Serbia, 2013,” p. 48.

Recommendations

To the government

- Cease the practice of adopting laws almost exclusively in expedited procedures and allow public hearings to take place. Make efforts not to expedite the legislative process for no apparent or justified reasons and allow for public debate with interested parties and CSOs.
- Streamline the process of consultations with CSOs by adopting procedures for mandatory public hearings in the process of drafting legislative acts. Also, when CSOs and other interested parties submit comments and suggestions to a legal draft, make it mandatory for the government to respond in writing as to the reasons these were or were not included in the final text.
- Consult CSOs and rely on their capacities and experience when it comes to assessing the state of human rights of the most vulnerable groups—Roma, LGBTIQ and women who were victims of violence.

To civil society

- Contribute to ensuring effective implementation and respect of the legal provisions protecting human rights, with special attention devoted to minority rights. Focus on monitoring the implementation of the related legislation.
- Participate in formulating benchmarks during the negotiation process, especially in the process of monitoring implementation. Take a proactive stance in developing benchmarks that will serve as indicators of compliance of domestic legislation with EU standards.
- Focus on monitoring the state of play regarding human rights at the local and municipal levels and devote special attention to the most vulnerable groups of population—Roma, LGBTIQ, asylum seekers and victims of violence.

3. Migration and Asylum Challenges

In the last decade, the Western Balkans has been transformed from the main European refugee-producing region to an important transit area for mixed flows of migrants and asylum seekers attempting to reach Western Europe. Since 2011, Serbia has faced extreme challenges in the field of

migration management, specifically related to irregular migration flows and asylum protection. The reaction of the competent government bodies has been visible but has appeared to be incomplete and poorly coordinated.

In 2012, the number of irregular migrants (mostly from African and Asian refugee-producing countries) detected on the border was about 35% higher than in 2011: more than 13,900 were stopped at illegal border crossings, while 988 were found hiding in various means of transport.¹⁹ The number of asylum seekers has revealed a growing trend, too—that number was six times higher in 2011 than in 2010, and rose further, from 2,723 persons in 2012 to 5,065 in 2013.

As a response, in June 2011, a second asylum centre was opened in Bogovađa, in addition to the centre in Banja Koviljača. Consequently, accommodation capacities were expanded significantly,²⁰ but soon they again proved insufficient. Since the early summer of 2012, in the vicinity of the second asylum centre, dozens and sometimes even hundreds of asylum seekers resided outdoors (in the bushes) or in shacks or empty houses.²¹ Only in December 2013 did the government finally provide some additional facilities in three different locations.

Problems with providing adequate accommodation for asylum seekers are closely related to opposition expressed by local communities. In the municipality of Mladenovac, within the Belgrade urban area, an asylum centre was not opened despite a government decision because of strong opposition from both the local government and citizens. Protests also took place in Banja Koviljača and Bogovađa when asylum seekers resided outside the centres in large numbers, but also in several places where facilities were planned or considered to be established. Although some irrational anxieties and prejudices are obvious—and verified in recent public opinion surveys²²—part of the responsibility surely lies with the poor government-managed communication with relevant local communities and the general public as well.

¹⁹ *Ibidem*.

²⁰ The asylum centre in Banja Koviljača can accommodate about 85 asylum seekers, while the centre in Bogovađa has about 150 places.

²¹ “Challenges of Forced Migration in Serbia: A Second Look at the Issue of Asylum and Readmission,” Group 484, Belgrade, January 2013.

²² “Stav građtanv gratina Mladenovac, Lajkovac i Loznica prema tražina Mladenov,” Commissariat for Refugees and Migrations and IOM Serbia, Belgrade, October 2012; “Stav građana prema izbeglicama, interno raseljenim licima i tražiocima azila,” Commissariat for Refugees and Migrations and IOM Serbia, Belgrade, October 2012.

Asylum claims are still processed by the Border Police Asylum Unit because the Asylum Office, intended to operate as the first-instance body, has yet to be established in line with the 2007 Law on Asylum. In 2013, of the 5,065 people who expressed an intention to seek asylum, 742 were registered, only 153 submitted a formal application, and only 19 applicants were interviewed. Although it is quite possible that many asylum seekers really strive to apply in a Western European country, a situation in which applicants are neither referred to nor registered in the asylum procedure, as the asylum law requires, tends to further encourage asylum applicants to see Serbia as only a transit country. In addition to that, in most of its negative decisions, the Asylum Office has only invoked the concepts of safe third country and safe country of origin, with no review of the merits of the application (i.e., the asylum seekers' reasons to fear persecution in their countries of origin).

Civil society organisations have been very active in the area of asylum. First, free legal aid, one of the most important rights granted to asylum seekers, is provided by two Serbian NGOs. Second, CSOs have been actively involved in monitoring, advocacy work, policy analysis and reporting. In April 2012, Group 484—an NGO focused on migration issues—established the Policy Advocacy Group (PAG), consisting of eight CSOs. The group since has carried out many monitoring visits and interviews, and collected and analysed a range of relevant information. In addition, several conferences, roundtables and other public events have been organised, and some training opportunities for local institutions and CSOs have been provided. Group 484, the Belgrade Centre for Human Rights and the Asylum Protection Centre have published several monitoring reports and policy papers, emphasising the position of asylum seekers, effects of the activities undertaken by the state, as well as substantial shortcomings of the asylum system in Serbia.

Recommendations

To the government

- Provide efficient and responsive capacities for adequate accommodation of persons seeking asylum, in order to achieve real functionality of the asylum system.
- Consider and prepare operational plans for opening asylum facilities in an open dialogue with respective local governments and communities in the territory where an asylum facility is to be established, in order to avoid or resolve negative attitudes and anxieties related to them.

- Transform the existing first-instance body in the asylum process and establish an independent, empowered and efficient Asylum Office, as foreseen by the Asylum Act.
- Improve the standards for applying the concept of a safe third country and fully consider the circumstances of every individual case during the asylum procedure.
- Regularly review and amend the decision on determining the list of safe countries of origin and safe third countries. Criteria that will be considered decisive in pronouncing a certain country safe should be prescribed by law.

To both the government and civil society

- Provide national campaigns aimed at raising awareness of the issues of asylum seekers and irregular migrants.
- Establish appropriate activities at the local level, specifically in communities where asylum seekers are accommodated—or should be accommodated—as well as in communities with significant numbers of irregular migrants.

4. NGOs as Watchdogs of the Judiciary's Impartiality and Integrity

In 2013, Serbia embarked on yet another attempt to reform its judiciary, with the adoption of a new national strategy, slated to last until 2018. Its three main priorities—strengthening the independence of the State Prosecutors' Council; strengthening the transparency and integrity of the judiciary; and improvement of the legislative framework—are of great importance to civil society as they are the directions of future fundraising.

In this respect, there are ample opportunities for NGO intervention. In its recent report, the Committee of Lawyers for Human Rights YUCOM stated that the new network of courts had still not been established and changes in jurisdiction had halted many trials, as for two months (since the changes went into effect) the exact court in which these trials will be continued has remained unknown. As underlined in the report, some of these cases were

addressing human rights' violations where courts were demanded by law to act urgently.²³

In order to assert themselves as proper watchdog organisations vis-à-vis the judiciary, CSOs in Serbia have to be able to conduct monitoring of court practices, especially in relation to two issues—protection of human rights and the fight against corruption. Such efforts are hampered by several factors. First, there are only a few CSOs that have the necessary capacities and are able to devise a coherent methodology for monitoring. Second, most of them are Belgrade-based, meaning that court practices outside the capital remain underreported. Third, in Serbia it takes from four to six years for a case to be resolved, which makes actual planning of monitoring very difficult as there are no projects that last that long.²⁴ Fourth, as documented by the Belgrade Centre for Human Rights, courts “have not devised either unique methodology or criteria for gathering statistics, thus preventing effective monitoring.”²⁵ Fifth, would-be “watchdogs” need to gain access to what is otherwise a closed system. Finally, if and when the EU funds monitoring efforts, the EU delegation is first and foremost interested in advocacy and raising awareness, and less in original research. This goes in hand with EU delegations' apparent preference not to seek independent policy alternatives from think tank-oriented CSOs²⁶ and further dissuades them from seeking support for such projects.

Therefore, perhaps it is no surprise that the CSO most active in terms of monitoring court practices, even adopting some features of the “watchdog” approach, is a professional organisation—the Association of Prosecutors. Although deficient from the standpoint of wider legitimacy—as such associations first and foremost serve the interests of their members and not necessarily citizens—its level of activity since 2010 has increased significantly. It informs its members of important changes in legislation,²⁷ strives to make

²³ “Situation in the judiciary,” YUCOM, 11 February 2014, www.yucom.org.rs/rest.php?tip=vestgalerija&idSek=4&idSubSek=36&id=145&status=drugi.

²⁴ This leads to monitoring being, to a great extent, a *post festum* analysis of cases in a given time period.

²⁵ “Protection of human rights in Serbia’s courts: contribution to the monitoring of the judiciary reform,” Belgrade Centre for Human Rights, 24 January 2013, www.bgcentar.org.rs/zastita-ljudskih-prava-pred-srbijanskim-sudovimadoprinos-monitoringu-reforme-pravosudja.

²⁶ Notes from a meeting with NGO representatives, 25 April 2014.

²⁷ See, for instance, www.uts.org.rs/index.php/aktivnosti/vesti/858-konferencija-reforma-krivicnog-prava.

itself more visible to potential members and prove why it is there in the first place. The association has been also very involved in anti-corruption activities when monitoring the practices of the judiciary (for details on that see the next section on “The Role of NGOs in Anti-Corruption Activities”).

Recommendations

To the government

- The government and the Ministry of Justice should explain the reasoning behind the key changes introduced with the reform (of the judiciary) to all relevant stakeholders, including CSOs.
- After initial steps have been made (some court records are now available online), the Ministry of Justice needs to conceive projects (perhaps in cooperation with CSOs) aiming at significantly improving the judiciary’s ability to gather statistics.
- The Ministry of Justice (together with the Government Office for Cooperation with Civil Society) should organise regular consultations on the progress achieved in the implementation of the national strategy.

To civil society

- Seek partnership/support from both independent regulatory bodies and professional associations, primarily in order to make their monitoring efforts more viable (sustainable).
- In planning monitoring efforts directed at judicial performance, consult a range of documents and strategies produced by the government as well as donor community, so as to avoid duplication (thus waste) of efforts and resources.
- Focus on advocating for greater access to the closed parts of the judiciary in order to have a more legitimate and stronger role as watchdogs.

To the international community

- The international community, including the EU and the donor community—through its funding schemes—should encourage applied research in terms of CSOs developing monitoring tools (and methodologies) in order to effectively monitor court practices vis-à-vis protection of human rights and the fight against corruption.
- Consider investing in initiatives that aim to improve courts’ use of statistics, needed for effective monitoring.

5. The Role of NGOs in Anti-Corruption

The first National Anti-Corruption Strategy in Serbia²⁸ was adopted in 2005, and action plan in 2006. The report of the Anti-Corruption Agency of Serbia for 2012 on the implementation of the 2005 strategy shows that most objectives were achieved in the field of establishing a relevant legal and institutional framework. However, the judicial reform is not complete, privatisation and public procurement processes still raise corruption-related concerns, transparency of media ownership is largely insufficient, and involvement of the public in the legislative process and budget planning is very deficient. According to research by the World Economic Forum for the period 2011–2012, corruption was ranked as one of the top two problems identified in taking decisions to begin commercial activities in Serbia. The new national anti-corruption strategy²⁹ and supplementary action plan³⁰ were adopted in 2013 (for the period 2013–2018). In a statement issued on 28 April 2014,³¹ related to the prime minister's first exposé, Transparency Serbia noted that although the fight against corruption was announced among government's priorities, some of the planned changes (i.e., the jurisdiction of some institutions) remained unclear and certain important anti-corruption measures (such as the resolution of huge loopholes in the draft law on whistleblowers) were left out.

Meanwhile, the strategy emphasises that conditions for more active participation of CSOs should be created and both the institutional and legal frameworks for support of civil society organisations has improved. Among the five concluding specific recommendations, the strategy suggests that cooperation and partnership with CSOs should be encouraged through actions such as roundtables, publications and promotional materials. The action plan foresees that the Anti-Corruption Agency will carry out public tenders and allocate funds to CSOs and media for projects in the field of anti-corruption.

²⁸ *Official Gazette of the Republic of Serbia*, no. 109/05.

²⁹ "The National Anti-Corruption Strategy in the Republic of Serbia for the period 2013–2018," adopted by the National Assembly of the Republic of Serbia on 1 July 2013.

³⁰ "Action Plan for the implementation of the National Anti-Corruption Strategy in the Republic of Serbia for the period 2013–2018," adopted by the government of the Republic of Serbia, 25 August 2013.

³¹ "Prime Minister's exposé related to anti-corruption," Transparency Serbia, Belgrade, 28 April 2014, www.transparentnost.org.rs/index.php?option=com_content&view=article&id=653%3Aekspoze-premijera-sa-stanovita-borbe-protiv-korupcije&catid=42%3AAnaslovna&lang=en.

A rulebook on the allocation of funds to CSOs has already been created and the first annual competitions carried out.

Several CSOs have already built a track record in monitoring corruption cases involving: public procurement, financial management and control, as well as protection of competition and anti-monopoly legislation. The best practices of three organisations stands out: Transparency Serbia, the Toplica Centre for Democracy and Human Rights and the Foundation for Open Society. The greatest compliment of their work is the fact that these organisations have been asked by the Public Procurement Office to take on the role of “Citizen Overseer”—a new institution inaugurated by the 2012 Public Procurement Law.

However, the process of adoption of regulations is characterised by insufficient involvement of citizens. Civil society plays a limited role in that process and one reason for it is the lack of legal assurance that the adoption of a regulation would be preceded by public hearings and that citizens’ and CSOs’ proposals would be considered. At the local level, the issue of anti-corruption is almost completely ignored by decision-makers. Local anti-corruption action plans have been adopted only in rare cases while local NGOs are concentrating mainly on disseminating insights on new legislation and mechanisms available for countering/reporting corruption, and facilitating cooperation between three groups of actors—the judiciary, civil society and independent regulatory bodies, most notably in this case the Anti-Corruption Agency and State Audit Institution.³²

Recommendations

To the government

- Enhance access to information that is essential for the measurement of and fight against corruption.
- Strengthen the position of independent bodies in the fight against corruption and make every effort to resolve the problems identified in their reports.
- Enhance the anti-corruption behaviour through the adoption of the Law on Protection of Whistleblowers, an active approach to corruption investigations, and amendments to criminal legislation.

³² A solid example of what NGOs see as potential paths for them to intervene can be read in this agenda: www.uts.org.rs/images/stories/agenda.vrnjackabanja.pdf.

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- Provide public debate about the changes in key legislation, with the reasonable period for the submission of proposals, the obligation to consider proposals submitted and to give justification on why they were accepted or not.
 - Enhance citizens' participation in local anti-corruption planning (i.e., through local anti-corruption forums), facilitate sustainable and effective implementation and provide independent monitoring mechanisms.

To the Anti-Corruption Agency

- Facilitate effective cooperation with civil society organisations, with the aim of improving and empowering various anti-corruption measures and activities.
- Establish a system for continuous training and consultations for CSOs in order to not only provide a framework for active participation but also to enhance standards in their performance.

To civil society

- While advocating for policies and measures in various areas, consider and initiate related activities that promote anti-corruption (or the fight against corruption). Include anti-corruption efforts and actions in the CSO's work, network and collaborate with other anti-corruption agents, both in the government and civil society.
- Advocate for effective protection of whistleblowers and participate actively in shaping the related legislative framework.

To the international community

- Encourage and support civil society actions in fighting corruption in the police and some other, underreported sectors and institutions.
- Stimulate anti-corruption activities at the local level by providing small grants dedicated to this purpose.

6. Involving CSOs in Civic Education

During the last 10 years, CSOs have been progressively nominated to implement civic education programmes. Growing sums of development resources have been directed to and through CSOs in all sectors. In turn, CSOs

working to lessen poverty, recover social welfare, and develop civil society have become more dependent on international donors.

CSOs have been increasingly participating and contributing to the delivery of educational services, influencing education policy, and have been included by governments and donors in various aspects of the education system. This trend can also be found in the education sector, where most major donor agencies have amplified the resources allocated through CSOs to implement educational programmes. Moreover, donors use international and local CSOs for education service-delivery in both formal and non-formal contexts.

However, CSOs have not limited their education activities to service delivery. They are also involved in lobbying and advocating for education reforms, working individually and through networks to participate in policy dialogue. Also, donors have begun to engage in technical and institutional capacity-building programmes for local CSOs.

While explaining why CSOs should play a growing role in the education sector, many mirror the arguments for increasing the role of CSOs in general. CSOs work at the community level, therefore affecting social change where others cannot. They represent and catalyse civil society, an element many consider critical for sustainability and democratisation. Also, CSOs are simply more efficient than other partners.

Trying to separate whether CSOs' interventions in the education sector have lived up to expectations is a complex task and is more theoretical than practical. Among other things, one has to discuss how CSOs have in fact intervened, how their presence and relationships with governments and donor partners have evolved, what implications their presence has caused for education systems and civil society, which contextual factors have affected CSOs' interventions, and, most importantly, what happens if the government does not see the CSOs as a partner (which is the case in Serbia).

Recommendations

To the government

- Acknowledge the efforts of CSOs as complementary, not competitive.
- Do not limit state ownership to the central government. Ownership is not just about the inclusion of CSOs in a government priority setting. It should work as a standing platform for consultation.

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- Involve alternative services in the strategy, so the optimal capacities of CSOs can be used. CSOs have the advantages of being more flexible than the state, closer to the grassroots and local cultures, and more innovative. Thus they are in a good position to provide alternative services where state provision is absent or insufficient, such as organising literacy programmes or skills training.
 - Promote competitiveness by using public tenders to attract CSOs. Changing government policy and the way that it is formulated is the most effective way to ensure the success and sustainability of NGO intervention.

To civil society

- Participate in the decision-making process by accepting all the faults of the *bureaucracy* and system and make efforts to be a part of the policy creation process.
- Build, create and generate continual positive tension between CSOs and education. When CSOs act as if the government is not present, their programme objectives can be opposed to the official policies and frameworks.
- Offer optimal capacities and advantages. The biggest benefit of CSO intervention is their innovative capability and flexibility, features that will certainly be muted by strict donor oversight or regulations.

Conclusion

In order for Serbia to successfully undertake the most comprehensive set of reforms, as part of its accession process to the EU, it is necessary to pay special attention to policies under chapters 23 and 24, where in previous enlargement rounds the candidate countries had considerable difficulties in complying with the *acquis*. Today, the government of Serbia underperforms in most of the policy areas covered by these chapters. At the same time, the country is subject to the EU's "new approach" to enlargement, which insists on chapters 23 and 24 to be among the first opened but closed only at the very end of the negotiations. It also allows for suspending the whole process if progress in these areas is not sufficient. Thus, it makes these two chapters a precondition for the entire accession process for the country.

The EU's "new approach" warrants a "new response" on the part of the Serbian government, an approach that will allow for an inclusive and open as well as efficient accession process to take place. This response must be based on the effective inclusion of CSOs in the negotiation process in order to capitalise on their expertise, impartiality and monitoring experience. In addition, the process must be open to the public, where all necessary information and agreements reached are disclosed, and where the interested public can partake in the process. This new response must focus on the fight against corruption, establishing an efficient judiciary and respect for minority and migrant rights, which should be three priority areas for the Serbian government. Furthermore, the government must put more effort into informing and educating the public about the accession negotiations, so as to increase trust and support for the integration process.

CONCLUSIONS

This report aims to give a specialised overview of the interaction of the governments and civil society on chapters 23 and 24 of the *acquis* in the Western Balkan states aspiring for EU membership. Nevertheless, its content can be generalised to depict the relationship between governments and CSOs as a whole in the countries of the region.

The report makes it evident that despite varying stages of advancement in the EU accession process, many challenges regarding good governance are shared among the governments and CSOs of the region. Hence, cooperation and events where CSOs had the opportunity to strengthen their regional network, learn from each other's experiences, as well as from the experiences of the Visegrad countries (10 years after their EU membership) have been of huge importance. It is noteworthy that Croatia is also referred to several times throughout the recommendations as an exemplary case, likely due to its geographic proximity and recent accession.

None of the national chapters in this report denies the existence of cooperation between the government and civil society. Yet, the fact that these cases of joint activities happen on an ad hoc basis and are not always well institutionalised is commonly defined as a persistent challenge. Governments and CSOs largely fail to establish sustainable mechanisms of cooperation and consultation despite adequate legislative and policy frameworks that encourage this partnership in all the countries included in the report. Most of these governments have offices for cooperation with CSOs but their role is not clearly defined and the volume of activities they conduct remains small. Indeed, instances of cooperation often occur at the initiative of the international community and projects it supports, and end as the projects are finalised.

Hence, the crucial meeting point that unites the countries represented in this report is the failure to implement the otherwise excellent legislative

provisions for cooperation between sectors. The causes for this situation and the stakeholders involved are manifold, as the country recommendations have portrayed. Government institutions fail to invite CSOs for cooperation not necessarily because they intentionally maintain a closed-door policy against civil society but sometimes due to lack of human and financial capacities to sustain the coordination of consultative events. On the other hand, although there are a number of positive examples (mostly in Montenegro and Serbia, where the accession negotiations with the EU have already started), CSOs often do not act with a unified voice for major issues in their countries. There is often serious competition between those perceived as “pro-government” CSOs and those chronically critical of the government.

The general recommendations derived from this report call on CSOs for joint actions so as to increase their pressure on the government and disseminate a harmonised message—more representative of the CSO sector and more influential on policies; and on the government to establish sustainable inter-sector consultation and monitoring bodies for public policies. While the establishment of sustainable cooperation bodies is a long-lasting challenge that requires the intensive engagement of the government (with capacity-building programmes, adequate allocation of resources for this purpose, and prioritisation of the issue), independent monitoring and evaluation of policy implementation can be a means through which CSOs can provide useful feedback without depending on direct engagement with the government. This would be particularly important since failure to monitor and evaluate laws throughout their implementation process remains a serious challenge of the targeted reforms by governments in the region.

The ambition for EU accession is continuing to serve as a driving force for significant reforms in the region. In the same spirit, the desire to share larger networks of democratic states and identify with them has pushed all countries discussed in this report to express interest in joining the Open Government Partnership initiative (except BiH, though civil society there is intensively lobbying for it). Joint activities between civil society and governments within the framework of the action plan for OGP are expected to contribute greatly toward the improvement of cooperation between both sectors and toward increasing public trust in institutions and CSOs. Indeed, this initiative complements many of the existing requirements of the EU for membership, hence, any activities that promote and help achieve the same values and encourage unified activities of CSOs will also, indirectly, facilitate the integration process in the region.

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ABOUT THE INSTITUTIONS



European Movement ALBANIA (EMA) is a think tank exploring political, economic and social challenges that Albania and the Western Balkans are facing on their road toward EU membership. It is devoted to making the policymaking process transparent and accountable. EMA's work is organised around four programme areas: promotion of European values and European Integration process of Albania, democracy and good governance, economic and social dimensions of EU integration, and regional cooperation. Considering the needs and challenges of Albania in this transformation process, EMA's work includes policy research, analysis, advice and advocacy; capacity-building and training; and public debates and policy forums. EMA is a strategic partner in the "Thinking for Governance" project.

WEB: WWW.EM-AL.ORG



THINK TANK POPULARI is an independent, non-governmental and non-profit research centre, based in Sarajevo, but operating throughout Bosnia and Herzegovina. Founded in 2007, Populari seeks to provide credible research and analysis, offer solutions and advocate change. Combining in-depth desk and extensive field research, Populari's team is focusing on EU integration, good governance and democratisation policies. Through a unique blend of rigorous policy analysis, creativity, and practical approaches to explaining complex issues, Populari makes its publications accessible to various target

groups, including policymakers, the media and the public, thus challenging mainstream thinking and informing policies relevant to everyday life in BiH.

WEB: WWW.POPULARI.ORG



CENTRE FOR SECURITY STUDIES (CSS) is an independent research, educational and training enterprise dedicated to encouraging informed debate on security matters and to promoting and sustaining democratic structures and processes in foreign and security policy in Bosnia and Herzegovina and the region. CSS acts to generate knowledge and provide policy, management and capacity-strengthening solutions to problems caused by safety and security issues in post-war Bosnia. The topics covered by the research group include securitisation, democratic control and oversight, corruption, transparency and accountability of the security sector, police and military reforms, peace-building, political violence, conflict management, migration, and foreign policy.

WEB: WWW.CSS.BA



VAŠA PRAVA BOSNIA AND HERZEGOVINA is a Bosnian NGO that provides legal assistance on civil matters to refugees, displaced people, and other poor and disadvantaged Bosnians. Vaša Prava's core mission is to promote civil, socio-economic, cultural and human rights and to provide fair access to justice to ensure those rights. It also helps to build an active civil society and a culture of rights by playing a vital role in making recovery-oriented legal reforms a reality for Bosnia's disadvantaged, dispossessed and disenfranchised populations. Vaša Prava BiH is the only legal services organisation operating throughout the country.

WEB: WWW.VASAPRAVA.ORG



KOSOVAR CIVIL SOCIETY FOUNDATION (KCSF) established in 1999, is an independent, not-profit organisation focused on supporting local civil initiatives that lead to a strong civil society. KCSF has three main programmes: the Civil Society Programme, which is focused on creating an enabling

environment for the functioning of civil society; the European Integration Programme, which is focused on increasing understanding of the European Integration process and advancing the European agenda of Kosovo; and the Grant-giving/Re-granting scheme, which is focused on supporting local CSOs in the field of democratisation, active citizenship, good governance, transparency and accountability, gender and minority areas.

WEB: WWW.KCSFOUNDATION.ORG



NGO AKTIV was founded in the divided city of Mitrovica. Since its inception in 2009, AKTIV has successfully implemented an array of projects and has become an active part of local civil society. It has cooperated with a number of both regional and international NGO's and has played a vital role in the political and social development of N. Kosovo. With a growing presence in the local community and with an expanding network of partners, AKTIV has been able to increase the scope and scale of its projects. AKTIV has two key programme units: Kosovo Serb Community Development, aiming to increase the internal capacity of the K-Serb community; and, Inter-Community Cooperation, covering programmes of inter-ethnic reconciliation.

WEB: WWW.NGOAKTIV.ORG



CIVIL RIGHTS PROGRAM IN KOSOVO (CRP/K) was founded by The Norwegian Refugee Council (NRC) in 1999. As of 2002, it acts as an independent non-governmental human rights-based organisation. It is UNHCR's implementing partner in all legal protection programmes. It is also partners with the EU, UNICEF, Civil Rights Defenders/Sweden and other organisations on specific projects. CRP/K provides free legal assistance, information, counselling, and advocacy for returnees, refugees, asylum seekers, IDPs, persons at risk of statelessness, and persons considered to be vulnerable to a loss of their civil rights.

WEB: WWW.CRPKOSOVO.ORG



CENTER FOR RESEARCH AND POLICY MAKING (CRPM) is an organisation that has a mission to promote good governance and development in Macedonia on the basis of relevant, evidence-based policy research, capacity-building and training, evaluations, analyses and surveys, without regard to and independent of the particular interests of any group of society, whether political, social, or economic. Founded in 2004, CRPM engages in policy analysis, seeking to open the policymaking process to citizens, improve laws, assess institutional capacities for their implementation as well as monitor and evaluate how much these policies are creating public value or are directed towards the Europeanisation of Macedonia. CRPM is a strategic partner in the “Thinking for Governance” project.

WEB: WWW.CRPM.ORG.MK



MACEDONIAN YOUNG LAWYERS ASSOCIATION (MYLA) is a non-profit professional organisation of lawyers established in 2003 in Skopje, Macedonia. Over the years, MYLA has transformed itself into a unique organisation that actively protects human rights. Areas of work include human rights litigation, protection of asylum seekers, refugees and stateless persons, access to justice, non-discrimination, access to public information, capacity-building for lawyers, and monitoring the implementation of laws related to the rule of law. MYLA is active in policymaking in these areas through participation in task groups in relevant ministries, drafting reports and analysis and preparation of policy documents.

WEB: WWW.MYLA.ORG.MK



CENTRE FOR REGIONAL POLICY RESEARCH AND COOPERATION “STUDIORUM” (founded in 2002) is a non-governmental think-tank based in Skopje, Macedonia, working on economic and social aspects of EU and NATO integration and globalisation processes that are of essential importance to the Republic of Macedonia and the countries of Southeast Europe. Studiorum has

three programmes: Health Policy and Management; Human Rights; and, New Media and Society; as well as an interdisciplinary research unit.

WEB: WWW.STUDIORUM.ORG.MK

institut alternativa

INSTITUTE ALTERNATIVE (IA) is an NGO established in 2007. The institute functions as a think tank and research centre focused on the overarching areas of good governance, transparency and accountability. On the basis of five main programmes (public administration, accountable public finances, security and defence, parliamentary programme, and social policy), IA monitors the process of accession negotiations with the EU, actively participating in working groups 23 (Judiciary and Fundamental Rights) and 32 (Financial Control). Institute Alternative received an official certificate from the Ministry of Science to conduct research activities in the field of social science in 2013.

WEB: WWW.INSTITUT-ALTERNATIVA.ORG



CENTER FOR MONITORING AND RESEARCH (CeMI) is an NGO whose main goal is to provide infrastructure and expert support for continuous monitoring of the process of transition in Montenegro. During the last reform period, CeMI has grown into a leading advocacy think tank in Montenegro. It has arranged its work into three programmatic areas: Democratisation and human rights, the Fight against corruption, and Security and defence sector reform. CEMI is working on monitoring the implementation of strategic policies in the process of European integration. On the international level, the organisation is one of the founding members of ENEMO and a full member of PASOS.

WEB: WWW.CEMI.ORG.ME



CENTRE FOR DEMOCRACY AND HUMAN RIGHTS (CEDEM) was founded in July 1998 as a think-tank with a main goal of strengthening civil society and spreading awareness of the democratic transition of the country. The work of CEDEM is structured within five programme strands: European integration, rule of law, human rights, security and defence, and social inclusion. Within

these programmes, CEDEM provides research and analyses, and organises seminars aimed at public administration, the judiciary and CSOs. CEDEM is widely known for conducting public opinion polls as well as issuing policy papers that mostly pertain to judicial reform, human rights and social inclusion.

WEB: WWW.CEDEM.ME



GROUP 484 is an NGO from Serbia, established in 1995, with broad experience in the field of migration. It has provided assistance to thousands, working in more than 70 towns in Serbia. Direct assistance work has been gradually extended to educational, research and policy-advocacy activities. Group 484 aims to contribute to the development of “migrant-oriented” migration policies, while its research and advocacy work is related to both forced and voluntary migration. In 2011, the Centre for Migration was founded as a think tank. Group 484 is a member of the European Council on Refugees and Exiles.

WEB: WWW.GRUPA484.ORG.RS



Beogradski fond za političku izuzetnost
Belgrade Fund for Political Excellence

BELGRADE FUND FOR POLITICAL EXCELLENCE (BFPE) is dedicated to facilitating the process of continuous development of new democratic leadership in the political sphere, as well as leaders in other segments of public life who will steer Serbia towards European and Euro-Atlantic integration. Its activities are designed to encourage and enrich the public debate in an attempt to bring about the necessary consensus on relevant social issues and processes. Its approach to capacity-building of elites aims to increase their curiosity and knowledge, strengthen their feeling of social responsibility and encourage debate among various stakeholders. BFPE is a strategic partner in the “Thinking for Governance” project.

WEB: WWW.BFPE.ORG



Belgrade Centre for Security Policy

BELGRADE CENTRE FOR SECURITY POLICY (BCSP) is an independent research centre dedicated to advancing the security of the citizens of Serbia on the basis of democratic principles and respect for human rights. BCSP’s

interest are all of the policies aimed at the improvement of human, national, regional, European, and global security. The Centre initiated the formation of a coalition of seven local NGOs tasked with performing independent monitoring of the process of Serbian accession negotiations with the EU, covering policies under chapters 23 and 24. BCSP is one of the leading NGOs within the National Convent for the European Union in Serbia, where it coordinates the work group for chapter 24.

WEB: WWW.BEZBEDNOST.ORG



THE CENTER FOR EUROPEAN ENLARGEMENT STUDIES (CENS) was founded in 2005 as an institution of advanced research of the EU enlargement process, and is an independent Center of Central European University. The overall goal of CENS is to promote a dialogue between Member States and their partners in Eastern and Southern Europe, academics and decision-makers in the EU and in national governments so that they may have a more informed understanding of factors that influence Europe's common future. Research carried out encompasses not only the enlargement process but also a wider range of political, economic and social influences of European integration. CENS is a strategic partner from the V4 countries in the "Thinking for Governance" project.

WEB: WWW.CENS.CEU.HU



ASSOCIATION FOR INTERNATIONAL AFFAIRS (AMO) is a non-governmental and non-profit organisation founded to promote research and education in the field of international relations. Thanks to its activities and sixteen-year tradition, AMO has established itself as the preeminent independent foreign policy think tank in the Czech Republic. It has organised and participated in various international projects aimed at education and capacity-building in the states in transition in the post-communist Europe and North Africa. One of its main goals is to deliver expertise and critical assessment of events and

policies in the field of international affairs. AMO is a strategic partner from the V4 countries in the “Thinking for Governance” project.

WEB: WWW.AMO.CZ



THE CENTRAL EUROPEAN POLICY INSTITUTE (CEPI) is a regional think tank and a member of the Strategy Council, based in Bratislava, Slovakia. CEPI’s mission is to help decision-makers and opinion-makers in Central Europe to craft common responses to current challenges, and to improve the quality of their contributions to the EU and NATO debates. It does so by engaging the region’s top experts and institutions, promoting innovative solutions, and working closely with governments to turn recommendations into policy. CEPI is a strategic partner from the V4 countries in the “Thinking for Governance” project.

WEB: WWW.CEPOLOGY.ORG



THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS (PISM) is a Polish think tank that carries out research and training in international relations. In this field, it ranks as one of the most influential think tanks, not just in Central and Eastern Europe, but in the European Union as a whole. PISM is prolific in the fields of European and EU affairs, European Neighbourhood Policy, EU security policy, arms control and energy. The institute has produced a number of notable reports and is a member of the global Council of Councils. Besides these activities and its core tasks of research and analysis, PISM organises regular discussions on international relations. PISM is the leader of the “Thinking for Governance” project.

WEB: WWW.PISM.PL

This publication focuses on challenges in cooperation between governments and civil societies in the Western Balkan countries in six selected areas covered by chapters 23 and 24 of the accession negotiations with the European Union: effective monitoring of the implementation of action plans and strategies; human rights issues; migration and asylum policies; the judiciary and justice system; anti-corruption policies and activities; and civic education.

The study is co-authored by 20 experts from the Western Balkans. They map the problems in each of the subjects by providing the existing framework of strategies, legislation and action plans, as well as the practical dimension of civil society –government cooperation. The authors offer consolidated recommendations to both the government and civil society, and additional recommendations to the EU, the international community, donors, and other stakeholders, with the aim to enhance collaboration in each country in the particular areas.

PISM | POLSKI INSTYTUT SPRAW MIĘDZYNARODOWYCH
THE POLISH INSTITUTE OF INTERNATIONAL AFFAIRS

The Polish Institute of International Affairs (PISM) is a leading Central European think tank that positions itself between the world of politics and independent analysis. PISM provides analytical support to decision-makers, initiates public debate and disseminates expert knowledge about contemporary international relations. The work of PISM is guided by the conviction that the decision-making process in international relations should be based on knowledge that comes from reliable and valid research. The Institute carries out its own research, cooperates on international research projects, prepares reports and analyses and collaborates with institutions with a similar profile worldwide.