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# Inclusion of Civil Society Organizations on the EU Integration process of the country

## Policy document

2020 



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## Policy Paper

# Inclusion of Civil Society Organizations on the EU

## Integration process of the country

National Resource Centre for Civil Society in Albania is implemented in partnership with the Albanian Center for Population and Development (ACPD) and the European Movement in Albania (EMA).





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## 1. Introduction – background of CS sector in Albania

- *Challenges and setbacks of CSOs inclusion in policy-making – enabling environment, lack of information, lack of capacities, central vs local, funding etc.*

Albania has now made another step closer towards EU Integration aspirations, while opening the accession negotiations in March 2020 and getting prepared for organizing the First Intergovernmental Conference between EU and Albania. Based in such important momentum of Albania, is essential that all the actors of the society whether public institutions (central and local level), civil society and private sector, academia and social partners, youth and media to be part of the process both as contributors, and as beneficiaries.

The *Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development for the period 2019-2023* has been adopted on 25.07.2019, by the Decision No. 539, underlying that the creation of an enabling environment for the CS organizations is a prerequisite for a sustainable democratic country, and dialogue and cooperation are essential for a comprehensive and all-inclusive society. In this regard, this roadmap has identified three strategic priorities. One of these priorities is: Institutionalized government - civil society cooperation<sup>1</sup>. Yet, concerning this strategic priority as the report of EC has assessed, there is no progress for its fulfilment. The close collaboration and cooperation between Civil Society sector and public institutions is indicated even by the DG Enlargement Guidelines for EU support to civil society in enlargement countries 2014-2020<sup>2</sup>. As these Guidelines underline, is vital to create an enabling environment for the CSOs and there is a need to increase and strengthen their capacities to make them more accountable, more independent, transparent and financially sustainable.

There are more than 7 600 non-for-profit organizations registered in Albania, yet their high number is not guarantee for their development and strength. This is seen in case of Albania, where their engagement in decision-making and in monitoring of the policy-making process is not yet fulfilled. A weak civil society is assessed to have these features: low levels of organisational memberships, low levels of participation, low level of trust in CSOs and limited involved on consultative procedures, even though the law provides and foresees such involvement.<sup>3</sup> Today the civil society sector in Albania is characterised by these features, that may vary in degree but there are still persistent in the environment the Albanian civil society

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<sup>1</sup> Decision No. 539, dated 25.7.2019, pg. 4: [http://www.amshc.gov.al/web/doc/Udherrefyesi-2019-rishikuar-\[EN\].pdf](http://www.amshc.gov.al/web/doc/Udherrefyesi-2019-rishikuar-[EN].pdf)

<sup>2</sup> [https://eeas.europa.eu/sites/eeas/files/doc\\_guidelines\\_cs\\_support1.pdf](https://eeas.europa.eu/sites/eeas/files/doc_guidelines_cs_support1.pdf)

<sup>3</sup> Pérez-Solórzano Borrágán, Nieves, "Civil Society and EU Enlargement" In The Search for Europe. Contrasting Approaches. Madrid: BBVA, 2015 - <https://www.bbvaopenmind.com/en/articles/civil-society-and-eu-enlargement/>



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operates. As the 2020 Report of European Commission emphasises: *“No progress has been made on the implementation of the roadmap on an enabling environment for civil society”, while: “Substantial efforts are needed to ensure meaningful and systematic consultations with civil society as part of an inclusive policy dialogue for reforms”*. This is essential because: *“An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by state institutions.”*<sup>4</sup>

One of the structures relevant to reach this priority in Albania is the **National Council for Civil Society** established in 2015, which has a consultative role and aims to offer the space for dialogue among the CSOs and state institutions regarding topics of interest and reforms undertaken by the government. The aim of this council is stipulated by Article 1 of Law No. 119/2015 "On the Establishment and Functioning of the National Council for Civil Society": *“1. Establish a National Council for Civil Society to guarantee institutional cooperation with civil society organizations in the Republic of Albania, in the interest of expanding democracy, consolidating good governance and enhancing transparency in public decision-making, through better involvement of civil society in this process”*. But this Council is not functioning properly, as the EC report of 2020 has assessed: *“The National Council for Civil Society has met only once in 2019 and the meeting was inconclusive, with no operational follow-up.”* Moreover, the EC suggests that: *“the Council should engage more with other civil society actors representing CSOs’ opinions in the policymaking processes.”*<sup>5</sup>

Another structure established with the aim to include the civil society and non-state actors on the process of policy-making is the **National Council for European Integration (NCEI)** that functions as the highest national advisory structure for European integration of the Albanian Assembly. This Council promotes and guarantees the comprehensive cooperation between political forces, public institutions and civil society; and ensures increased transparency in decision-making on integration issues as stipulated by Law 15/2015. In 2019 this Council had held only four meetings, and so far in 2020 there have been organized six meetings that due to pandemic restrictions have been organized online or in a hybrid format.<sup>6</sup>

Both these institutions have reflected some setbacks and issues. *First*, is the fact that they are mechanisms newly established, not fully consolidated or structured, making it difficult for them to reach their main objectives and goals. *Secondly*, the meetings of such institutions have been rare and occasional, and they are not in the same pace and in line with the process which

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<sup>4</sup> EC Report 2020 for Albania, pg. 12-13: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania_report_2020.pdf)

<sup>5</sup> EC Report 2020 for Albania, pg. 13: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania_report_2020.pdf)

<sup>6</sup> Official webpage of National Assembly of Albania: <https://www.parlament.al/DokumentaIntegrimi?integrimId=7>



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is ongoing and dynamic. As mentioned NCS has met only once in 2019, while NCEI has conducted half of the meetings it has projected in its plan of activities for the year 2020<sup>7</sup>.

The bodies are not represented in a comprehensive and regional level. Thus, it is evidenced that the local CSOs are underrepresented or it is really difficult for them to be involved and to be part of such mechanisms. National Council for EI has 15 organisations of Civil Society as its members, and none of them is from a region different from Tirana or to be a local organization. Even though some of these organizations have strong cooperation and partnerships with local communities and/or local NGOs, yet the fact remains that there are no local NGOs as members of the NCEI.<sup>8</sup>

When it comes to European Integration process and EU per se, the local communities including local CSOs, and local government face the challenge of not being properly and fully informed about the process, making really difficult and almost impossible for them to be engaged and to contribute in this process. This is disturbing, given the fact that more than 70% of EU legislation is and will be implemented at the local level. This means that the local structures and communities need to have the proper capacities, knowledge and resources, not only to know and understand such laws, yet to proper implement them in the future. The role of local government during EU integration process of the country is specified in the Stabilisation Association Agreement between EU and Albania, which states that: *"1. The Parties shall seek to strengthen regional and local development cooperation, with the objective of contributing to economic development and reducing regional imbalances. Specific attention shall be given to cross-border, trans-national and interregional cooperation. 2. Cooperation shall take due account of the priority areas related to the Community acquis in the field of regional development."*<sup>9</sup>

There is a need for consolidating and strengthening of the Civil Society, focused on the one of local level, as crucial actor in monitoring and supporting the work of local government. Based on the Report published by EU Delegation in Albania on Local Government Units in 2018<sup>10</sup>, the communication between these parties (local government and local civil society) is lacking or is not fully in place. The lack of involvement of citizens, community or CSOs in everyday work of local government institutions or municipalities causes less transparency, less

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<sup>7</sup> Ibid

<sup>8</sup> List of SCOs selected as Members of National Council for EI:

<https://www.parlament.al/Files/Integrimi/ListaOSHCKKIE.pdf>

<sup>9</sup> SAA between Albania and EU: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22009A0428\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22009A0428(02)&from=EN)

<sup>10</sup> Municipalities in the EU Integration Process of Albania, First Report 2018, pg. 9:

<https://eeas.europa.eu/sites/eeas/files/filedownload.pdf>



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accountability; while lack of information does not allow to establish proper mechanisms to monitor and make accountable the responsible institutions.

The lack of cooperation and the non-involvement of the CSOs comes even from the fact the local civil society organizations do not have the proper information or capacities to be involved and to contribute. Some of the challenges civil society sector in local level face as shown by the report are their own limited specialization, lack of knowledge and/or human resources making them really weak to influence the decision-making procedure. Sometimes even the number of CSOs is really small for some municipalities while the Forums and other permanent and consolidated structures through which the CSOs could be engaged and participate in local decision-making procedure, are also missing. Another problem raised is that most of the municipalities do not register and do not have a database for their own CSOs operating on the region.

EU has aimed to consolidate the role and participation of CSOs as an important feature for the democratic governance in the Union. This is stipulated on the 2001 White Paper on European Governance that should be inclusive, open and accountable. The Paper focuses on strengthening civic participation and communication transferred to the EU's enlargement policy as well.<sup>11</sup> Comprehensive participation and openness are actually included even in the Lisbon Treaty. The EU's support for Civil Society in candidate countries aims two main goals: *First*, these organizations are assessed as fundamental actors that will help the candidate countries to fulfil the criteria on rule of law, human rights and a functioning democracy. *Second*, the involvement of the civil society organizations in the process of pre-accessions is seen as a tool to 'deepen citizens' knowledge and information on the reformation process that country needs to undergo in order to be eligible to be a member of the European Union.<sup>12</sup> Thus, only if Civil Society is a strong and active actor, the decision-making procedure under the EU accession process of the country and the signing of the treaty for EU membership will be finalized with the support of whole society, which will be well-informed and engaged throughout the process.

In terms of enlargement EU is working on promoting the involvement of civil society in the accession process of the candidate countries and it is supporting financially the CSOs to play their monitoring role towards the policies of the candidate. This is made possible through Civil Society Facility (CSF) established in 2008 under the Instrument for Pre-accession Assistance

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<sup>11</sup> Pérez-Solórzano Borragán, Nieves. "Civil Society and EU Enlargement." In *The Search for Europe. Contrasting Approaches*. Madrid: BBVA, 2015, available at: <https://www.bbvaopenmind.com/en/articles/civil-society-and-eu-enlargement/>

<sup>12</sup> Ibid



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(IPA). The CSF operates in three strands: 1) support for national civic initiative and capacity-building; 2) support for activities carried out in partnership between CSOs from the region and from EU MS and 3) a 'People-2-People' programme supporting visits to EU institutions and exchange of experience and good practice.<sup>13</sup>

For the period 2018-2019 EU adopted a Civil Society Facility and Media Programme for which the EU contribution was 112 600 000 Euro. The beneficiaries of this Programme were the Western Balkans countries plus Turkey. For Albania the budget was 5 800 000 Euro for both years 2018 and 2019.<sup>14</sup> The specific objectives of the action for Albania related to civil society organizations were: to improve the environment for active citizenship and to enhance capacities; and to support the dialogue between CSOs and public institutions for EU integration process.

## 2. EU Integration process: Partnership Platform and Consultations Tables

- **Explaining briefly the Partnership Platform – Structure of Negotiations/ Working Groups**
- Consultations tables: a panorama of the process until now. How NGOs are contributing?
- **Assessment of this process: What is lacking?** - Assessment of mechanisms established for the partnership between public and SCO sector: National Council of CS, National Council of EU Integration.

Accession negotiations between Albania and European Union have been opened due to the Council decision of 25 March 2020: *“the Council, subject to endorsement by the European Council members, decides to open accession negotiations with the Republic of Albania. The Council invites the Commission to submit a proposal for a framework for negotiations, integrating the enhanced approach to the accession process. The first intergovernmental conference should be convened as soon as possible after the adoption of the negotiating framework by the Council.”*<sup>15</sup> This was the decision of the Council which was analysed as a political decision, while the real opening of negotiations will

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<sup>13</sup> Official webpage of European Union: [https://ec.europa.eu/neighbourhood-enlargement/policy/policy-highlights/civil-society\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/policy-highlights/civil-society_en)

<sup>14</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa\\_ii\\_2018-040-646\\_2019-040-647\\_civil\\_society\\_facility\\_and\\_media\\_programme\\_2018-2019.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa_ii_2018-040-646_2019-040-647_civil_society_facility_and_media_programme_2018-2019.pdf)

<sup>15</sup> Council Conclusions on ENLARGEMENT AND STABILISATION AND ASSOCIATION PROCESS – the Republic of North Macedonia and the Republic of Albania, 25 March 2020: <https://data.consilium.europa.eu/doc/document/ST-7002-2020-INIT/en/pdf>



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become possible only after the negotiations framework of the Commission to be adopted and the First Intergovernmental Conference between EU and Albania to be organized. The Council has discussed this matter two other times after its March decision but there have been discussions for Albania that needs to fulfil some criteria such as: implementation of Electoral Reform; Functioning of High Court and Constitutional Court. The opening of negotiations in a technical way is now expected to happen during 2021.

The opportunity for starting the negotiations, increased the need for preparing the Albania negotiations structure. Some of these structures have been established before the decision of 2020, since 2018, when European Commission in April 2018 issued an unconditional recommendation to open accession negotiations with Albania.<sup>16</sup> Later on, the pre-screening process started with the push from the European Commission and then-Commissioner for Enlargement, Johannes Hahn in order to prepare the country at the moment of officially opening the negotiations, as it was waiting the Council decision of June 2019 (which was negative).

The *pre-screening process* is actually a preparatory work in order to assess the harmonization of national legislation with the EU Acquis. Even though the screening starts normally after opening of negotiations, in case of Albania and North Macedonia in order to not lose time and to be prepared, it was decided that this process to initiate before the opening of negotiations, known as the pre-screening process. The first stage of the process: *the explanatory meetings* have been already concluded for all 33 chapters out of 35 that are to be negotiated. These meetings aim to bring together line Ministries and other public institutions/agencies from Albania, and EU representatives to discuss the relevant chapters. The first explanatory meetings have been organized for Chapter 23: Judiciary and Human Rights and Chapter 24: Justice, Freedom, Security, respectively on 27-28 September 2018 and 12-15 November 2018. The second stage of the pre-screening process is the *organization of bilateral meetings* for each chapter, in which the country needs to show the level of transposition of its own legislation with the EU Acquis, while introducing the strategies and action-plans for further progress on each chapter.

In framework of these developments, on December 2018 it was adopted the Decision of Council of Ministers No. 749 of 19.12.2018 "*On the establishment, organisation and functioning of the state structure, responsible for negotiating and concluding the Republic of Albania's accession treaty with the European Union*". Based on this decision, there have been approved other orders such as: Order of Prime Minister No 94 of 20.05.2019 "*On the set up, constitution and functioning of the inter-institutional working groups for European Integration*" and Order No 93 of 20.05.2019 "*On the*

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<sup>16</sup> [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/albania\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/albania_en)





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*organisation and functioning of the Technical Committee of the Inter-Institutional Working Groups*". In this regard, for each Chapter of the Acquis (33 in total in case of Albania) is established an Inter-Institutional Working Group (IIWG) responsible to specifically scrutinize the state of policies; legislation; administrative procedures; partnership and collaboration between actors of the respective chapter. IIWG is the body that will prepare the Action Plan for the Chapter, preparing so the framework conditions: the preliminary and the concluding one. Technical Committee of IIWGs established with the Order No. 93 oversees the overall functioning of the groups and ensures the continuity of work and engagement of the members in the process. Also, this committee is responsible for settling disputes among WGs, if any.

Order Nr. 113, of date 30.08.2019 *"On the forms of participation, functioning and institutional structure of the European integration partnership platform"* established a relevant structure – the Partnership Platform that aims to make possible the involvement and engagement of civil society actors, private sector, academia, social partners, and other interest groups in informing, consulting and monitoring the accession negotiations process of the country. In this regard 33 consultations tables are organized for each chapter, and are chaired by the heads of IIWGs. Part of these consultation activities are aimed to be representatives from civil society, private sector, local institutions and/or academia who as being defined by the Article III.2 point 5 of the Order: *"shall send an interest letter and CV to show the interest and expertise to contribute on the specific table/s"*.

Based in this order each Ministry had to open the call for expression of interest for the chapters they were responsible. Most of the Ministries shared this open call on their official websites, but this method was not successful, because the number of organization and interested reached was very limited and applications submitted were very little. This is the case of Ministry of Finance and Economy, that is responsible for 12 chapters of EU Acquis. Even though it published its open call on the official website on October 2019, in the end no or not eligible applications have been submitted. Thus, the consultation tables of these chapters have not started yet, even though more than one year since the call has passed.<sup>17</sup>

So far, there has been organized one consultation table from Ministry of Justice regarding Chapter 23: Judiciary and Fundamental Rights; and one consultation table from Ministry for Europe and Foreign Affairs regarding Chapter 22: Regional Cohesion and Structural Funds.

Another setback in establishing the consultation tables was the emergency state in Albania due to the earthquake of November 2019 and later on because of the Covid-19 pandemic. These

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<sup>17</sup> Ministry of Finance and Economy in Albania: <http://www.financa.gov.al/wp-content/uploads/2019/10/Ministria-e-Financave-dhe-Ekonomise-6120-1.pdf>



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two situations have shifted the attention of the line ministries from the EU integration matters to reconstruction from the earthquake and management of the situation due to pandemic.

In case of Ministry of Finance and Economy there is a plan to revitalize the Consultation Tables by reopening the calls for applications and to use various methods in order to reach a wider audience and the targeted groups such as contacting interested groups by e-mail; sharing it on the official webpage and on social media; cooperation with other organizations and stakeholders in order to share it with actors that are not directly contacted by the Ministries.<sup>18</sup>

### *New EU Enlargement Methodology and the opening of the negotiations*

On 5 February 2020 the European Commission presented a New Enlargement Methodology, after the 'No' the Council said for Albania and North Macedonia on October 2019 and the new proposal of France for restructuring and reforming the EU enlargement process.<sup>19</sup> Due to these developments, Commission through this methodology proposed to strengthen the accession process by enhancing credibility and trust in both sides. By giving a more engaging role to the Council, in order to assess the progress in all the steps the methodology plans to emphasize the political element of the EU accession process. This will be made possible by engaging the Member States, which are the voters on the Council and this engagement will create new chances for political and policy dialogue at high-level among Member States and candidate Countries, and for monitoring more closely and regularly the process.

This political approach might make the decision-making on the Council more realistic and the Member States would have a much clearer view of the progress and the reformation process for each candidate country, implying so that the decision-making will be more realistic and objective. An innovation was the clustering of the 35 chapters of the EU Acquis in six major thematic clusters focused on: 1) **Fundamentals** – good governance, justice and rule of law; 2) **Internal market** such as four freedoms of market and financial issues; 3) **Competitiveness and inclusive growth** including chapters of eco-social policies like employment, education, culture, media, science; 4) **Green agenda and inclusive growth** linked with energy, transport, infrastructure and environment; 5) **Resources, agriculture and cohesion** including chapters of agriculture, fisheries, food safety and regional policy; 6) **External relations**.

The cluster will be opened as whole after fulfilling the opening benchmarks rather than on an individual chapter basis. When these priorities have been sufficiently addressed, the cluster

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<sup>18</sup> You may find more: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_182](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_182)

<sup>19</sup> Politico.eu, France proposal: <https://www.politico.eu/wp-content/uploads/2019/11/Enlargement-nonpaper.pdf>



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(covering all associated chapters) is opened without further conditions and closing benchmarks are set for each chapter.<sup>20</sup>

Albania and North Macedonia, are planned to be the first countries, whose negotiations accession process will be affected by this methodology. This is different for Serbia and Montenegro, as countries that are already negotiating the chapters with the EU. It is stipulated that their ongoing process will not be amended by the methodology, but if these countries assess as more beneficial these updates or some of the elements introduced in the methodology, they are free to include them in their own process.

### **3. Other countries experience: Best practices/ what can we learn from them**

*Case of Croatia – the accession process characterized by the non-involvement of the civil society*

EU membership of Croatia has been assessed as a success story, from which other Balkans countries should have taken notes on how Croatia within 10 years was able to fulfil all the stages of the EU accession process and entered in EU in 1 July 2013. Croatia opened the negotiations in 2005 and closed them in 2011, the same year it signed the Accession Treaty. The referendum was held on 22 January 2012, where 66.27% of citizens supported Croatia's EU accession, while the Croatian Parliament ratified unanimously the Treaty on 9 March 2012.<sup>21</sup> The Negotiation Framework adopted in March 2005 by the EU Council, actually introduced novelties when compared to previous processes – the most notable novelty being the conditionality mechanism as the so-called opening and closing benchmarks, that are tasks that should be fulfilled to open and to close the chapters of EU Acquis.<sup>22</sup>

But, the accession process of the country was deemed as non-transparent, because the non-state actors and civil society were not involved and their engagement was limited. In this context, neither the Negotiation Framework did not include the principle of transparency and

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<sup>20</sup> European Commission (2020), New Enlargement Methodology - Enhancing the accession process – A credible EU perspective for the Western Balkans: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf), pg. 4

<sup>21</sup> Official webpage of Ministry of Foreign Affairs of Croatia: <http://www.mvep.hr/en/croatia-and-the-european-union/negotiation-process/>

<sup>22</sup> Transparency in retrospect: preliminary lessons from Croatia's EU accession proces Discussion paper Commissioned by the Greens / EFA in the European Parliament Prepared by Marina Škrabalo, GONG Research Centre, Croatia, pg. 2, <https://www.franziska-brantner.eu/wp-content/uploads/2012/11/Transparency-in-retrospect.pdf>



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confidentiality during the accession talks between Croatia and EU and exchange information.<sup>23</sup> This made the civil society and other non-state actors not clear for their position and their role in the process.

The only involvement of the civil society was possible on the negotiating structure adopted by the government. One of the bodies established alongside with Chief Negotiator and Negotiation Team consisting of 13 members, were the Working Groups for Preparation of Negotiations on the individual chapters of EU Acquis.

These groups have included around 1800 experts, where 1/3 of them were non-state actors (CSOs, business sector and academia). As mentioned in the decision, the WGs would participate on the screening process and in drawing up the draft proposals of negotiating positions, in dialogue with state administration bodies or other bodies<sup>24</sup>. Each Working Group (35 in total) had 30 to 50 members, where most of them were from public administration and the other part was from non-state actors. But, the main problem was not the participation in small number for the non-state actors. The main problem was the fact, that the members of these Working Groups did not have any clarification and description of their roles, or a guideline for their engagement and their concrete contribution. There have been cases where the WG have contributed only in the screening phase and then it has not been included on drafting the negotiation positions or in the whole process as well. Moreover, according to a survey assessing the state of CSOs in Croatia in 2009, 44% of these CSOs has stated that they had not followed the negotiations process with the main reason that they were not invited and were not informed to take part on these discussions. The other reasons are the lack of information concerning the EU accession process and the lack of expertise and capacities.<sup>25</sup>

Not only the inclusion of Civil Society was problematic, but even the communication with citizens about EU and implementation of communication strategies. Main documents of negotiations process were not public, and they were not published anywhere and the civic space for debate and discussion among various parties, and wide public was limited. It is assessed that the majority of population did not have sufficient information on EU (while 87% of citizens considered themselves insufficiently informed about the accession<sup>26</sup>), thus they could not create a rational and a cost-benefit position towards EU membership of their country.

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<sup>23</sup> Ibid, pg. 2

<sup>24</sup> Official webpage of Ministry of Foreign Affairs of Croatia: <http://www.mvep.hr/en/croatia-and-the-european-union/negotiation-process/negotiation-structure/working-groups/>

<sup>25</sup> Šeperić, Darko. "To Europe and Back – The Croatian EU Accession Process and Its Outcomes." SEER: Journal for Labour and Social Affairs in Eastern Europe, vol. 14, no. 4, 2011, pp. 463–480. JSTOR, [www.jstor.org/stable/43293436](http://www.jstor.org/stable/43293436)

<sup>26</sup> Transparency in retrospect: preliminary lessons from Croatia's EU accession process Discussion paper



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This is seen as a major factor for the fall of the support of the EU membership year after year<sup>27</sup> and the low turnout of the referendum on Croatia's joining EU. It is estimated that less than half of population, around 43.5% of citizens took part in this referendum, despite the importance of this voting.

To conclude, the process of EU accession negotiation of Croatia has been assessed as 'an elitist' project<sup>28</sup>, where the other part of society, different from state authorities was not included and not informed on the process, outcomes and prospective. Without including the civil society Croatia failed to achieve the objectives of the strategy of EU on the role and promotion of civil society: to monitor the process and to inform the citizens, in order that the final decision to be supported by all. Other authors have analysed that the EU accession process of Croatia showed that the main priority was the speed, and not the transparency and involvement of all actors and a thorough preparation of the negotiating position of the country.<sup>29</sup>

### *Case of Serbia - as country already in process of EU accession- negotiations*

Serbia has opened formally its EU accession negotiations on 2014, when the first Intergovernmental Conference was held in Brussels between Serbia and EU. This conference came after the decision of the Council on 25 June 2013 to open negotiations with Serbia. The Inter-Governmental Conference is the annual meeting where representatives of the EU (including Council and Commission) exchange views with the candidate country representatives. The first IGC serves for EU to present its Negotiating Framework and its general position on the accession negotiations. The first ICG is more in a political format, where high level representatives from both sides are present.

In case of Serbia the prime minister and minister of foreign affairs and the one of EU Integration was present. While the EU had representatives from the European Commission, the Council

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Commissioned by the Greens / EFA in the European Parliament Prepared by Marina Škrabalo, GONG Research Centre, Croatia, <https://www.franziska-brantner.eu/wp-content/uploads/2012/11/Transparency-in-retrospect.pdf>

<sup>27</sup> Šeperić, Darko. "To Europe and Back – The Croatian EU Accession Process and Its Outcomes." SEER: Journal for Labour and Social Affairs in Eastern Europe, vol. 14, no. 4, 2011, pp. 463–480. JSTOR, [www.jstor.org/stable/43293436](http://www.jstor.org/stable/43293436)

<sup>28</sup> Transparency in retrospect: preliminary lessons from Croatia's EU accession process Discussion paper Commissioned by the Greens / EFA in the European Parliament Prepared by Marina Škrabalo, GONG Research Centre, Croatia, <https://www.franziska-brantner.eu/wp-content/uploads/2012/11/Transparency-in-retrospect.pdf>

<sup>29</sup> Šeperić, Darko. "To Europe and Back – The Croatian EU Accession Process and Its Outcomes." SEER: Journal for Labour and Social Affairs in Eastern Europe, vol. 14, no. 4, 2011, pp. 463–480. JSTOR, [www.jstor.org/stable/43293436](http://www.jstor.org/stable/43293436)



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and Member States. The next ICGs are more on a technical format, where the discussions are on progress of various chapters, and next chapters are opened officially during these conferences. So far Serbia, have organised 11 ICGs, one conference per year. In each Conference Serbia has opened one or more chapters of EU acquis. Until now it has opened 18 negotiation chapters, meanwhile 2 of them have already been provisionally closed. In the last ICG held on 10 December 2019 Serbia opened Chapter 4 – Free movement of capital. The ICG for 2020, is not organized yet.

During the opening of negotiations in Serbia and organization of the First ICGs the discussion was focused on the role that Civil Society sector should play during this process. The involvement of CSOs is actually mentioned in the EU's Negotiation Framework for Serbia<sup>30</sup> in order for them to be parties in monitoring and consulting the process, so as to avoid the Croatian scenario.<sup>31</sup> But it was seen that the Serbian government was more in favour of a model where the NGOs are not actually engaged formally and directly to the negotiations process, but they could play the role of 'the watchdog', thus to monitor and supervise the process of negotiations not directly included. In this context when the Serbian negotiation structure and the actors involved were not clear and defined and the transparency was missing, the civil society in Serbia decided to organise itself in order to not only monitor but even to influence the negotiation process.

One of these self-organized initiatives, the widest one that covers all 35 chapters of the EU Acquis is the National Convention on European Union in Serbia. This platform is based on the Slovak experience, which has been established since 2001 and their financial and administrative support with the main aim of gathering various stakeholders from state institutions, civil society, academia and business to discuss policy-making process and the EU integration process of the country. NCEU in Serbia is a network that consists of around 700 civil society organizations, and it has established 21 Working Groups focused in one or more chapters.

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<sup>30</sup> Civil Society in the EU Integration of the Western Balkans,  
<https://www.files.ethz.ch/isn/184325/Civil%20Society%20in%20the%20EU%20Integration%20of%20the%20Western%20Balkans.pdf>

<sup>31</sup> Transparency in retrospect: preliminary lessons from Croatia's EU accession proces Discussion paper  
Commissioned by the Greens / EFA in the European Parliament Prepared by Marina Škrabalo, GONG Research Centre,  
Croatia, <https://www.franziska-brantner.eu/wp-content/uploads/2012/11/Transparency-in-retrospect.pdf>



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In August 2015, NCEU was recognized by the government in Serbia as a channel of information and consultation concerning the negotiation process.<sup>32</sup> NCEU nowadays has provided a more inclusive and transparent process, while strengthening the dialogue between state and civil society actors. The platform as stated on their official webpage provides<sup>33</sup>:

- 1) **Regular consultations** between Serbian governmental institutions and bodies and the interested public in the different phases of the accession process
- 2) **Definitions of recommendations and opinions** about Serbian negotiation positions as well as monitoring of the process of fulfilling the conditions and benchmarks in various sectors as described in negotiation chapters
- 3) **Transparent and open dialogue** during process of negotiations as well as during the monitoring process of reform enforcement
- 4) **Higher quality of informing the public** about the accession process, negotiations and the consequences

The Working Groups that have been established have the same structure of the negotiating groups established by the government. Each group is lead by one CSO or a coalition of CSOs based on their expertise and experience and they are open for all other NGOs and experts that want to join and want to contribute. Each WG consists of 25-30 experts, representatives of the NGOs, unions, institutes, professional organizations, structures of the local self-governance, media and other interested groups relevant for specific topics.

#### *Case of North Macedonia: as the country at the same stage as Albania*

North Macedonia was granted the opening of negotiations at the same day with Albania, on 25 March 2020. But differently from Albania which got its candidate status on 2014, North Macedonia opened the negotiations 15 years after being awarded the candidate status. These accession-negotiations will be carried out based on the New Methodology of the European Commission, meaning that North Macedonia is the country that Albania can compare its own progress and even though with a different start, they are now following the same path; nevertheless, this does not mean they will have the same speed and the same awards and outcomes.

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<sup>32</sup> NCEU official webpage in Serbia: <https://eukonvent.org/>

<sup>33</sup> Ibid



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Civil Society in North Macedonia has been assessed as an important actor. This is recognised for the first time by the resolution of Macedonian Parliament on priorities of the country to EU accession process, in which the CSOs should be included in the process while the government shall facilitate this inclusion.<sup>34</sup> Similar to Albania, there is established the National European Integration Council (NEIC) where civil society actors are included and can contribute on the EU integration and accession negotiations. This Council is adopted on 19 November 2007, and it is the only body where the representatives from legislative and executive structures are gathered together with the non-state actors.<sup>35</sup> The main goal of NEIC is to support the process of EU integration; to strengthen the dialogue; and the political consensus through decision-making procedure.

Furthermore, there are other structures and bodies where the civil society and non-state actors have the opportunity to join and to be engaged such as: Council for Cooperation and Development of Civil Society, Council for Monitoring the Implementation of the Strategy on Judicial Reforms, Council for Civilian Oversight of the Security Services, as well as in the working groups of individual ministries and IPA sectoral groups.<sup>36</sup> The role of civil society is active and it is included as a crucial actor on the process of decision-making in the country. This is strengthened by implementing the Strategy and its Action Plan for Cooperation between Government and Civil Society 2018-2020. This positive assessment comes by the European Commission on its 2020 country report for North Macedonia: *“The environment in which civil society operates has continued to improve. Civil society remained active and played a key role in policy and decision-making processes. However, efforts are needed to ensure a more meaningful and timely consultation process. Both governmental and non-governmental actors should ensure that conditions are in place for proper checks and balances. The legal and financial frameworks still need to be improved and implemented in practice. Since the adoption of the 2018-2020 Strategy and Action Plan, good progress has been made on the work of the Council for Cooperation between Government and Civil Society. Meetings between members of the Council are more frequent. Involvement of civil society in policy and decision-making processes has continued to improve after the adoption of the 2018-2020 Strategy, although practices differ among Ministries. Further efforts are needed to ensure a more meaningful and timely consultation process.”*<sup>37</sup>

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<sup>34</sup> Parliament of the Republic of Macedonia Official webpage: <https://www.sobranie.mk/kuvendi-i-republik-s-s-magedonis-dhe-parlamenti-evropian.nspj>

<sup>35</sup> Ibid

<sup>36</sup> Nikolovski, I., Civil society organisations and North Macedonia's European integration: Towards strategic participation and transparent accession negotiations, pg. 4, Advocacy Paper No.32/2020, KAS in North Macedonia

<sup>37</sup> EC Report 2020 for North Macedonia, pg.11-12: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north\\_macedonia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf)





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North Macedonia's negotiating structure which is decided by seven decisions adopted on 1 August 2019, is planned to be similar to the one of Montenegro. The bodies of these negotiating structure include: an Working Committee for European Integration; EU Accession Negotiations Committee; a State Delegation for EU Accession Negotiations of the Republic; an EU Accession Negotiations Group; an Office of the Chief Technical Negotiator; Working Groups for preparation of the National Programme for Adoption of the Acquis Communautaire (NPAA) and development of the negotiating positions for membership negotiations with the EU.<sup>38</sup> As stipulated by this decision the Working Groups for preparation of NPAA will be representatives not only from state authorities, but also by civil society, academia, local governments, business community and chambers of commerce and other interest groups.<sup>39</sup> Yet from the civil society representatives in North Macedonia and various experts the procedure of membership is still vague and not clear how the members will be elected.

The update and amendment of the procedure is an issue that is being discussed in North Macedonia among the social civil community. The changes are needed for two reasons: 1) the introduction of the new methodology of Enlargement and 2) the criteria and procedure of involvement of civil society and the selection in the negotiating structure is not clarified, this because the Macedonian government has not yet shared an official document explaining in detail the structure of the negotiations.<sup>40</sup> A group of Civil Society Organization had introduced their position concerning the negotiating structure and offering some suggestions on how to improve it<sup>41</sup>. One of the suggestions is the inclusion of the Parliament to play its role for oversight and control, in order for the process to not be monopolized by the government, due to the fact that the Assembly is not mentioned on the negotiations documents so far.

To conclude, despite the fact that the civil society in North Macedonia has an active role, it is involved in various bodies and contributes on the decision-making process in general, when it comes to the negotiating structure and their engagement in the bodies established there is still the need for update and clarification. Transparency by the government on the details and procedures of the finalised negotiating structure is important, including the procedures, information on the responsible persons and the clarified role of the civil society and other non-state structures as well. Transparency is essential for informing the wide public also for all the developments and decisions concerning the negotiating structure and accession talks

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<sup>38</sup> Nikolovski, I., Civil society organisations and North Macedonia's European integration: Towards strategic participation and transparent accession negotiations, pg. 4, Advocacy Paper No.32/2020, KAS in North Macedonia

<sup>39</sup> Ibid, pg. 4

<sup>40</sup> Positions of civil society organizations: A model of negotiations with the EU tailored to society as a whole, North Macedonia: <https://idscs.org.mk/mk/2018/12/13/7559/>

<sup>41</sup> Ibid



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afterwards. To have an comprehensive and inclusive process, the Parliament should be included and involved on the process.

### *Case of Bulgaria & Romania: Setting conditions after EU membership*

These two countries have a unique process of EU accession process and membership in the Union. They entered in EU in 2007, even though the Accession Treaty was signed since 2005. They are for more than 13 years EU members, and yet they are not part neither of Schengen area, nor of Eurozone. The main reason for not joining these two important areas is the not so positive assessment of Bulgaria and Romania towards achieving the standards on a functioning democracy, due to existence of issues linked with corruption and organised crime. This is evidenced even in the last report of the Freedom House - Nations in Transit 2020, where Romania and Bulgaria are both assessed as semi-consolidated democracies.<sup>42</sup>

Together with the Accession Treaty for these countries was introduced the **CVM** – Cooperation and Verification Mechanism with the aim to continue with the reforming process in both countries in order to fulfil the benchmarks not achieved before accession. Thus, CVM was playing the role that the pre-accession process plays for Albania and other Western Balkans countries nowadays, and was seen by EU as a transitory measure to help the countries reach the standards needed even though they were already Member States. In order for the EU to maintain and continue its pressure towards governments of both countries, the Commission have been publishing a report mostly annually on the progress the countries were doing under the CVM. These are thorough assessed and analysed reports which evaluate the progress on benchmarks for both countries and contain as well recommendations by the Commission to Bulgarian and Romanian authorities. The first report under CVM has been issued on 27 June 2007. Each report is discussed and endorsed by the Council.

Even though Bulgaria and Romania were now part of EU, they had to fulfil some benchmarks, 6 benchmarks for Bulgaria and 4 benchmarks for Romania in the areas of judicial reform – efficiency, accountability, integrity, prevention and fights against corruption and/or organised crime (the same areas assessed as fundamental in the EU negotiation process with Albania and North Macedonia). The CVM is planned to end when all these benchmarks are fulfilled. After 10 years of the first report, in 2017 the Commission provided concrete recommendations to be

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<sup>42</sup> Freedom House, Nations in Transit 2020 -



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followed by both countries, since then, the Commission has carried out two assessments of progress on the implementation of the recommendations in November 2017 and November 2018.<sup>43</sup>

These are the only countries that have undergone such mechanism to be part of EU. But CVM is assessed to have a limited impact. Despite the fact the governments were interested to lift this mechanism, the willingness to achieve the benchmarks were not in the same level. The CVM very soon was linked with the progress of the countries in Eurozone and Schengen area. Only if the benchmarks were met, the countries might be able to progress in joining them. Moreover 2019 was considered as the year CVM would be lifted, but the developments in Romania and Bulgaria had reversed during 2019 that made the Commission providing additional recommendations. CVM will end not because Romania and Bulgaria achieved to reach the benchmarks, but because the Commission has now introduced the Justice Scoreboard in order to monitor and assess all Member States when it comes to justice, human rights and corruption as today in EU some other 'problematic' countries have been evidenced like Hungary and Poland.

#### **4. Recommendations:**

*For state institutions:*

- All the process of EU accession talks should be characterized by transparency and public disclosure of information and relevant documents and reports concerning the negotiations and screening process for each chapter. Only in this manner the process can be monitored by civil society sector and the citizens can be informed about the process - what is being negotiated and cost-benefits for each decision
- There should be clear and distinctive rules and procedures of how the non-state actors (civil society, academia, business) etc. can be included and can contribute on the negotiations process. There have been adopted legal acts that foresee the creation of the Partnership Platform and of the Consultation tables, but as these tables are not fully operational the non-state actors should be clear for their contribution and their responsibilities in this platform and on the process.

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<sup>43</sup> European Commission official webpage: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_19\\_6137](https://ec.europa.eu/commission/presscorner/detail/en/qanda_19_6137)



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- The consultation process through policy-making and negotiations should be considered as a priority for an effective, inclusive and transparent process of EU accession of the country, where all the parts of society are being informed and being offered a space for inclusion.
- A stronger role of monitoring and oversight of consultative bodies created to monitor and consult the process such as the National Council of Civil Society and National Council on European Integration. If these bodies are stronger and inclusive enough, it will contribute on fostering the political consensus and the capacities to analyse and review the legislative and institutional framework.
- There should be adopted and implemented a communication strategy focused on civil society and on citizens, to create thus a civic and public dialogue where all the parties are informed about the process and its outcomes. Only in this way, the citizens can think and analyze critically the EU accession process and can decide about it.
- Lessons learnt by the other countries already in EU like Bulgaria, Romania and Croatia – when it comes to the reformation process and inclusion of the civil society actors
- The inclusion of Parliament is essential in order to ensure the oversight role during the accession negotiations and to play an effective control of the process of negotiations and of transparency and of comprehensive inclusion.
- The negotiating structure given the fact that is adopted before the New Enlargement Methodology should be amended and change in order to address effectively and completely the new elements that this methodology has introduced.

*For civil society:*

- Civil society sector should increase their human capacities in order to play their role as a monitoring and evaluation actor for the EU accession and negotiations process of Albania. This can be made possible through trainings, through cooperation with other national and regional CSOs, through shared experiences and know-hows from countries already in EU.



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- The Civil Society should be more active in being part of the consultations, tables and Platform of Partnership. Even though there might be an issue on easily accessing the information, the Civil Society themselves should be more engaged in being included in these opportunities.
- CSOs should be more engaged in monitoring the process focused in two-fold approach: 1) assessment of the process by monitoring it and providing recommendations; 2) monitoring the implementation of these recommendations.
- Communication with citizens – to give an easy-to-digest information by simplifying the technical and complicated process of accession talks. By offering such information, all the spheres of the society will be included and will share their assessment on the process
- Not only the cooperation with state institutions, but even the cooperation among CSOs should be strengthened and increased. A stronger cooperation should be built even with regional organizations that share the same aims and objectives, as the processes and the context are similar to all WB countries

*For EU:*

- EU should continue supporting and facilitating the dialogue and cooperation between state institutions and CSOs by offering recommendations; by developing programmes with the aim of strengthening such cooperation and by providing best practices from EU and Members States
- EU should also monitor the process of transparency in this process for both parties and should periodically provide assessments and recommendations concerning this process
- It is essential for the further integration of the WB countries in EU, the trust in this process and on EU's deliveries. The process is complex and with many actors at play, but the risk from the 'enlargement fatigue' can be minimized only if EU delivers and the enlargement process is not hindered by political and national interests of EU Member States.
- Even though European Commission has adopted a strategy on promoting the Civil society and fostering the civic dialogue, the EU in fact does not monitor the progress



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of achieving the aims of the strategy and its policies in candidate countries. European Union should be more assertive in giving guidelines and criteria that need to be fulfilled and respected by both, state structures and civil society actors. There does not exist a systemic and periodic process of evaluation and reviewing these strategies and policies.

- The financial support should continue while implementing new elements introduced by the New Methodology, focused on the continuous support on Civil Society sector and on the system of awards in case the process goes smoothly and when there is tangible success.



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