

*Maja Bobic\**

*Relja Bozic\*\**

# **Civil Society in the Process of European Integration – from Constructive dialogue to Successful Negotiations**

Abstract:

Six months from being officially granted candidate status for membership in the European Union, Republic of Serbia is faced with the challenge of getting the start date of full membership negotiations. Having the orientation and capacities of the Government in mind, as well as the fact that the Government is the only authorized body to guide the process, it is necessary to indicate the importance of involvement of civil society representatives in the negotiation process in order to provide a comprehensive and consensus-based negotiation platform for all domains which are subjects of negotiations. This paper primarily analyses the process and structure of negotiating, as well as the option of more active involvement of non-state actors, especially civil society organizations (CSOs) in this process. Comparative analysis is used to present experiences of two countries from the region, one of which, Croatia, has completed the negotiations process, while the other one, Montenegro, is about to start that process. The analysis provides evidence about a wide potential space for better performance, but also space for impact made by CSOs both through more adequate legislative framework and through more transparent and inclusive approach. A set of recommendations is given in the end, most important of which we consider is legally-based and mandatory involvement of civil society organizations representatives in the process of preparing for negotiations and negotiating with the EU.

Keywords:

civil society organizations, accession negotiations, Serbia–EU, European integration

\* The author is a member of Research Forum and Secretary General of the European Movement in Serbia. E-mail: [maja.bobic@emins.org](mailto:maja.bobic@emins.org)

\*\* The author is a Research Associate of the European Movement in Serbia. E-mail: [relja.bozic@emins.org](mailto:relja.bozic@emins.org)

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## Introduction

Republic of Serbia was granted candidate status for membership in the European Union (EU) on March 2, 2012. The public in Serbia has, however, already been informed from several sources and based on the experience of member countries that the following step, opening of negotiations, is the crucial moment in the process of joining and accession of any country to the EU. That is to an extent a well-founded opinion if we remember that each accession stage can last seemingly endlessly long and that duration of the process depends on (not) meeting the requirements and the (in)ability to find mutually acceptable political solutions. That is how, for example, Macedonia was granted candidate status as early as in December 2005, but it has not started negotiations with the EU up to the present day.

Opening of negotiations – which are negotiations about acceptance of requirements, i.e. acceptance of deadlines and ways in which extensive European legislation (which is divided into 35 topical sections in order to provide easier adoption and understanding) will be adopted and implemented – initiates regular, complex and comprehensive change and improvement of the domestic legislative framework, the environment, improvement of behaviour and acting in accordance with democratic principles and getting closer to European standards because progress in conclusion of negotiations is measured by implementation and enforcement of laws and standards which were adopted. Many people are right when they doubt that defining this process as “negotiations” is terminologically right, because the term “agreement on adoption”<sup>1</sup> may be more adequate for it. Negotiations are, certainly, only *negotiations on terms* under which a country will adopt the extensive EU acquis and attain European standards in defined periods of time – transition periods, with possible exceptions which are, however, rare. This process certainly does not call into question whether the candidate country and future member of the EU will enforce all laws and standards. So, what is basically agreed during negotiations is the pace at which all membership requirements will be met.

Continuation of the process of European integration is undoubtedly a serious incentive for all countries of the Western Balkans (and perhaps a necessary prerequisite) for further political and economic reforms, especially since 2006 when the EU defined the framework and course of negotiations more precisely, which means that the criteria and mechanism of compliance with requirements for candidate states were defined more precisely. By evaluating the level of compliance and implementation plans, the EU decides whether a chapter will be opened based on the recommendation which the European Commission (EC) gives to the Council of the EU about the results of *screening* (detailed examination of status) of each chapter, i.e. defined and attained specific *benchmarks*<sup>2</sup> for opening of chapters. The base of the entire process consists of negotiating platforms by chapters which are prepared both by the candidate country and by the EU. It is important to point out that negotiating platforms of the candidate country contain ways in which EU acquis will be adopted, implemented and enforced by chapters.

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<sup>1</sup> Majstorovic, S., (2012), „Pripreme za pregovore o pristupanju Republike Srbije Evropskoj uniji“, in: Izazovi evropskih integracija, No. 20, JP Sluzbeni glasnik, pg. 34

<sup>2</sup> Expression that is also used is “opening benchmarks”.

The EU Council then, by taking into account the negotiating platform of the candidate country and recommendation of the European Commission, unanimously adopts a joint EU platform, based on which negotiations for a specific chapter are opened. When a chapter is opened, the EU defines its position which also includes *benchmarks for temporary closure of a negotiating chapter*. Benchmarks are a new instrument which was created as a result of the fifth enlargement. They are supposed to improve the quality of negotiations, thus providing incentive to the candidate country to implement reforms in the early accession stage.<sup>3</sup>

As of this year, starting from negotiations with Montenegro, an innovation was introduced, so negotiations with each subsequent country start from chapters 23 and 24, because convincing evidence of results of implementation (*track record*) needs to be presented in these fields. Those are chapters that define issues of judiciary, fundamental rights and other, justice, freedom and security, which are matters of internal affairs. The Negotiating Framework for Montenegro which was adopted by the Council based on the European Commission's recommendation provides an even more complex and strict interpretation of conditionality of negotiation dynamics and its dependence on meeting the requirements from chapters 23 and 24. In order to provide balanced progress by chapters while keeping in mind that the aforementioned chapters are directly related to values on which the EU is based and are directly related to enforcement of the *acquis*, if there is no progress in these chapters the Commission can, on its own initiative or initiative of a third of member countries, suggest suspension of giving recommendations for opening and closing of chapters until balance is established. The Council will decide on such proposal and conditions for suspension of this measure by qualified majority.<sup>4</sup>

Even though both opening of negotiations and their dynamics will largely depend on further progress in solving primarily political issues in the domain of regional cooperation and, of course, dynamics and quality of implementation of reforms and general consensus of all EU member countries, it is commendable that the state administration started preparing administratively and institutionally for the next stage. We expect that the current government will also work on acceleration of the European integration process in accordance with the Prime Minister's exposé, and will make every effort to get the date of opening of negotiations. That will, certainly, require additional changes of the institutional and administrative structures which have to be adapted to the new stage.

*We think that this adaptation should be used to allow meaningful and timely involvement of the civil society and interested parties in the next stage of accession to the European Union.*

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<sup>3</sup> For example, there were in total 104 measures for temporary closure of 31 negotiating chapters during Croatia's negotiations with the EU.

<sup>4</sup> Montenegro and the EU, <http://www.esiweb.org/index.php?lang=en&id=526>, 5 July 2012

## 1. Involvement of CSOs in Negotiations – a Condition or an Opportunity?

Involvement of the civil society in the process of negotiations with the EU is not one of the formal prerequisites for their commencement. The European Union negotiates only with representatives of public administration in the negotiations process. There is, however, no doubt that the European Commission encourages involvement of representatives of other levels of government in the European integration process, but also involvement of civil society representatives, and the Commission does that through different programmes<sup>5</sup>. What is also analysed in progress reports which the EC submits to the Council and the European Parliament annually, in which it assesses implementation of reforms and fulfillment of membership requirements, is the level of democratic development in Serbia. The Report which accompanied the Opinion on the European Union membership application of Serbia from 2011 states that “it is necessary to invest more effort in order to use the evaluation of regulatory influence more efficiently and to improve public consultation in the legislative process, especially in terms of civil society and local self-governments”.<sup>6</sup> The report also highlights the need of using a consistent and transparent approach to consultation with interested parties. Identical assessment and recommendation were given in the latest progress report in 2012. Moreover, Enlargement Strategy and Main Challenges 2012 - 2013 explicitly states that the EC, in its new approach to negotiations with aspiring countries, requires more transparency and inclusiveness in the negotiating process and overall reforms, while “candidate countries are encouraged to define their reform priorities in the consultative process with relevant interested parties in order to provide maximum support to their implementation”.<sup>7</sup>

Based on the revised European Partnership from 2008 and its segment that refers to conditions in the fields of civil and political rights, Serbia was obligated to regulate the legal status of CSOs, to encourage their development, but also to regularly consult them on political initiatives. Previous experience of other countries has shown that the transition process is realized much more effectively if this cooperation is strengthened and that general principles and values proclaimed by the EU are clearly realized.<sup>8</sup>

*The role of civil society organizations is also to advocate the interests of citizens and to help achieve modern, participative democracy in Serbia in the process of European integration by organizing public debates during preparation of legislative and strategic documents which not only regulate interests, but also rights and obligations of citizens. Having in mind the fact*

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<sup>5</sup> Primarily through the Civil Society Facility programme, i.e. by organizing and supporting conferences in the region whose goal is to involve CSOs into the process of enlargement and dialogue with CSOs in EU countries. The European Movement International organized a convention that dealt with that very topic in Istanbul in 2011, at which officials of the EU emphasized importance of active involvement of CSOs into the decision-making process – more details at: [www.europeanmovement.eu/index.php?id=6811&tx\\_ttnews%5Bttnews%5D=5233&cHash=e2a9d5c394](http://www.europeanmovement.eu/index.php?id=6811&tx_ttnews%5Bttnews%5D=5233&cHash=e2a9d5c394)

<sup>6</sup> Analytical report which accompanies the Opinion on the European Union membership application of Serbia, 2011, pg. 17

<sup>7</sup> Enlargement Strategy and Main Challenges 2012 -2013, COM (2012) 600, Brussels, October 10, 2012, page 6.

<sup>8</sup> The Lisbon Treaty of the European Union puts an emphasis on representative and participative democracy as the basic democratic principles on which EU is based and whose main entities are political parties and the civil society.

*that citizens of the country are those who finally vote on the country's membership in the EU in a referendum, it is extremely important to open space for other actors, primarily the civil society, so they can bear their share of responsibility for informing citizens about political and economic consequences and effects of membership, in order to really provide support for membership and to give it full legitimacy.*

On the other hand, institutionalization of cooperation between these entities and government bodies can significantly *contribute to improvement of human resources which are weak and limited, better allocation and purposeful use of funds, strengthening of institutions and good public administration.* Finally, improvement of this type of communication and consultations is a prerequisite of implementation of the negotiation process in accordance with principles of openness and transparency which should also be followed when defining new structure for preparation of negotiations and during negotiations as well.

*Apart from the existing practice, obstacles to more active participation of civil society organizations are also their capacities.* There are several aspects that influence general estimate of internal capacity of CSOs to represent the interests of citizens: legal and political framework, financial framework, expertise, experience, as well as readiness to get involved in political processes. Adoption of the Law on Associations in July 2009 was one of the obligations that Republic of Serbia had undertaken by becoming a member of the Council of Europe, but also a part of overall activities which are necessary in the process of European integration. However, what is still missing are some strategic documents and legislative solutions that would regulate cooperation, i.e. measures that would eliminate financial, procedural and status obstacles to functioning of CSOs. Having in mind that CSOs are trying to realize their missions and objectives by obtaining finances from different funds which are mostly foreign ones, a question that needs to be asked is why policy of financial support to CSOs is not clearly defined and neither is the way of transparent spending of budgetary resources which are intended for associations of citizens.<sup>9</sup> Besides, the political situation which is characterized by frequent changes of power holders and their attitudes towards the process of European integration has additionally slowed down capacity development of CSOs to get involved in this process, by constantly putting them back into the position of "keepers of the vision of Serbia's membership in the EU".

CSOs in Serbia mainly deal with issues and fields in which reforms need to be made on the way to full membership, and the way they do it is usually at the level of informative campaigns. However, the biggest problem when it comes to capacity of CSOs to get actively involved in the process of negotiations with the EU is the fact that among all CSOs, there are very few which initiate and propose substantiated public policies when defining platforms for adoption, i.e. transfer of policies from the level of the EU to the national level.

Capacity of CSOs is also negatively affected by insufficient mutual cooperation (networking)

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<sup>9</sup> In spite of the fact that the Centre for Development of the Non-profit Sector has been monitoring and analysing spending of the 481 budget line intended for NGOs for years, based on which diversification of line 481 was suggested and supported by 188 organizations. <http://www.crnps.org.rs/linija-481>. CSOs are additionally obligated to provide 20 per cent of funding from other sources for projects funded by the EU.

of CSOs and non-existence of specialized knowledge and connections with expert organizations and institutions in certain fields. However, even when they are invited to cooperate, CSOs cautiously accept the challenge of cooperating with state institutions due to general politicization of the society and thus insufficient mutual trust, danger of abuse or subsequent changes which would compromise participation of an organization. Finally, one of the challenges when defining participation of CSOs in the process of negotiations with the EU can be insufficient understanding of this process, the nature of negotiations, European legislation, but also procedures, which is sometimes noticeable in case of CSOs.

All of the aforementioned things should not discourage any of the parties in the process of improving participation of CSOs in negotiations with the EU. Even though we are confident that presence and participation of the third sector helps find better solutions, in this specific case mere availability of information, availability of data “from the field” and insight into specificities of an issue even on a certain territory could qualify some of interest-oriented or activist-oriented local civil society organizations.

*What is the intensity and quality of participation of civil society in the process of Serbia’s association and accession to the EU so far?* Starting from the Resolution of the National Assembly of Serbia from 2004,<sup>10</sup> organizations were invited to become involved in the joint effort of speeding up the process of association and accession. The Council for European Integration was established as early as in 2002, as an advisory body of the Serbian Government, whose role was expanded in 2007 by setting out responsibilities for monitoring the realization of Serbia’s European Union association strategy and proposing guidelines for improvement of the process and achievement of national consensus. This body consists of representatives of all relevant social groups. That means that its structure also includes representatives of the church, economy, trade unions, universities, but also representatives of civil society organizations. Participation of CSOs has been insufficient to date, even in the aspect which refers to communication, where these organizations should have a more significant role in getting citizens acquainted with this long-lasting process, but they should also have support and encouragement from decision-makers. However, that is in accordance with general evaluation of participation of civil society in all reform processes in Serbia.<sup>11</sup> In order to understand the current position, but also potential forms of active participation of CSOs in the negotiation process, we should consider the institutional structure for negotiations between the Republic of Serbia and the European Union.

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<sup>10</sup> The Resolution was, as stated in the text of National Strategy of Republic of Serbia for SCG’s EU Accession, adopted “with the help of the European Movement in Serbia”.

<sup>11</sup> Examples of timely and proper involvement of civil society in creation and implementation of strategies or requirements on the way to membership are creation and implementation of Poverty Reduction Strategy, National Youth Strategy, but also preparation of responses to the questionnaire of the European Commission on EU membership.

## 2. Who Is in Charge of Negotiations?

In order for the process of reforms, i.e. process of fulfillment of the commitments taken by signing and ratification of the Stabilisation and Association Agreement (SAA) to be realized and for Serbia to be prepared for negotiations with the EU in an efficient way, institutions (bodies) for coordination and monitoring of the entire process have been formed. The Government has, first of all, made the Decision on Establishment of the Coordination Body for the Process of EU Accession.<sup>12</sup> Government Decision from September 26, 2012 adapted the structure of the Coordination Body to the new structure of the executive, but also to the stage of negotiations. Even though this was an opportunity to show readiness for meaningful and substantial involvement of the broader public, for example professional public and civil society according to the principle of partnership and cooperation, participation of civil society was not specifically defined by this Decision.

The aforementioned Decision on Establishment of the Coordination Body for the process of EU Accession for the purpose of preparing for the next stage in the accession process and for the purpose of preparing for negotiations also defines bodies for coordination and control of the entire process. So the *Coordination Body for the Process of EU Accession* was established and members of the Government (Prime Minister and Deputy Prime Minister for European Integration) and representatives of relevant line ministries (foreign affairs, defence, foreign and home trade and telecommunications, labour, employment and social policy, finance and economy, justice and public administration, agriculture, forestry and water management, energy, development and environmental protection, regional development and local self-government, traffic) were appointed as its members. Director of the European Integration Office also participates in activities of the body. This body considers all issues of European integration and coordinates public administration bodies.

An *Expert Group* of the Coordination Body was also formed and its task is to perform professional activities. It is headed by the Director of the European Integration Office and is comprised of heads of the so-called subgroups of *Expert Groups* and State Secretaries from ministries which do not administer subgroups, as well as Deputy Minister for EU in the MFA, deputy director and coordinator for EU funds in the European Integration Office and representative of the National Legislation Secretariat.

*Subgroups of Expert Group* for preparation and Serbia's negotiations on accession to the EU are the operative part of coordination of the entire process and they were formed to match the structure of negotiating chapters, so there are 35 of them in total. Members of subgroups were appointed – those members are representatives of government institutions that will be involved, while heads, their deputies and secretaries for each field (chapter) were appointed later on. This is where we should emphasize that it is extremely important to include representatives of CSOs in the structure of these bodies.

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<sup>12</sup> Originally it was the decision in the Official Gazette of the Republic of Serbia, No. 118/2008 and 22/2009 and after elections in 2012 and after the Government was established, it is the latest Decision from 2012. Official Gazette of the Republic of Serbia 093/2012.

Finally, *European Integration Units* (contact persons for European integration) in line ministries and public administration bodies are coordinators and contact persons between their organizations and the European Integration Office.

Defined bodies are also supposed to provide interministerial and intersectoral coordination of the process. What is currently taking place is introduction of sectoral approach to planning (*Sector Wide Approach – SWAp*), which orients countries in the process of association and accession to the EU towards improvement of planning of national policies, strategies and priorities and their coordination and on defining common procedures for realization, monitoring, control and measurement of effects of results in fields which are defined by chapters. The objective is that representatives of state institutions, the donor community and the civil sector get actively involved in defining and implementation of national policies and priorities in each field.

*The decision which refers to participation of civil society representatives in activities of subgroups only mentions that “in case that there is a need for involvement of other bodies and organizations in activities of an Expert group/subgroup, the chairperson/head of the subgroup can invite representatives of those bodies and organizations to participate in a session of the Expert group/subgroup”. The decision does not prescribe mandatory participation/membership of representatives of trade unions, business community, local self-government and their associations, universities, institutes, media, professional associations, or representatives of civil society organizations.*

Proposition of Initiative for Involvement of Representatives of Standing Conference of Towns and Municipalities (SKGO) in activities of the Expert group for negotiations with the EU was adopted some time ago and it was sent to the European Integration Office which gave its support to SKGO, adding that the Office would try to provide adequate participation of representatives of the SKGO’s board in coordination of the process of Serbia’s accession to the EU, through direct communication with line ministries.

*The European Integration Office (EI) has the central spot in the coordination system and through its activities and coordination of the process of European integration, as defined by regulations in accordance with principles of openness and transparency, it tries to allow insight into its activities and make them more familiar to the widest range of the public. The European Integration Office cooperates with a large number of NGOs, academic institutions and representatives of trade unions and professional organizations.<sup>13</sup> In line with this, the European Integration Office was the first government institution that recognized the importance of cooperation as a principle of acting – in 2005 it initiated signing of Memorandum of Cooperation with Non-governmental Organizations and such document was signed with 90 civil society organizations so far. The Office also signed the Memorandum with the Serbian Chamber of Commerce, universities and the Institute of Economic Sciences. Besides, the European Integration Office started the Programme of Cooperation with Civil Society Organizations in March 2011, whose main objective is to provide participation of CSOs and build partner relationships between governmental and non-governmental sector in the process of planning development assistance, especially*

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<sup>13</sup> Amended National Program for Integration of the Republic of Serbia into the European Union, 2009

programming and monitoring of use of the Instrument for Pre-Accession Assistance.<sup>14</sup>

Besides, *The Office for Cooperation with Civil Society* was established in January 2011 by the Government of the Republic of Serbia, based on the Regulation on Establishment which was adopted prior to that. The Office performs professional work for the Government which is related to ensuring coordinated acting of public administration bodies and encouragement of cooperation between public administration bodies and associations and other civil society organizations, which, among other things, includes *initiation and adoption of regulations and other by-laws which regulate the position of associations and other civil society organizations as the foundation of building a democratic, inclusive and solidary society*. This shows that there is an (incomplete) institutional and legislative framework which requires initiative for involvement of CSOs in the process of thorough reforms, where negotiations with the EU in the process of Serbia's accession to the European Union certainly have their place.

We should also bear in mind that one of the planned goals of the Office is *promotion of participation of CSOs in processes of European integration and initiatives for cooperation in the region of Western Balkans, European Union and beyond*. It is also important to mention the initiative called *Open Government Partnership*<sup>15</sup>, which also gathers most members of the EU and countries from the Balkans region and which was formalized by a special declaration on the sidelines of the UN General Assembly meeting in 2011. As a global initiative, *Partnership* enables governments to be as transparent, efficient, responsible and reliable as possible and allows them to have institutions which empower and motivate people (including CSOs) to participate in public affairs. Serbia became a part of this initiative in March 2012, but no specific steps were taken. Precisely, a letter of intent for joining the *Partnership* was sent from the Ministry of Culture, Media and Information Society, which indicated that Serbia would start creating the National Action Plan for Open Government through public consultation with civil society organizations and other interested parties. The plan was supposed to be adopted during 2012 in order to be presented to member countries of the Partnership at the Annual Conference of the initiative in Great Britain in 2013. The proposition of activities in the Open Government Action Plan proposes involvement of citizens in the policymaking process, as well as the obligation of conducting public debates before adopting laws and strategic documents.

However, after public debate which took place on the Serbian Government e-Uprava portal in the period of May/June 2012, the fate of this document is still unknown. Therefore we express our hope that the present Government will finish the initiated process and more importantly, that it will allow more participation of interested and broader public in the decision-making process through implementation of the Action Plan. In line with this, a team whose integral part should be civil society representatives needs to be established as well.<sup>16</sup> Of course, we should not disregard initiatives of the EU on management of consultation processes and improvement of constructive dialogue between the state and civil society,

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<sup>14</sup> See the following website for more details: [www.cdspreplaze.org.rs](http://www.cdspreplaze.org.rs)

<sup>15</sup> See the following website for more details: [www.opengovpartnership.org](http://www.opengovpartnership.org)

<sup>16</sup> One of the things that illustrate the importance of this initiative is the Report of the European Commission on Montenegro's Progress, which uses a segment dedicated to anti-corruption policy to list activities related to the Open Government Action Plan which this country has done in this field.

with precisely defined need of involvement of CSOs in decision-making processes,<sup>17</sup> nor should we disregard the Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (Serbia became a party to the Convention in 2009), and the Council of Europe's Code of Good Practice for Civil Participation in the Decision-Making Process.<sup>18</sup>

Let us remind that Serbia did not include a document which would set directions of development of cooperation between government bodies and CSOs in strategic documents,<sup>19</sup> while Montenegro, for example, did so.<sup>20</sup> On the other hand, we should point out one of strategic directions of operation of the Office for Cooperation with Civil Society related to strengthening of the institutional framework for development of civil society, which provides for establishment of National Council for Development of Civil Society. The goal is exactly to establish an institutional framework for adoption and monitoring of implementation of the Strategy for Development of Civil Society and to make an impact on improvement of processes which are important for development of civil society and cooperation between different sectors. That, however, has not been done yet, but it should not be an obstacle to qualitative improvement of cooperation between government bodies and civil society.

***Therefore we consider that it is extremely important that participation of civil society representatives and organizations in the broadest sense and scope of the word (universities, institutes, media, trade unions, business associations, professional and expert associations, other citizens' associations and civil society organizations) is provided for in all decisions and regulations which will prepare the state of Serbia (not only its public administration) for an efficient and effective negotiating process with the EU.*** Provisions that are supposed to regulate this should point out the obligation of involving these organizations in the negotiation process, without leaving any options not to do that. On the other hand, the Government of the Republic of Serbia must not make the same mistake that was made by some EU member countries and candidate countries which started the negotiation process which was characterized by a high level of *secrecy*. Therefore it is necessary to ***ensure continuity in providing information to citizens about the course of the process and effects of planned and implemented reforms*** on improvement of their everyday life, which needs to be done from the start of the negotiation process. Finally, in that respect, active involvement of all relevant actors is set as an obligation.

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<sup>17</sup> Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission, (11/12/2002), Brussels, COM(2002) 704 final; and Follow-up to the Green Paper "European Transparency Initiative", (21/3/2007), Brussels, COM (2007) 127 final.

<sup>18</sup> Code of Good Practice for Civil Participation in Decision Making Process, (1/10/2009), Council of Europe, CONF/PLE(2009) CODE1.

<sup>19</sup> Strategy of support to development of civil society exists only in the City of Belgrade.

<sup>20</sup> Strategy of Cooperation of the Government of Montenegro and NGOs was adopted at the meeting of the Government of Montenegro held on January 22, 2009.

### 3. Comparative Experience

An essential part of European integration is regional cooperation, which includes exchange of experience between government bodies and CSOs among countries of the Western Balkans region. What is important for us is to consider two countries which have gone a long way in the process of European integration, especially in the context of involvement of the civil sector in negotiations with the EU.

#### 3.1 The Case of Croatia

Apart from significant differences in institutional structure which was formed for the process of European integration in Croatia and which will not be analyzed here, it is important to point out that participation of civil society during negotiations was perceived in two ways. The official *Report* by the Government of the Republic of Croatia on the course of negotiations states that “an important (...) part of the negotiation process was participation of all segments of Croatian society in the process of preparing for membership in the European Union, including the academic community, trade unions and the business sector.”<sup>21</sup> The list of members and participants in the process (primarily members of the so-called working groups which were defined according to negotiating chapters) serves as evidence for that statement. About 1,500 people were involved in activities of 35 working groups. Those people are representatives of various institutions and organizations, business entities, trade unions and others. However, it was noticed that the “principle of inclusiveness and transparency” was not respected equally in different groups. Working groups 23 and 24 did not include any representatives of civil society at all and their structure consisted solely of government bodies (ministries and offices) and courts dealing with these issues. Having in mind that these are complex but extremely important matters, which were recognized as such not only by the European Commission, but also by citizens of Croatia – those matters are human rights, return of refugees, war crimes, fight against corruption – it is surprising that it was not necessary and useful to include representatives of associations and experts who have the knowledge and interest to solve those issues in a way which is best for citizens and for the profession. Therefore it is not surprising, and perhaps that was the cause along with an obvious motive in the form of announcements that chapter 23 will be closed, that a group of leading non-governmental organizations in Croatia formed *an ad-hoc NGO coalition for monitoring negotiations in chapter 23*, but that happened in the beginning of 2011. Their primary goal was to publish monitoring reports on the course of negotiations in chapter 23 in order to indicate that “no progress was made” in this field before the chapter is closed and to list a whole range of requirements with the aim of improving everyday life of citizens of the country.<sup>22</sup> This Coalition used parallel advocacy towards the national Government and towards Brussels and twice managed to an extent to even extend chapter 23 by indicating additional problems which the European Commission did not indicate in its progress reports, while representatives of these organizations considered that those issues could be a part of this chapter.

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<sup>21</sup> Report on Negotiations by Negotiating Chapters Republic of Croatia – European Union, pg. 3.

<sup>22</sup> Requirements which we want to point out are annulment of appointment of judges, decriminalization of libel, repeal of certain laws, etc.

Basically, this was the last opportunity for these organizations to use the process of accession to the EU in order to put pressure on the Government. Main factors of success of joint action, besides credibility of member organizations of the coalition, were recognition of opportunities to get involved in the entire process, which resulted in openness primarily by the EU Delegation and member countries for their recommendations and requests. Finally, before the latest elections in Croatia and after formation of the new Government, there were in total 112 requests (recommendations) for improvement of the Government's work, which resulted in transformation of the ad-hoc coalition into *Platform 112*, an informal coalition that consists of 19 and is supported by another 42 organizations which are oriented towards protection and promotion of human rights and rule of law in Croatia. It is important to mention that the Coalition, in spite of identified shortcomings in fulfillment of criteria in chapter 23, gave its support to closing of negotiations and thus to accession to the EU, understanding the strategic importance of this process.<sup>23</sup>

On the other hand, a better example of inclusiveness and transparency of the process, at least from the formal point of view, is the environment working group which had 106 members, half of which were representatives of ministries, while the other half consisted of representatives of industry, government agencies, institutes, faculties and two non-governmental organizations, which, in our opinion, is certainly not enough. The Agriculture and Rural Development Working Group was by far the largest working group during Croatian negotiations with 395 members and it was representative judging by the presence of various associations, cooperatives, economy and state institutions.

In the case of Croatia we can conclude that the process of European integration, especially when it comes to the stage of membership negotiations with the EU, is convenient for civil society organizations to strengthen their position in relation to representatives of government bodies and with them at the political and sectoral level. The first thing primarily refers to providing support for the future process of monitoring the status by chapters, i.e. announcing the position of the country in the process of negotiation by chapters. On the other hand, mutual trust between CSOs is strengthened in this way (the number of members in the network increased from the original 20 to 58 members), as well as trust in other interested parties (sectors). It is certain, however, that CSOs in some cases needed to fight for the option to participate in the negotiation process themselves, by addressing the Croatian public and European institutions.

People in Croatia also in a way expressed their opinion that there were omissions in organization of EU accession negotiations which were, eventually, successfully completed. Namely, the campaign for the referendum on January 22, 2012, when citizens of Croatia voted on EU membership discovered that a large number of citizens is unfamiliar with benefits or challenges of membership, while a number of organized opponents to Croatia's accession to the EU spoke about lack of information and demanded that "citizens are

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<sup>23</sup> The letter sent to the Commission on May 11, 2011, requires establishment of an independent parliamentary body which would monitor implementation of reforms in this field for the following three years, because not all European standards have been met, but they point out that they "are aware of broader political implications of further delay of Croatia's accession to the EU, in terms of political stability in Croatia and in the entire Western Balkans, which the EU also needs to take into consideration when deciding on the pace of Croatia's accession". More details at: [www.gong.hr/news.aspx?NewsID=3754&PageID=228](http://www.gong.hr/news.aspx?NewsID=3754&PageID=228)

informed objectively and truthfully” before the vote, because “90 percent of Croatian citizens consider that they are not properly informed about matters of Croatia’s accession to the EU”.<sup>24</sup> The vote of the citizens of Croatia went well and 66.27 percent of those who participated in the referendum supported Croatia’s accession to the EU. However, almost 2 million participants in the referendum, which is about 33 percent, were against and Eurosceptics used that to make a calculation according to which only 28 percent of voters were in favour of EU membership. Anyway, the interpretation that participation of all interested parties is insufficient is valid, as well as the one that there is a kind of secrecy in which the whole process was shrouded, all of which contributed to lack of understanding and slightly higher abstinence of Croatian voters when it comes to the European future of Croatia.

### 3.2 The Case of Montenegro

Opening of EU accession negotiations with Montenegro happened in June 2012. In order to see the way and procedures which provided for cooperation with CSOs during the negotiation process, it is important to also analyze the legislative framework that specifies cooperation with CSOs, besides the aforementioned strategic framework. Precisely, the Government of Montenegro, based on provisions of the Law on State Administration, adopted the *Decree on the Procedure and Manner of Developing Cooperation between Public Administration Bodies and Non-Governmental Organizations* near the end of 2011 and adopted the *Decree on the Procedure and Manner of Conducting Public Debate in Preparing Laws* in February 2012.

The Decree provides for consultations between public administration bodies and CSOs by organizing meetings and written or electronic communication when strategies and action plans by fields are being created, as well as draft laws and bills and other regulations, by-laws and documents which were not planned by the annual plan of public administration bodies’ activities. The whole procedure includes a public call to CSOs for participation in consultations and interested organizations are informed about it in due time (no later than 10 days before the day of consultation).

Except for the content listed in the document’s title, the Decree also includes criteria and procedure for selection of representatives of CSOs in working groups and other bodies established by the public administration bodies, also by public calls published on the public administration body’s website and on the e-government portal. Calls define the number of CSOs in a working group, requirements for CSOs and their candidates, necessary documents and application deadline. Of course, this decree defines general terms for CSOs and terms that refer to candidates. What is also interesting is selection of members of a working group – the public administration body shall publish the list of applicants, while the ones that become members of the working body are those for whom most proposals were submitted by CSOs. Involvement of civil society organizations was, among other third sector representatives, stipulated by the decree which defines procedures and manners of consultation with the interested public and organization of public debate in preparing laws.

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<sup>24</sup> HSP wants these videos broadcast: These are videos against Croatia’s accession to the EU, available at: <http://dnevnik.hr/vijesti/hrvatska/hsp-pozvao-na-emitiranje-spotova-protiv-ulaska-u-eu.html>

Just like the procedure from the aforementioned decree, the procedure starts by announcing a public call on the line ministry's website and the e-government portal and by sending it to organizations, associations and individuals for which it is assumed that they could be interested. By browsing through official websites and published reports, we can conclude that calls were indeed sent in a timely manner, with a mandatory deadline of not less than 20 days from the date of announcing a public call for submission of proposals and comments. Apart from consultations, the Decree also defines procedures of organizing public debates and mandatory reports which need to include a part that refers to consultations with the interested public.

Such framework certainly provides for and allows more active participation of civil society organizations in creation of important documents in the process of European integration, which has already been proven in practice.<sup>25</sup> Namely, after adoption of Montenegro's negotiation structure in March 2012, working groups for chapters 23 and 24 were formed. The first one consists of 48 members in total, which includes male and female representatives of four civil society organizations, which is the first case of a country that involved civil society representatives in working groups and thus in the negotiation process.

By using these mechanisms and by following the example of Croatia<sup>26</sup>, with mentoring support of the ad-hoc Coalition, at the initiative and coordinated by Centre for Development of Non-Governmental Organizations (CRNVO) and membership of another 15 organizations with years of experience, *Coalition of Non-governmental Organizations for Monitoring Negotiations in Chapter 23*<sup>27</sup> was also established in Montenegro in July 2012. The long-term goal of the Coalition's activities is contribution to making significant improvement of life of citizens of Montenegro. The Coalition consists of organizations dealing with fields from negotiating chapter 23.

Participation of organizations in negotiations with the EU should not be limited to involvement of civil sector representatives in working groups. That is why it is necessary to conduct monitoring and continuous joint reporting which will point out issues and problems in specific fields.

As it has been announced, the coalition regularly and objectively informs the local and international public about all shortcomings and positive developments in these fields and it also advocates changes in the legislative, institutional and implementation framework. In line with that, we should say that the emphasis is on the principle of transparency which is characteristic for most strategic documents and the intention to actually implement the

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<sup>25</sup> In the annex of the European Commission's Montenegro Progress Report for 2012 it is stated that the level of transparency of public administration bodies' activities has been increased and that there is more significant and better participation of non-governmental organizations in the processes of adoption of public policy documents, which means that the process of consultation with CSOs has been improved. Twenty-four calls by public administration bodies were published by then, mostly by ministries to non-governmental organizations for proposing candidates for members of working groups.

<sup>26</sup> We should bear in mind that the ad-hoc coalition in Croatia was formed and began concrete activities only at the very end of negotiations.

<sup>27</sup> Representatives of three member organizations of the Coalition were involved in activities of the Chapter 23 Working Group.

principle during the course of negotiations. The purpose of that is to make all opening and closing benchmarks for chapters publicly available in due time, as well as action plans for implementation of benchmarks and reports on meeting requirements defined by those benchmarks, which would facilitate monitoring of the negotiation process.

As we can see from examples of two neighbour countries, common approach and unique platform for action of civil society organizations provide space for more efficient and effective monitoring of the process of negotiating with the EU. Having in mind that this chapter will be the first one that is opened in negotiations between Serbia and the EU, we think that such experiences are important and that they need to be followed in order to provide active involvement of all actors in advocacy of changes in legislative, institutional and implementation framework, which will produce long-term effects on the situation in the fields of judiciary, human rights and the degree of rule of law in Serbia. It is necessary that such process is made possible (legislative framework) and organized (political will) in time. The case of Croatia clearly shows that there is a big space for action and impact, but if there are no concrete and properly timed activities, the space can be left unused.

#### **4. Conclusions and Recommendations**

Keeping in mind all of the aforementioned things related to participation of civil society in the process of European integration, we can make the following conclusions:

1. The process of European integration and opening of accession negotiations with the EU includes setting of dynamics and defining conditions of adopting extensive European legislation (*acquis communautaire*), which is a prerequisite for life of citizens in modern Serbia, in accordance with European standards.
2. This process requires commitment and thus strengthening of all available human resources and capacities on all levels in order to provide a synergy of all entities and consequently strengthening of public administration institutions, but also to provide better allocation and meaningful use of funding.
3. It is necessary to provide both timely and clear informing of expert, interested and broader public about reforms, commitments and conditions for EU membership.
4. A transparent and inclusive process of European integration and negotiations with the EU is the only thing that will provide understanding and support which are expected from the citizens of Serbia in the process of EU accession.
5. Democratic legitimacy is ensured by providing information and by understanding processes and commitments, while democratic deficit in the process of accession to the EU is reduced as well, which was proven in many examples, including the domestic one.

Based on all of the above, we put emphasis on the following recommendations:

1. The civil society (associations, trade unions, business community, universities and institutes, the media, professional organizations, representatives of local self-government) and the interested public should be regularly informed about activities of public administration departments and bodies in the process of European integration and they need to be consulted in the process of preparing negotiating platforms by chapters, especially in those chapters where interest of citizens is very important.
2. It is necessary to establish partnership between state institutions and civil society on all levels in the process of European integration.
3. All decrees and decisions which prepare the state of Serbia (not only its public administration) for efficient and effective negotiating process with the EU, should indicate the obligation of involving representatives of civil society organizations in this process, without leaving any options not to do that. The most efficient level to achieve that is the level which is currently defined as subgroups of Expert Group for preparation and accession negotiations with the EU, which are the operative part of coordination of the entire process and they were formed to match the structure of negotiating chapters, so there is a total of 35 of them.
4. We especially highlight the need of timely and meaningful involvement of representatives of the academic community, professional associations, but also representatives from the provincial and local level in this process.
5. It is necessary to further consult the civil society in a transparent way in order to define criteria and methods of selecting representatives of all aforementioned entities and organizations in the negotiation process. These criteria should be defined in a legally binding document – a decree/decision.
6. It is important to provide a timely and proper approach and insight to broader public into negotiating platforms by publishing those platforms on the European Integration Office's website, while the general public also needs to be informed about all possible and subsequent changes.
7. At the level of strengthening of civil society organizations' capacities whose development is one of important benchmarks in the process of accession to the EU, the Government of Serbia is supposed to provide conditions for sustainable and independent operation of associations in Serbia. Concrete proposals can, among other ways, be made by analyzing tax and financial obstacles in their functioning and by defining adequate tax benefits, clear conditions and mandatory transparency of budget funding of CSOs.
8. The Government of Serbia is supposed to provide an institutional framework for mandatory conducting of a regular consultation process between all levels of

authority and CSOs in creation of public policies and consequently strategies, laws and other acts.

9. CSOs in Serbia should, based on negotiating chapters and areas of their activity, form coalitions/networks, create policy papers supported by arguments and monitor changes in order to improve the content of negotiating platforms.

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