



Participation of the Civil Society Organizations in the Process of European Integration

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State and Civil Society as Partners in European Integration Process

Although reality of political life in B&H may suggest something quite different, becoming a member state of European Union is the key priority of the leading political establishment. To achieve this goal, B&H has to complete the process of EI which is a complex endeavor entirely based on country's capability to develop and implement public policies in the framework of several strategic reforms (judiciary, public administration, economy, etc.). The EI process represents a unique effort which requires mobilization of all available policy-making capacities and a precondition for that is cooperation between the state and civil society.

The initial presumption for the research that was carried out was that CSO in B&H have the capacity, expertise and willingness to be included in the process of EI and state/governmental institutions and international organizations should contribute to creating the environment for CSOs' active participation. Having in mind reported poor policy-making practice in the country, the role of CSO seems to be even more important, than European practice and standards would suggest. Unfortunately, the initial hypothesis was not confirmed by the research results.

Data collected during the research showed that government policy-making capacities are quite underdeveloped, which creates a lot of space for civil society inclusion. Government policy-making is facing challenges such as high fragmentation; limited interaction; lack of capacity for policy advice and policy coordination; lack of capacity to coordinate European integration; availability of purely technical services; lack of authority; understaffed; lack of reform and capacity building plans. All these characteristics are repeatedly mentioned in numerous reports dealing with the assessment of policy-making capacities in Bosnia and Herzegovina.¹

On the other side, the lack of policy-making capacity, based on the evidence-based research², is also evident in non-governmental sector in Bosnia and Herzegovina. NGOs don't have the luxury to invest the time and other resources in increasing their capacity and expertise in a specific thematic area, especially when it comes to the theoretical knowledge. There are only few think-tanks that managed to build the research capacity and develop the expertise in the specific area, each using very different methodology³.

Summary

Civil society organizations (CSOs) in Bosnia and Herzegovina (B&H) are not properly included in the process of European integration (EI). There are several reasons for this, but two key causes are the lack of cooperation and lack of policy making capacities within both government and civil society. CSOs very rarely cooperate with the government in the manner of a true partnership. There are two principal reasons for this very general assessment of cooperation between the government and civil society in the framework of the process of EI. First of all, CSO capacities are still underdeveloped and civil society is not recognized as a political actor with complementary role to governmental and business sectors. On the other side, awareness of government officials and public servants about the importance of having civil society actors included in the policy-making process is almost non-existent. The majority of the key decision makers in the government are not familiar with the policy-making concept. It is quite disturbing to have these findings after more than a decade of intensive investment of the foreign international aid in the civil society building, awareness raising campaigns on the importance of CSOs and partnership between governmental and non-governmental sector, but this is reality of B&H. Starting from this point, this paper suggests realistic solutions aimed at creating fertile ground for sound and effective partnership between civil society and government in B&H. Having in mind the unquestionable importance of the process of EI for the development of B&H, it is essential to enable the participation of civil society in the development of policies that will bring Bosnia and Herzegovina closer to European Union. To do this, it is necessary to speed up the on-going initiatives aimed at creating solid institutional framework for cooperation; to improve existing legal framework and at the same time ensure its implementation; and to continue capacity building strategies for all actors involved in the EI processes. Recommendations presented in this paper are an attempt to contribute to solving these issues.

¹ These are:

"Bosnia and Herzegovina: Policy-making and Coordination Assessment" by Support for Improvement in Governance and Management (SIGMA), 2006

"Policy Research in Bosnia and Herzegovina by Local Organizations" by Raymond J. Struyk and Christopher Miller from The Urban Institute, January 2004

"Were Bosnian Policy Research Organizations More Effective in 2006 than in 2003? Did Technical Assistance Play a Role?" by Raymond J. Struyk, Kelly Kohagen, and Christopher Miller, November 2006

"Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina", May 2007

"Council of Ministers' Rules on Public Consultation in Legislative Drafting", September 2006

"European Commission. Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission" by European Commission, 2002

"Communication from the Commission on the collection and use of expertise by the Commission: Principles and guidelines: Improving the knowledge base for better policies. (COM (2002) 713 final" by European Commission, 2002

² Twenty representatives of institutions from both sectors have been interviewed as well as one independent expert;

³ These are "Vanjsko politička inicijativa" (Foreign Affairs Initiative), Populari and the Independent Bureau for Humanitarian Issues Bosnia and Herzegovina

Reasons behind this partly lay in the fact that the research activities do not provide significant financial resources to NGOs, thus the incentive for the hard work that needs to be undertaken in order to apply proper research methodologies is not there. Most analysis are opinion-based and desk researches and there is very little research taking place on the ground.

“Soon enough the time of abstract and endless talk will come to an end and recommendations and cases that will be used will be concrete topics and life stories with very clear recommendations for action. NGOs that try to engage in the policy work often make a mistake of doing politics instead of policy” (A. Vracic, personal interview, December 8, 2007).

Bosnia and Herzegovina Needs to Implement EU Policy-making Standards

Bosnia and Herzegovina has no alternatives but to make further investment that will bring it closer to the standard of the EU policy-making process, which includes cooperation between government and CSO.

In order to do this as efficient and effective as possible, it must be taken into account what is already accomplished, such as Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina and state Regulations on Consultations in Legislative Drafting.

As a matter of fact, these two achievements are starting points for the selected recommendations concerned with the participation of civil society in the process of European Integration.

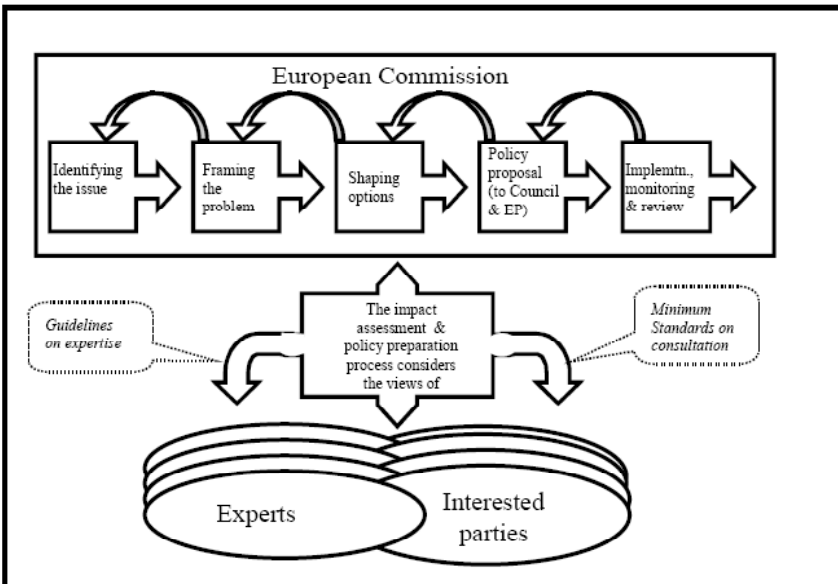
First set of selected recommendations starts from the fact that Regulations on Consultations in Legislative Drafting are adopted. To make Regulations operational and widely implemented following activities are needed:

Awareness-raising campaign on public participation in legislative drafting

The Council of Ministers of Bosnia and Herzegovina should ensure adequate awareness-raising campaign for all active NGOs and CSOs in Bosnia and Herzegovina. The aim of the campaign will be to introduce the Regulations on Consultations in Legislation Drafting and to invite all interested organizations to take more active part in the policy-making process. However, if we have in mind present state of implementation of Regulations, which seems to be recognized only within the state Ministry of Justice, it is more likely that such a campaign could be a joint effort of some international agencies (for example, USAID, as organization which was actively involved in the process of Regulations development and enacting), prominent NGOs and state institutions.⁴

⁴ In any case, the participation of state institutions will be of crucial importance because that will be a unique opportunity for them to send positive signal toward civil society in terms of their openness and willingness to cooperate. The campaign will be a convenient pressure mechanism for decision-makers to get familiar with Regulations and accelerate efforts on their proper implementation. Principal target groups of the campaign should be civil servants, NGO and civil society activists and media representatives as well. The process of campaign have the potential to be used for addressing some provisions defined by Regulations and related to the collection of data about the interest groups willing and capable to participate in the consultation process.

Figure 1.
Policy process



Developing independent system of monitoring and review of the implementation of the CoM Regulations on Consultations in Legislative Drafting and advocacy for public participation in legislation drafting at lower administration levels

It is more than obvious that process of implementation of Regulations is very slow and at the moment one can say that state Ministry of Justice is far ahead other state institutions in the application of Regulations. Regulations are designed to be foundation for ensuring effective public participation in the policy-making process, but, as many other unique legal solutions in Bosnia and Herzegovina (for example, look at the constitutional and legal framework for human



rights protection), they are facing danger of not being implemented at all. Therefore, development of monitoring and reporting mechanism could partly contribute to resolve this problem. The monitoring and reporting activities should be implemented by the consortium of most prominent domestic non-governmental and civil society organizations. Results of their work have to be presented to the public on a regular basis because both state institutions and public have to be constantly reminded about the importance of the application of Regulations.

In the later stage, the monitoring and reporting efforts of the consortium could grow into an advocacy campaign directed toward development and adoption of similar regulations on the lower administrative level, i.e. entities and cantons. The rationale for this is obvious because Bosnia and Herzegovina, because both entities and cantons have very wide jurisdictions which execution and legal framing are in need of public participation.

Single access point for open consultations - European Commission introduced web presentation called "Your Voice in Europe"⁵ which represents single access point for all open consultations on the level of European Union. Interested parties can review and submit their comments and suggestions on proposed EU policies open for consultations. The web site also offers information on closed consultations and results of the consultation processes. Government of Bosnia and Herzegovina should be encouraged to introduce the same service and request for this should come both from international community and civil society. However, if we have in mind present state of official web presentations of state ministries, especially in the segment of almost non-existent public consultations, it is not very likely that this idea will be welcomed by relevant authorities. Therefore, the option that above mentioned consortium of NGOs and CSOs, dealing with monitoring and reporting, could introduce similar single access point for open consultations is more realistic. In that

case this web site will be additional monitoring tool which will clearly present government determination to act in accordance with the Regulations on Consultations in Legislative Drafting.

Changing the Article 29 of the CoM Regulations on Consultations in Legislative Drafting

- The formulation "The Council of Ministers may refuse to place draft legislation on its agenda when the institution fails to provide the required certification or waiver by the head of the institutions" should be replaced with the following formulation: "The Council of Ministers shall refuse to place draft legislation on its agenda when the institution fails to provide the required certification or waiver by the head of the institutions".

Drafting regulations on collection and use of expertise by Bosnia and Herzegovina government(s)

- The same process that has been done with the development and adoption of Regulations on Consultations in Legislative Drafting should be repeated with the regulations on collection and use of expertise. Although use of expertise by government(s) in Bosnia and Herzegovina was not a subject of this particular research, there is enough evidence to draw a general conclusion that development and use of expertise is very much part of the international support policies in Bosnia and Herzegovina, while domestic institutions do not have enough incentives to demand this kind of assistance.⁶ The adoption of regulations concerning use of expertise could provide initial incentives for government(s) to demand expertise in the policy-making and decision-making processes. The adoption of these regulations could create environment for gradual withdrawal of international community from the position of a principal factor creating demand for expertise. The draft of these regulations should be based on the European principles and guidelines defined in the European Commission Communication on the collection and use of expertise called "Improving the knowledge base for better policies".

⁵ Available at http://ec.europa.eu/your-voice/consultations/index_en.htm.

⁶ The process of development of public participation in the legislative process is a perfect illustration for this. Regulations on Consultations in Legislative Drafting are not initiative of the Bosnia and Herzegovina government structures. They participated in the process, but the process was originally initiated and handled by USAID. During its implementation a number of experts were engaged and they produced several reports and publications providing expert support for the process. These reports and publications are available on the official web presentation of the USAID in Bosnia and Herzegovina available at www.usaid.ba.



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The second set of recommendations consists of only one which suggests the most effective way to introduce true cooperation between the government and civil society:

Establishing the National Foundation for the Civil Society Development

- One of the future policies for civil society strengthening could be the establishment of the National Foundation for Civil Society Development, similar to the one established in Croatia⁷. This approach could help in upgrading the relationship between the governmental sector and civil society and creating better environment, especially financial one, for the sustainable development of the civil society. Taking into consideration both experience from Croatia and reality of Bosnia and Herzegovina, it seems appropriate that Foundation of this kind should be founded and financed by the state. It should be a public foundation founded by the special Act adopted by the highest legislation body with the basic purpose of promoting and developing civil society in the Bosnia and Herzegovina. Like in Croatia, the Foundation should work as mixed foundation, meaning a combination of an operative foundation and a foundation which allocates financial support. In the initial stage, the Foundation must have founding capital which is to be provided by the state and international donor agencies active in Bosnia and Herzegovina. Also, some additional relevant laws (tax law, etc.) are to be amended in order to ensure constant inflow of funds from the State Budget. Also, the good solution would be to adopt a kind of memorandum of understanding between the Foundation and international donor agencies aimed at ensuring their continuing commitment to the work of the Foundation.

The definition of the Foundation's mission, vision and goals, as well as organizational bodies and mechanisms for ensuring independence from external influences should not be significantly different from those of the Croatian civil society foundation.

⁷ More information about Croatian National Foundation for Civil Society Development available at http://zaklada.civilnodrustvo.hr/index.php?p=eng_vijesti_i_priopcenja&s=6.



Open
Society Fund
Bosnia & Herzegovina

A "Policy Development Fellowship Program" has been launched by the Open Society Fund BiH in early 2004 with the aim to improve BiH policy research and dialogue and to contribute to the development of a sound policy-making culture based on informative and empirically grounded policy options.

The program provides an opportunity for selected fellows to collaborate with the Open Society Fund in conducting policy research and writing a policy study with the support of mentors and trainers during the whole process. Thirty eight fellowships have been granted in three cycles since the starting of the Program.

All policy studies are available at www.soros.org.ba