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Enlargement Package and EC Progress Reports 2011: Civil Society - Indicator of Progress and Positive Change

Background

This document presents the 3rd continues analysis of the [European Commission Progress Reports](#) for the Western Balkans countries from the perspective of the monitoring of progress on civil society development and civil dialogue issues and the roadmap ahead for the coming year outlined in the [Enlargement Package](#). For the first time this year, Turkey has been included in the analysis as to reflect the fact that the network has extended membership to the country. Finally, the analysis is based on the country assessments published on 12th October against the set policy benchmarks in the European or Accession partnerships for each country as well as against network's recommendations to the Commission on how monitoring and progress in civil society development and civil dialogue can be achieved in a coherent, effective, ownership and sustainable way¹.

Enlargement Package 2011-2012: General Highlights

At first glance, it seems that the region has made an amazing progress on the path to EU membership in 2011. Croatia has closed the last negotiating chapter and received the green light for membership. The Commission has recommended start of the negotiation for Montenegro and granted a long awaited candidate status to Serbia. However, if one reads the Progress Reports closely and is familiar with the situation in the region, one realizes that the achievements, especially in the case of Serbia, can predominately be attributed to **accomplishing task long overdue**.

In its outset, the Enlargement strategy document is very much focused on outlining the success and advantages of the EU enlargement policy which it tags with having a **transformative power**. According to the Commission, there are **5 key challenges** posed for the region in the next year:

1. Increased focus on strengthening the **rule of law and public administration reform** (the Commission will propose a new approach with respect to issues related to the judiciary and fundamental rights and to justice and home affairs);
2. Ensuring **freedom of expression in the media** (the Commission intends to closely monitor developments in the framework of existing agreements and structured dialogues with the enlargement countries);
3. Enhancing **regional cooperation and reconciliation** in the Western Balkans (no political abuse to issues and early solving of bilateral border dispute issues in the accession process);
4. Achieving **sustainable economic recovery and embracing Europe 2020** (the enlargement countries are encouraged to associate to the Europe 2020 strategy and its flagship initiatives as a useful anchor for reform); and
5. Extending **transport and energy networks**.

Regional and Country Assessments of Civil Society

On **regional level**, the role played by civil society initiatives in promoting reconciliation among citizens and society is mostly noted this year. The Strategy states: *"Initiatives by NGOs and civil society, such as the Youth Initiative for Human Rights, the Truth and Reconciliation Commission (RECOM), and the Igman*

¹ The four principle promoted by the network in ["The Blueprint for Future of the IPA Civil Society Facility"](#) (July, 2010).

Initiative play an important role in enhancing reconciliation beyond governments among the citizens of the region.” It goes on in proposing: “Overall, it is important that governments and civil society organisations in the region do more to explain to citizens that reconciliation is an integral part of their European future and that justice with respect to war crimes is an indispensable element of this process...”

As expected, assessments and recommendations on **country level** are given greater scrutiny and are more detailed and concrete. Overall, they are focused on the role and function of civil society in assessing functioning democratic institutions and their administrative capacity of state institutions to develop and adopt quality legislation and have the ability for its implementation. This year, more than in any Enlargement Package so far, we can see **common elements of the monitoring framework** of the Commission (or an Acquis?). The main elements of the framework are: respect for freedom of assembly and legal framework regulating it; participation of civil society to policy-making and decision-making (national and local level) – both existing legislation and institutional mechanisms and practice; allocation of state funding for civil society; and access to public information.

In terms of **respect for freedom of assembly (incl. political climate and attitude of the Government) and legal framework regulating it**, Commission has concerns in three of the countries, while in two the area has shown progress in the last year. In Kosovo, the Commission notes that *“the civil society is subject to undue political pressure and intimidation if its activities do not correspond to the views of authorities, although a newly-amended Law on freedom of association has been passed”*. In Macedonia, the issue of politicization of the CSOs is emphasized as critically oriented CSOs have been a subject of public attacks by the officials of political parties and Members of Parliament and some media *“with allegations of politicisation of CSOs and money”*. In Turkey, while several positive developments were noted regarding the peaceful atmosphere in which number of demonstrations took place and *“inclusion of civil society organizations (CSOs) in policy processes exists”* in a nascent stage, the legislative and bureaucratic obstacles are also reported to persist that obstruct the work of the CSOs. On the other hand, *“very good progress”* has been reported overall *“on the cooperation between State institutions and civil society organizations”* in Montenegro, where this is an explicit key priority given in the Opinion. Furthermore, *“the legal and regulatory frameworks for NGOs’ activities and State financial support to these organisations have been improved, notably through the adoption of a new Law on NGOs”* and *“the register for civil society organisations has been updated and digitalised, and it is now available on the website of the Ministry of Interior”*. In Serbia, there has been *“growing attention”* by the authorities for *“safeguarding the respect of the freedom of assembly and freedom of association and the role of civil society”*, still *“amendments are needed to the Law on public assembly in order to reduce the requirements for registration of assemblies, reduce restrictions on the areas where assemblies can be held, limit the liabilities of organizers and ensuring protection also for foreigners”*.

Participation of civil society to policy- and decision-making (national and local level) or civil dialogue is by far the main issue of concern to the Commission. In terms of **existing legislation (i.e. laws and by-laws)** and **development institutional mechanisms** for cooperation with civil society, the Commission notes the progress made in Montenegro where a Council for Cooperation with NGOs, as an independent advisory body to the government on issues related to civil society was established as well as *“contact points for cooperation with NGOs have been established in all the ministries and most other State bodies. NGOs are now regularly involved in the legislative and policy-making or monitoring process, including in such sensitive fields as the fight against corruption or the efficiency of the judiciary. The highest State authorities have regular contacts with NGOs, and the attitude of all stakeholders has become open and constructive”*. In Serbia also, an Office for Cooperation with Civil Society, was established in April 2010, with the aim to improve the cooperation between public administration and civil society organizations, and its first Director was already appointed. It is emphasized however, that *“the Office is still not fully operational”* and the *“cooperation between state bodies and civil society organizations remains on an ad hoc basis and is unevenly developed across Serbia, with civil society activities still predominantly Belgrade-centered”*. Finally, in Macedonia, a *“modest progress”* is reported

for “*the involvement of civil society in the policy development process and in legislative drafting*”, and the adoption of the Code of Good Practices for Participation of Civil Society Organisations in Policy Making Processes by the Government is reported, while the Law on Lobbying, for which it is emphasized that its implementation “*continues to create selective access by interest groups to policy making*”, is still a area of concern. It is further pointed out that “*lobbying can only be undertaken at the invitation of the relevant legislative body, and is permitted for civil associations but not for foundations*”. The Commission notes much less progress or lack of therefore in other countries. In Albania and Kosovo, structures for systematic dialogues are missing, while in Bosnia and Herzegovina, the need for strengthening of the administrative capacity for cooperation with NGOs and the development of civil society is pointed out as well, again in the area of human rights, for which it is emphasized that it “*remained weak*”. It is also emphasized that “*an institutional mechanism for cooperation with civil society organisations*” which is now introduced in Brcko District only “*remains to be established at State-level and in both Entities*”.

While the **practice** of consultations, if even limited exists in every country, varies from policy area to area. Here, Turkey is an interesting case in point, where civil society has been included in areas such as justice, freedom and security, particularly in the preparation of the legislation regulating the status of regular and irregular migrants, but in areas such as consumer and health protection policy this is lacking. However, what is common to all reports is that the quality of proposed or adopted legislation is put into question where proper civil society access has not been insured (e.g. Albania, Kosovo). In Croatia, “*analytical and financial capacities of CSOs, for monitoring political developments and government decisions, especially at local level continue to be weak*”.

Continued re-focus from monitoring civil dialogue only with the executive branch, i.e. government to include also **parliament** can be noted. In Albania, the lack of the administrative capacity of the Parliaments is also related to the fact that the “*consultation of civil society in the legislative process remains insufficient*”. In Kosovo, a recommendation is given for “*the government, the assembly and municipalities to cooperate more effectively with civil society*”. Moreover, “*the civil society is not effectively involved in any assembly debate*”, and “*there is no institutionalised platform that would allow a regular dialogue between the assembly and civil society organisations*”. Finally, while the cooperation of civil society with the Parliament has achieved progress by signing of Memorandum of understanding, the “*Parliament's cooperation with civil society needs to be further enhanced*” also in Montenegro.

Allocation of state funding for civil society is also an increasing area of attention for the Commission. In BiH, “*further support and greater transparency in the criteria used for funding allocations*” are needed. In Macedonia, the main concern is that “*the civil society organisations remain heavily dependent on foreign funding and the lack of sufficient financial resources remains a serious constraint*”. Because of this, it is highlighted that “*the system for the allocation of state financing to civil society organisations needs further improvement, in particular as regards public benefit organisations*”. In Albania, an Agency for Support to Civil Society has become operational, but still the sector remains heavily dependent on foreign donors. In contrast it is reported that in Montenegro, state financial support to these organisations has been improved.

Access to public information is a less noted aspect, but for example the Croatian report stresses that “*CSOs tend to remain excluded from the policy-making process, while difficulties of the CSOs “in obtaining public documents” have also been reported.*”

What is most interesting is that the countries that have progressed the most (Croatia, Montenegro and Serbia) also have the most positive, i.e. most progress in the civil society development and civil dialogue area, noted in their Progress Reports. So it would seem that progress in the civil society area is an indicator or an important factor contributing to the progress made by a country in the accession process.

However, if the impression is that this area is assessed as a *per se Acquis policy area*, this is not the case (yet) when the technical approach presented in the Commission's 3-year action plan (s.c. Multi-Annual Indicative Planning Documents - MIPDs) for the period 2011-2013 and the planned IPA projects (through the Civil Society Facility) is analyzed. Here, civil society is seen as a **horizontal tool or measure** in how to achieve progress in both benchmarks under Political criteria and Acquis areas. For example, in the MIPDs 2011-2013, development of civil society, along fight against corruption and freedom of expression is devoted special attention. Among the lessons-learned by the Commission on how to make the IPA financial support more effective, focused, ownership-based, enhancing the role of civil society is one concrete way of doing this in the coming period. Finally, a special role is expected by the Commission of civil society in communicating and informing citizens in order to have public support for the enlargement project in the accession countries.