

Progress Report 2009

Towards a Civil Society Development and Civil Society Dialogue Acquis?

Background Analysis

- draft -
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In the Enlargement Strategy in 2007, the Commission made development of civil society and civil dialogue in the Western Balkans one of the key reform priorities for accession of Western Balkans countries. In the Balkans, it was the first time that civil society development would become one of the key reform priorities of EU enlargement policy. Both benchmarks are part of the Political criteria.

This development did not happen overnight. The approach was evolutionary in terms of geography and scope. It was first addressed in June 2005 and targeting Turkey and Croatia through a Communication¹ by the Commission promoting strengthened civil society dialogue, which was then extended to the whole of the Western Balkans in January 2006.

It seems (since there is no explicit reasons mentioned in the documents) that both benchmarks were introduced under two external factors. First was the pressure to find a “quick-fix” to the Dutch and French “No” referenda in opposition to the EU Constitutional Treaty. The second factor was the negative lessons-learned from previous enlargement cycles (especially in Romania and Bulgaria), whereas for example, many Bulgarian CSOs were faced with a total change of operating conditions overnight.

Additionally, an external factor also played a role. The progress measured in the accession process in the Western Balkans through the Progress Report goes beyond solely monitoring the legislation that is passed and focuses primarily on the effective and sustainable implementation of that legislation. In the Political criteria, not just passed legislation, but *functioning* democratic institutions, processes and decision-making are crucial to their fulfilment. And as some New Member States, the Commission has observed slower and less effective implementation than desired. Thus, prioritization of civil society was a way to push these forward.

The objective was to support better communication of enlargement processes and mutual understanding between EU Member States and candidate countries’ societies, but also to strengthen the role of civil society in the democratization and reconciliation process. There is no clear definition of what is civil society development and civil society dialogue, save of the above stated objective.

According to the 2007 Strategy there were 4 main reasons for civil society development and civil society dialogue to be prioritized:

- 1) Strengthening support for reforms;
- 2) Strengthening democracy and functioning democratic institutions;
- 3) Anti-enlargement fatigue measure; and
- 4) Ensuring public support for enlargement.

The two benchmarks were set under regional priorities, but they are also increasingly reflected in individual countries’ benchmarks and assessments in the Progress Reports. Before 2007, only Serbia had a specific benchmark². In 2007, benchmarks for Macedonia³ and Kosovo⁴ were introduced and in 2008 for Albania⁵. To date,

¹ COM (2005) 290, 29th June, 2005.

² Encourage the development of CSOs financially and otherwise, notably by adopting the law on associations, and legislation on the legal status of foreign NGOs.

³ Implement effectively the measures adopted to ensure transparency in the administration, in particular in the decision-making process, and further promote active participation by civil society.

Croatia, Bosnia and Herzegovina and Montenegro do not have specific benchmarks related to civil society development of civil society dialogue.

The individual benchmarks focused both on the Government's need to support civil society development and developing mechanisms and instruments of dialogue between CSOs and the public institutions (i.e. civil society dialogue). Therefore, the new priorities were used to set concrete and specific requirements when it comes to civil society development and civil society dialogue in Albania, Kosovo, Macedonia and Serbia.

Again, in terms of defining what the benchmarks are and what they assess, we can conclude that under civil society development are usually assessed:

- environment (legal and financial) in which CSOs operate in a country;
- capacities of CSOs, esp. advocacy;
- networking (e.g. Albania).

and under the civil society dialogue:

- existence of mechanism of dialogue with focus on the Government;
- information and financing transparency.

If civil society development assessments correspond to the measuring civil society "performance" in terms of strengthening reforms and functioning democratic institutions, the civil society dialogue focus not on improved cooperation and exchange for enlargement issues, but on what is really generally defined as civil society dialogue, i.e. relations between civil society and public institutions, esp. Government. It seems that ensuring public support for enlargement and anti-enlargement fatigue measure are rather a horizontal and regional issue, thus not addressed under the assessments and benchmarks for individual countries.

So far, the introduction of the 2 benchmarks did not have a profound and strategic impact on the benchmarking and assessing the progress by the Commission. If Progress Reports from 2006 are compared to Progress Reports 2007 and 2008, the new priorities do not seem to be translated yet in terms of equal application of both priorities/benchmarks and greater scrutiny on the benchmarks on country level. E.g. in the countries where civil society dialogue mechanism have been established recently (Macedonia, Montenegro, Bosnia and Herzegovina) these are the focus of the Reports (as well as funded by the EC). However, in Kosovo and Serbia the mechanisms are still missing and there is little mention of these in the Reports. The assessment before and after the prioritisation are neither longer, tougher language is not used, although in any of the country no real significant progress has been made.

By setting the 2 benchmarks, can we then say that the EU is slowly developing an Acquis on civil society development and civil society dialogue for a country to accede to the EU? Analysis of the Progress Reports from 2006 to 2008 on show that this is still not the case, but the basis has been laid for this to be possible in the future if the two benchmarks are further defined and clarified as well as both are equally applied to countries, of course taking into consideration country-specific situation. The civil society Acquis could give further impetuous and support the work of local CSOs on pushing governments to develop a functional enabling (legal and financial) environment, watchdog role of CSOs and equal partnership relationships not on operational, but also on political level.

Follow up:

1. Local CSOs should discuss whether a civil society Acquis would be instrumental in supporting their work;
2. Lobby the Commission to apply 2 benchmarks equally and thoroughly in the Progress Report 2010;
3. Local CSOs should be further included in consultations on fulfillment of the 2 benchmarks and their capacities should be build in order to be able to do that effectively (e.g. through IPA CSF Technical Assistance project);
4. Continue monitoring the progress on the 2 benchmarks through a shadow progress report by local CSOs.

⁴ Adopt legislation on associations and the legal status of NGOs, encourage the development of civil society organizations and regular dialogue with civil society on policy initiatives.

⁵ Encourage the active participation of NGOs and other civil society organizations in the government decision-making process and the continued improvement of the quality of journalism.