



Balkan Civic Practices #7

# **The Missing Link? Development and Functioning of Civil Dialogue in the Western Balkans**

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# List of Abbreviations

<b>BTF</b>	Balkan Trust for Democracy
<b>CAPP</b>	Civic Advocacy Partnership Program
<b>CARDS</b>	Community Assistance for Reconstruction, Development and Stabilization
<b>CCSD</b>	Council for Civil Society Development
<b>CNVOS</b>	Center for Information, Cooperation and Development of NGOs
<b>CSF</b>	Civil Society Facility
<b>CSO</b>	Civil Society Organisation
<b>DFID</b>	UK Department for International Development
<b>EC</b>	European Commission
<b>EU</b>	European Union
<b>EU MS</b>	EU Member States
<b>GOforNGOs</b>	Government Office for Cooperation with NGOs
<b>GTZ</b>	Gesellschaft für Technische Zusammenarbeit/ German Technical Cooperation
<b>IPA</b>	Instrument for Pre-Accession Assistance
<b>NFCSD</b>	National Foundation for Civil Society Development
<b>NMS</b>	New Member States
<b>MoU</b>	Memorandum of Understanding
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>PHARE</b>	Poland and Hungary: Assistance for Restructuring their Economies
<b>PRSP</b>	Poverty Reduction Strategy Paper
<b>SDC</b>	Swiss Development Cooperation
<b>SEIO</b>	Office for European Integration
<b>SIDA</b>	Swedish International Development Cooperation Agency
<b>TACSO</b>	Technical Assistance for Civil Society Organisations
<b>USAID</b>	United States Agency for International Development

# 1. Introduction

This policy paper is continuation of the BCSDN effort to offer both local and international stakeholders, especially the EU institutions, analysis and recommendations related to development of civil society in the Balkans with a focus on its role in the EU accession process. Thus, this paper builds on findings of *“The Successes and Failures of EU Pre-Accession Policy in the Balkans: Support to Civil Society”*<sup>1</sup> policy paper published in September 2009, which for the first time looked at the evolution of the European Commission support to civil society in enlargement context - both through past (PHARE and CARDS) and present (IPA) instruments. The paper drew the lessons for the improvements of the IPA Civil Society Facility (CSF) launched in 2008 – the set of EC project activities in support of civil society development and civil dialogue - especially the need to improve ownership and sustainability of the local actors, i.e. civil society. While the above policy paper brought both support from local actors and acknowledgment by the Commission, the significant changes expected on the part of the local civil society are yet to be made evident.

While drawing from findings and recommendations on support to development of civil society in the Western Balkan countries, the present paper focuses on analyzing the current situation in development and functioning of civil dialogue in the seven Western Balkans (pre-) accession countries<sup>2</sup>. Furthermore, the paper draws conclusions on how the Enlargement policy could better support the ongoing local efforts on both regional and national level with recommendations addressed equally to the three stakeholders

involved – the EC, national Governments and civil society. Experience of three New EU Member States, i.e. Bulgaria, Romania and Slovenia are also included in order to explore the effect of the before and after EU entry as in many cases civil dialogue is a EU benchmark and thus, funded area by the EC in the accession period. Thus, the paper is not a one-off activity, but part of targeted activities of the BCSDN Mid-term Programme 2009-2011, which in 2010 aim to improve influence of CSOs on the development and functioning of civil dialogue mechanisms in the Balkan countries.

“Fairly structured practices of dialogue between national, EU and international institution and NGOs”<sup>3</sup>, as civil (society) dialogue can be shortly defined, is not only the current “buzz” word in Brussels, where civil society from the Union is taking the new opportunities of the Article 11 of the Lisbon Treaty<sup>4</sup>, but also in the (pre-) and accession countries in the Balkans, where its importance has been recognized by the Commission since its Enlargement Strategy paper 2007-2008. The Strategy introduced development of civil dialogue as part of the Copenhagen Political criteria for accession. In the EU, the main motivation in developing civil dialogue is in finding ways how to bring disenchanted citizens back to the EU political process. In the Balkans, the development of civil dialogue is called for due to a more profound historical process, i.e. building of the basic democratic institutional set-up, which enables openness, responsiveness, effectiveness and accountability of public institutions and end of transition from a state-controlled to a participatory state and society.

1 Policy paper is available from the BCSDN website <http://www.balkancsd.net>.

2 Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia.

3 Fazi, Elodie & Smith, Jeremy: “Civil dialogue: Making it Work Better;” Civil Society Contact Group, Brussels: 2006, p. 21.

4 Article 11 of the Lisbon Treaty considers participatory democracy as fundamental democratic principle of the EU and proposes ways to organized dialogue with “representative associations and civil society”.

As this paper will show, basic civil dialogue mechanisms have been developed in most of the countries in the recent decade, but challenges remain in its implementation. An area of special future attention will be development and implementation of specific acts enabling access to public information, but most importantly minimum standards of consultation in policy- and decision-making. As will also be shown, the value of development and improvement of civil dialogue is much greater than functioning democratic institutions. Civil dialogue is a horizontal *policy* measure directly related to public administration reform and measures of good governance as well as key EU *Acquis* measures such as fight against corruption and functioning rule and law. Moreover, this paper will show that if the Commission means “business”, civil dialogue needs to be prioritized like other key EU *Acquis* measures and at the same time needs to coherently and strategically use the IPA assistance in funding crucial civil dialogue measures, especially those lead by national Governments and owned by local civil society.

This policy paper is based on the findings and date from “*The Successes and Failures of the EU-Pre-accession Policy in the Balkans: Support to Civil Society*” policy paper (September, 2009), but also other BCSDN work, especially *Balkan Civil Practice #5: Guide to Civil Dialogue in the Western Balkans* (December 2007); and “*Progress Report 2009: Towards a Civil Society Development and Civil Society Dialogue Acquis? Background analysis* (October, 2009). It also draws on data from more recent studies on the state of civil society in the Balkans such as the *CIVICUS Civil Society Index Reports (2005-2006)*, *TACSO Need Assessment Reports (2009)* and *ECAS Country Reports (2009)*. But for mostly, the recent data and analysis is based on data gathered through a unified questionnaire by BCSDN members and partners, primarily from secondary sources or research conducted for their

own needs, which makes this policy work a collaboration of local CSOs, especially BCSDN members and partners. Finally, the full data used for this paper are published as part of the first BCSDN on-line civil dialogue database.<sup>5</sup>

## 2. General Context

All the countries subject of this analysis have rather clear legal regulation stipulating the **freedom of association**. All of them have adopted laws on associations (or associations and foundations). What is specific for all laws, in particular with their latest changes, is that they are significantly more progressive and in accordance with the European standards, recommendations and best practices. For example, the new Law on Associations in Serbia adopted on 22<sup>nd</sup> July, 2009 allows the right of informal or non-registered organizations to operate and reduces the number of founding members necessary to establish an association from 10 to 3. Although not clearly, the law also includes provision for funding from the national budget. In Macedonia, the new Law on Associations and Foundations adopted by the Parliament on 12<sup>th</sup> April, 2010 also extends the freedom of association to foreign persons and minors, allowing functioning of informal associations, reduces administrative burden for registration, improves good governance measures in organizations and increases transparency. In this area, the Western Balkan countries do not fall behind other EU neighbouring countries or EU MS in general.

All the countries in the region allow organizations to generate income that is used for fulfilling their goals as defined by their statutes. The possibility for organizations to generate income is very important for the sustainability of the civil society. Although the revenue from

<sup>5</sup> Available on <http://www.balkancsd.net>.

economic activities in these countries at the moment are not at the level of developed Western countries, the perspective - in withdrawal of foreign donors and lack of domestic sources of funding - for these is very important. Namely, majority of the organizations, in addition to their contribution for public benefit in the community, also facilitate their own sustainability through provision of services mainly for social activities. The exception is Slovenia, where 47,4% of associations' income are generated from **economic activities**.

Regarding other tax exemptions, the situation with some of the exemptions is almost the same everywhere. Most frequently, even when there are **tax exemptions**, the organizations are not aware of the possibilities that they can use, or they are complicated so that there is little interest to take advantage of those.

With regards to the **public interest status**, the legal regulation which specifically regulates this area exists in Bosnia and Herzegovina, Kosovo and Macedonia. In other countries, the public interest status is linked to concrete areas, respectively humanitarian organizations (as is the case with Croatia), or is related only to programmes of public interest and not to the entire organization (as is the case with Serbia). The status of public interest organizations is also foreseen in laws of Slovenia, Romania and Bulgaria. However, in Romania and Bulgaria the organizations have complained of inadequate implementation of this status.

Croatia is a country which serves as an example of a developed system of **state funding** support to CSOs. The support system developed in Croatia is complex, but most important of all are the clear criteria, transparent process and great amount of funds allocated by the state. According to

the Report on the Financial Aid Allocated to Projects and Programmes of CSOs in 2009 adopted by the Government on 6<sup>th</sup> May 2010, the CSOs received approx. 73 million Euros in 2009. In other countries, a major problem is the absence of clear and transparent criteria and procedures for support. As of last year, Albania has adopted the Law on the Organization and Functioning of the Agency for Supporting Civil Society (9<sup>th</sup> March, 2009). The Agency, which will manage the Civil Society Fund worth around 1 million Euros, is still to become operation as it is in the process of electing its first supervisory body, i.e. the Board.<sup>6</sup> It cannot be said that Bulgaria and Romania have well developed system of state support, both regarding the procedures and allocated funds. For example, in Romania this support has been reducing during the past years. Significant sources of support are also the sources coming from the games of chance and entertainment games. However, except Croatia and partially Montenegro, the system in the other countries is not adjusted to the needs (e.g. Macedonia, Serbia, but also Slovenia). In Bulgaria and Romania there is no special lottery fund for support to CSO activities.

Again, with the exception of Croatia where the state is significantly supporting the civil sector, organizations in other countries mostly rely on **foreign donors**. In the region, the support from the West European and USA development programmes, primarily USAID, SDC, SIDA and others are in the lead. However, during the recent years, the EC

<sup>6</sup> The Agency is constituted as an independent body at "arms length" from government, and its Board will include a majority of 5 civil society representatives, with a further 4 civil servants from the central public administration. Board members will serve four-year terms, with the possibility of being re-elected only once. Since the Law came into force in early 2009, the Council of Ministers has prepared the procedures for the nomination of Board members, as well as established the full regulatory and implementing framework necessary to make the Agency functional.

funds through different regional as well as country tailored programmes have take the primacy of leading foreign (international) support. The general weakness of CSOs is the insufficient capacity and their partial preparedness to respond to the administrative requirements when applying and later when implementing the projects supported by the EC programmes. One cannot say that either in Bulgaria, Romania or Slovenia, the support to civil society from the EU funds was or is dominant, although in Bulgaria a dependence on state funding (which is also partially EU-funds) has been noted.<sup>7</sup>

**Corporate and individual giving** are also present in all countries. However, the scope of the funds and number of companies and individuals is rather small and insignificant compared with other sources of CSOs' funding. What is common for all countries is frequent allocation of company donations to sports, cultural and social activities, while the individuals most frequently give for humanitarian needs and protection of marginalized groups (e.g. women, children, sick persons and other). In Romania the situation is slightly different, i.e. according to the Romanian Donors Forum, in 2008, the main private donors provided over 31 million Euros to civil society initiatives.

Existence and functioning of **donor coordination** for support to civil society is not observed in the countries, although in Croatia, the Government Office for Cooperation with NGOs (GOforNGOs) is successfully implementing a strategy on supporting coordination from governmental and other sources. However, almost all countries do not have separate mechanism for consultation with CSOs when defining priorities of support to civil society that are to be funded. In some cases, the plans

<sup>7</sup> CSD: "Crime without Punishment: Countering Corruption and Organized Crime in Bulgaria", Sofia, Bulgaria, 2009.

developed by the EC Delegations regarding IPA are an exception. In Bulgaria and Romania, donors' forums (Bulgarian Donors Forum established in 2003, and Romanian Donors Forum established in 1999) have been operating for years and have contributed to greater inclusion of CSOs in defining civil society funding priorities and its effectiveness. Thus, in terms of extracting funding from other than foreign funding sources, the Western Balkan countries are not significantly lagging behind their three EU MS neighbours – Bulgaria, Romania and Slovenia.

## 3. Development of Civil Dialogue

In the Western Balkan countries, practices and experiences of relations and cooperation between CSOs and public institutions (esp. Government) exists on national level through attempts to define relations, legal framework and cooperation between public authorities (both central and local) and CSOs fore mostly in form of government's strategies or bilateral agreements for cooperation. As will be shown, due to socio-cultural setting and history, institutional and legal approaches (strategies, agreements etc.) have been mostly favoured and used.

### 3.1. Framework Documents

**The first, most comprehensive and systematic civil dialogue framework in the region was defined in Croatia.**

The institutionalization of civil society-Government cooperation in Croatia began with the establishment of the *Government Office for Cooperation with NGOs (GOforNGOs)* in 1998. The system, which now rests upon three pillars - the *GOforNGOs*, *the Council for Civil Society Development (CCSD)* - established in 2001 - and the *National Foundation for Civil Society Development (NFCSD)* - established



in 2003 was dubbed The New Model of the Organizational Structure for Civil Society Development in Croatia. The Office, which was the first pillar to be introduced had the primarily task to build confidence and develop cooperation through financing, consulting, educating and information-sharing at a time when relations between the Government and civil society had been predominantly antagonistic for some considerable time and Croatia under the late President Franjo Tudjman was consider semi-democratic country. The main success of the Croatian model was *consensual* development of the system and has resulted in a jointly-owned institutional apparatus, which guarantees substantive participation of civil society, particularly in the field of policy-making, and a clear set of agreed policy instruments defining civil society's role in Croatia's development, as well as the Government's responsibilities towards civil society.

Of particular importance was the adoption of *the Programme of Cooperation between the Government and the NGO Sector*, which was signed in 2001. It formed the basis for all subsequent strategic policy documents regulating relationships between the Government and civil society and in which the Government recognized the vital role civil society has in promoting both socio-economic development and participatory, plural democracy. It sets out a list of principles according to which the Government should act in its relations with civil society, including: partnership, transparency, liability for the utilization of public resources, the promotion of equal opportunities for all, subsidiary (as the foundation of partnership), promotion of non-violence, the acceptance of diversity and advancing social capital. Finally, in on 12<sup>th</sup> July 2006 the *National Strategy for the Creation of an Enabling Environment for Civil Society Development* defining basic

guidelines for improving the existing system and forming a new legal, institutional and financial system of support for civil society development by 2011 was adopted.

**The other three countries that followed suit in development of a systematic framework were Macedonia, Bosnia and Herzegovina and Montenegro.**

While in Macedonia and Montenegro, the choice was to develop a strategy of the Government, similarly as in Croatia, in Bosnia and Herzegovina, a bilateral agreement between the Council of Ministers and the civil society sector was developed. In **Macedonia**, an EC/CARDS-funded Technical Assistance project in 2006 and 2007 supported the development of the *Strategy for Cooperation of the Government with the Civil Society 2007-20011* and the later was adopted on 23<sup>rd</sup> January, 2007. A *Unit for Cooperation with CSOs* was also established. In **Bosnia and Herzegovina**, the Council of Ministers together with the representatives of civil society signed on 7<sup>th</sup> May 2007, the *Agreement on Cooperation between the Council of Ministers of BiH and the Non-governmental Sector in BiH*. A *Civil Society Board*, composed of civil society representatives supported by 31 sub-sectors, was established in October 2007 in accordance with the Agreement. In **Montenegro**, the *Strategy for Cooperation between the Government and CSOs* was adopted on 22<sup>nd</sup> January 2009, which also followed the establishment of an *Office for Cooperation with CSOs*. As in Croatia and in contrast to Macedonia, the Strategy also envisaged establishment of a Council to coordinate the implementation of the Action Plan. The Decision to establish the Council has only been passed on 15<sup>th</sup> April, 2010 and thus it is only to become functional in the future. While in BiH and Montenegro, the initiative for development of the framework was largely owned to local civil society

initiatives /networks<sup>8</sup>, in Macedonia the main driving force of the process was support by the EC.

The rest of the countries in the region, i.e. **Albania, Kosovo and Serbia**, have developed elements of such frameworks or attempts of these, but **no one systematic civil dialogue framework exists yet**. Analysis shows a **combination of approaches (e.g. strategies, bilateral agreements)**, but in all cases, **significant local civil society ownership** has been the driving force of the efforts so far.

In **Kosovo**, a *Memorandum of Understanding (MoU)* was signed between the *CiviKos* civil society platform and the Prime Minister in 2007. It laid out principles for cooperation and envisioned a government strategy towards development of civil society, building partnership in policy development and ensuring effective dialogue between both sectors. While one of the objectives has been to have each ministry sign a similar MoU with CSOs they work with, so far, only the Ministry of Environment signed a MoU with the environmental CSOs in 2008. In **Albania**, the *Albanian Civil Society Charter* was launched as recently as December 2009. The Charter was developed by a task force comprised of members from the civil society and from the Government and has been consulted across the country. While the process, like in many other countries, has been largely civil society owned, OSCE-GTZ donor support seemed to be instrumental in the effort. Last but not least, in **Serbia**, after considerable lobbying efforts on the

part of civil society, the Government has on 15<sup>th</sup> April, 2010 adopted the *Decision on Establishing a Government Office for Cooperation with Civil Society*, which will also work on developing the national strategy for civil society development. Nevertheless, Serbia has examples of sectoral agreements for cooperation and mechanism such as *the Memorandum of Cooperation in the European Integration Process*, signed on 12<sup>th</sup> July, 2005 with the Office for European Integration (SEIO) and the Poverty Reduction Strategy Paper (PRSP) Office of the Deputy Prime Minister, which through Focal Points works closely with local CSOs in addressing poverty reduction and social inclusion issues.

**Comparatively, Bulgaria, Romania and Slovenia - three EU neighboring states - have in most cases less systematically developed framework for civil dialogue.**

In **Bulgaria**, there are no uniform rules and procedures, no coordinative mechanism and single-point entry to facilitate civil society-government relations. In **Romania**, the Ministry of European Integration contracted in 2003 a foreign company under PAHRE programme to develop a strategy for civil society. The document was very poor in terms of content and methodology and CSOs were extremely critical to the strategy. The Officer in charge with the strategy in the Ministry resigned and the strategy was never implemented. However, the coordinating mechanism for relations, although being renamed and hierarchically moved, has existed continuously in the Government of Prime Minister's Office since 1993. Currently, the *Unit for Governmental Strategies* is tasked with providing information on CSO activities, supports their initiatives, and facilitates consultations with the Government, has co-sponsored CSO events, supported CSO proposals to the Government, and served as a channel of communication between CSOs and policy-makers. Interestingly, such

8 In Bosnia and Herzegovina, this was the coalition "To Work and Succeed Together" established in 2001 that brought together 300 CSOs from all entities and worked in developing of strategic documents for cooperation with the public institutions and development of civil society. In Montenegro, the coalition "By Cooperation towards the Goal" lead by Centre for Development of NGOs (CRNVO) was established by 217 CSOs in 2006 with focus on establishing better dialogue and cooperation with the Government.

office also exists in the Parliament, i.e. the *Office of Public Information and Relations with Civil Society in the Romanian Chamber of Deputies* (lower chamber of Parliament). In **Slovenia**, a *Strategy for Systematic Development of NGOs* was prepared back in 2003 by the Government. An Agreement between the Government and the CSOs was also prepared, but was never endorsed by the Government. However, as in the case of Romania, an *Office for NGOs* within the Ministry of Public Administration has been established as well as the *Standing Inter-ministerial Working Body* for harmonization of open questions in the field of cooperation between the Government and CSOs. It was established in November 2005 and is tasked both with implementation of the Strategy and work on the Agreement never signed as well as resolving other open questions between the Government and the sector.

In most of the cases, the documents were **developed in close cooperation with CSOs or even co-drafted by CSOs and government representatives** – within working groups or task forces. **Montenegrin** inter-ministerial working group, with the close cooperation, and often guidance, of a coalition of CSOs, *By Cooperation towards the Goal*, has succeeded in publishing a Strategy and Action Plan for Cooperation between Government and CSOs. **Albanian** Civil Society Charter from 2009 was also developed by a task force comprised of members from the civil society (i.e. Co-Plan, Partners Albania, and Gender Alliance for Development Center) and from the Government (i.e. representatives from the Council of Ministers, Ministry of Interior, and the Ministry of Integration). In **Bosnia and Herzegovina**, it is largely owed to the *To Work and Succeed Together* coalition launched in 2001 and brought together 300 CSOs across the country to develop the Agreement through a series of 15 regional reference groups held in 2004.

In some cases, the process was supported by **donors** on a more continuous basis, which allowed for a more *comprehensive* and *inclusive* process – such as Albanian Civil Society Charter through the GTZ Civil Society Project or Macedonian Strategy prepared with EC-technical assistance provided to the Government Unit for Cooperation with CSOs. In case of Macedonia, this support enabled the provision of adequate expertise for the preparation of the document as well as the facilitation of wide-ranging civil society consultation on the design, with participation of 380 CSOs, and 6 broadly-based public debates. The participative process was instrumental for both sides to achieve clarity as to their respective expectations, and to ensure that key CSO priorities were included in the final document.

Thus, in countries where the process is more **domestically owned** and where especially it is based on local civil society efforts, this might take considerably **more time** and is with a **lesser predictability of end-result**. Nevertheless, where efforts are without local ownership, such as in Romania and this is handled by paid-experts only, the frameworks might not even be developed. Development of civil dialogue framework and mechanisms is a **process**, most optimally a **consensual one**, where both public authorities and civil society come together to define as equal partners mutual expectations, obligations and “rules of engagement”. Moreover, as will be shown in the next chapter, the efforts for development of strategies and agreements are prerogative for a **systematic development** of civil dialogue, but **adoption and implementation of acts and measures linked to public access to information, policy-development and minimum standards if consultation are the ultimate key and test** of real and functioning partnership between the public institutions and the civil society.

### 3.2. Acts on Public Access to Information, Policy-making and Consultations

**In some countries like Croatia and Bosnia and Herzegovina, specific (bylaws) documents set out the minimum standards, while in others only wider legal basis for ensuring citizens' participation in drafting legislation at the state level exists till date.** In **Bosnia and Herzegovina**, the *Rules on Consultations in Legislative Drafting Processes* were adopted by the Government in 2006. In **Croatia**, the most recent addition to the institutional mechanisms for engaging civil society is the *Code of Public Consultation in the Procedures of Passing Laws and Other Regulations* from November 2009, which will be accompanied by the *Guidelines for the Code Implementation and Organized Process of Public Consultation* currently under development. However, the adoption of the Code was strongly criticized by CSOs for being adopted on a closed session and being altered after substantial input by civil society. It seemed that the link to anti-corruption measures for which Croatia is under pressure from the Commission, provided for the urgency and lack of consultation on the adoption of the Code.

In other countries, the issue of access, participation and standards of consultation is currently without a specific legal basis, i.e. rests on broader acts or bylaws. In **Albania**, *Law on Access to Official Documents* gives some legal basis for these. In **Macedonia**, participation is guaranteed by *Constitution, Law and Rulebook of the Government, Rulebook of the Parliament, Law on Local-Self Government* as well as the *Strategy for Cooperation of the Government with the Civil Society*, which contains a specific goal of "Participation of the Civil Sector in the Decision-making Process". In

**Kosovo**<sup>9</sup> it is based on *Law on Access to Official Documents, Rules of Procedures of the Government and Law of Local Self-governance*. In **Serbia**, the *Government's Rules of Procedure* are judged not to be an efficient mechanism for participation of citizens and CSOs in the process of drafting laws and other public policy instruments, so that the participation of CSOs rests more on the initiative and self-organizing of the sector. Similarly, the recently adopted *Law on Parliament* does not stipulate and obligation of public openness in the work of parliamentary committees, thus allowing them discretionary right to decide on inclusion of public. However, an institute of public hearing has been introduced, but rarely used.

**In the three Balkan EU MS, only in Slovenia specific legal basis exists.** In **Bulgaria**, the wider binding legislation on consultation includes the *Legal Acts Law*, the consultations within the National Economic and Social Council (however not open for all CSOs) and also the binding principle of partnership in the EU Structural Funds Regulations (however, still not vastly and efficiently applied). The amendments of the *Legal Acts Law* have been initiated by number of various CSOs, proposing clear set of rules for consultation with interested parties at the stage of drafting and enhancing impact assessment. Recently, the Bulgarian Center for Non-Profit Law within the Civic Participation Forum has developed *Rules for Public Consultations* to facilitate the CSO-state institutions relations. According to the **Romanian** legislation, CSOs are entitled to propose changes to the Government and Parliament. This was the case in

<sup>9</sup> Inclusion is additionally supported by the Office for Good Governance within the Prime Minister office, which has the mandate to ensure the implementation of the good governance principles within the government, also through involving the civil society in the government activities.

2000, when a new law on associations and foundations was developed. In **Slovenia**, the *Rules of Government Procedure* adopted in March 2006 contain obligation of public consultations before adopting a regulation or a strategic document and newly adopted *Resolution on Normative Activities* from November 2009 guarantees the minimal standards for consulting the public – including the minimum duration of consultation (30 days).

Thus, while these specific mechanisms are much **less developed** across the region, it seems that in many cases strategies and bilateral agreements are in concurrence with other much broader acts (especially Law or Rules of Procedure of the Government and Parliament) as **a way to open the door for civil society to test the commitment of public institutions for real partnership with the sector through development of specific bylaws enabling both the right to information, but also minimum standards of consultation in policy-making.**

### 3.3. Local level

**On the local level**, the dialogue between CSOs and the local government also rests on rules of engagement with CSOs as well as special agreements and structures for cooperation. **Laws on Local Self-government** usually contain provisions for CSO and citizens' engagement. For example, in **Albania** the *Law on Local Government Operations* enables participation on local level, in **Kosovo** the *Law on Local Self-Government* recognizes the right of citizens of the municipality and guarantees them the right to petition, citizen initiative and local referendum. In **Montenegro**, the *Law on Local Self-Government* prescribes that local administration cooperates extensively with

local civil society and promote its role in the decision-making process<sup>10</sup>.

Apart from legal basis for cooperation, some municipalities have also set up **structures for cooperation with CSOs**, such as advisory boards (in place in almost half of Croatian municipalities) or contact persons in municipal governments (in 52% of Macedonian municipalities) and formalized agreements on cooperation between local government and CSOs (18.1% in Croatia and 22% in Macedonia). In **Macedonia**, there are some good examples of policies or strategic documents that refer to cooperation with the civil society, which are in place in bigger urban municipalities, such as the City of Skopje (*Strategy for Cooperation with CSOs*) and the Municipality of Karpos (*Strategic Action Plan for Cooperation*). These municipalities also have units or responsible persons for cooperation with CSOs. Structures of cooperation, which relate to specific issue areas or beneficiaries, are also in place in some countries. In **Serbia** for example, Municipal Coordination Committee for Social Policy (OKOSP), Council for Issues Related to Persons with Disabilities in the City of Kragujevac and Youth Offices, which were set up in some eighty municipalities or regions in Serbia, with the support by the Ministry of Youth and Sports exist. Overall, both **the mechanisms and practice on local level is still poor**, but the existent practice shown the **potential for development and the need for involvement of both CSOs and citizens in everyday policy- and decision-making process on local level.**

<sup>10</sup> As noted by Montenegrin CRNVO, substantive participation of CSOs in local development strategy and policy-making is still a rarity and even legally defined rights are not implemented fully – for example the institution of so-called “free” or “empty” chair, which would allow local CSOs to participate in plenary sessions of local assemblies (without voting rights), has to date only been implemented satisfactorily with clear rules and guidelines in one of Montenegro's 21 municipalities (Tivat).

## 4. Functioning of Civil Dialogue

### 4.1. Coordinating Mechanisms

In countries where framework documents for cooperation between CSOs and public authorities have been developed, these **lay out a clear basis for the relationship and thereby facilitate ongoing dialogue and mutual understanding between CSOs and public authorities**. In order to further the implementation of these strategies, several of them are accompanied by **action plans for their implementation** (e.g. Montenegro, Macedonia and Croatia). However, save in Croatia, the documents seem to have been too ambitious in setting out the pace of implementation, especially in critical areas such as developing transparent and accountable state funding support to civil society and development measure for inclusion of CSOs in policy-making process.

The key institutions in implementation, i.e. coordination mechanisms exist on **different levels and hierarchical positions** and have **different tasks assigned** to coordinate and influence policy-making. Examples where there is an evident lack of structures within the government institutions – such as is Albania, where no specific department is in charge of relations with civil society - are rare. Most of the countries have in place:

- specific **government offices for cooperation with CSOs** (e.g. Croatia, Macedonia, Montenegro), which are in charge of strengthening cooperation with CSOs and other public authorities;
- **liaison officers** in ministries and other central government institutions (usually under coordination of the central Office, when it exists);
- other **joint structures** (e.g. councils, multi-stakeholder committees, work groups, expert councils and other advisory bodies) for cooperation

between CSOs and public authorities (within the Government, Ministries, the Parliament) for the purpose of inclusion of CSOs in the development, implementation and monitoring of policies and programmes.

**Croatian** Government Office for Cooperation with NGOs (GOforNGOs) - established in 1998 - is seen as a model for many in the region still striving for more developed structures of cooperation. According to the *Regulation on GOforNGOs*, the task of the Office is to coordinate the work of ministries, central state offices, Croatian Government offices and state administrative organizations, as well as administrative bodies at local level in connection with monitoring and improving the cooperation with the civil society sector.

In **Macedonia**, a single government office, *the Unit for Cooperation with NGOs*, is responsible for facilitating government cooperation with civil society. The Unit was established in November 2004 under the Sector for Policy Analysis and Coordination within the General Secretariat of the Government, and commenced active work in March 2006. Notionally, the Unit is responsible for coordinating specially assigned civil society contact persons in each ministry.

Similarly as in Macedonia, in **Montenegro**, cooperation between government and civil society rests on a single *Government Office for Cooperation with CSOs* and a network of liaison officers in ministries and other central government institutions. The Office for Cooperation was established as late as 2007 and the process of establishing *Council for Cooperation between the Government and CSOs* started in spring 2010 – also with involvement of civil society, which was consulted on the Decision on Establishing the Council.

Most recently, **Serbia** – after considerable lobbying efforts on the part of civil society – is also on its way to establishing a *Government Office for Cooperation with Civil Society*, which will also work on developing the National Strategy for CSO development. The Office – established on 15<sup>th</sup> April, 2010 – will be directly responsible to the Prime Minister, similarly as is the case in Croatia.

In **Kosovo**, the *NGO-Liaison and Registration Unit* is a special governmental unit within the Ministry of Public Services which administers policies related to registration and cooperation with NGOs, but – in the contrast to above examples – there are no other “contact points” for civil society in any of the Ministries.

In the **three Balkan NMS stated**, the situation is diverse, but in no case better than in the (pre-) accession countries. In **Bulgaria**, no coordinative mechanism exists. In **Romania**, the Office is established with the Prime Minister since 1993, but has changed levels and task. It is currently the *Unit for Governmental Strategy*. The Head of Unit reports to the one of the state advisers of the Prime Minister. In **Slovenia**, the CSO coordinator task has been up-graded to the *Office for NGOs* within the Ministry of Public Administration, which is competent to address the horizontal issues of CSOs. State Secretary from the Ministry of Public Administration is also leading the Inter-ministerial Group, composed of members from all line Ministries.

## 4.2. Joint CSOs-Government Structures

Apart from offices for cooperation, several **joint structures** have been set up – either *ad hoc*, relating to specific task of policy or strategy formulation, or as permanent advisory bodies for furthering the dialogue between the CSOs and public authorities.

**Where existents, such structures seem to be crucial in providing jointly owned and consensual decisions on matters concerning civil society development as well as broader societal processes.**

The *Council for Civil Society Development (CCSD)* in **Croatia**, which was set up as a governmental advisory body back in 2002, is composed of 10 appointees from state administrative bodies, 10 elected representatives of civil society and 3 civil society experts. The Council is primarily responsible for the development and implementation of the Government Strategy in Support of Civil Society, acting as an expert advisor to the Government, but it also has a key role in monitoring the monetary support provided by the state for financing CSO activities. The CCSD is the most important institutional mechanism for Government-civil society cooperation as it provides a forum for a direct and formalized dialogue between citizens’ associations’ representatives and public administration, on issues directly related to civil society development. Under a revised mandate, as of 2010, it will also include representatives of foundations and trade unions in order to do more justice to its own name and to the diversity of civil society organizing.

On the basis of the *Agreement on Cooperation between the Council of Ministers of Bosnia and Herzegovina and the Non-Governmental Sector* adopted in 2007, a *Board of Civil Society* in **Bosnia and Herzegovina** as a constitutive body of civil society was set up. The Board consists

of activists of the CSO sector— delegates come from 31 different sectors of CSO institutions. The Board is at the starting point of its operation and in the process of consolidation. It will serve as a consultation body in cooperation with organizations of civil sector, international donors, citizens, and media.

In **Serbia**, in 2007 a *Council of the President of the Republic for Relations with Civil Society (or Civil Society Council)*, which includes some CSO representatives, exists formally for facilitating CSO–government communication. However, this body is a more or less *ad hoc* advisory body which meets infrequently and proceeds without clear and agreed terms of reference.

Finally, in **Montenegro**, a Decision has just been taken on 15<sup>th</sup> April, 2010 as outlined under the Strategy for Cooperation with CSOs, to establish the *Council for Cooperation between the Government and CSOs*.

In the three Balkan EU MS, only in **Romania** a joint structure has been identified and this is as recent as in the other Western Balkan countries. In 2006, the Prime Minister established under his Office a *Council for Dialog with Foundations and Associations*. About 50 CSOs representatives were invited to take a sit in this structure. At the moment, the Prime Minister has asked the CSOs for proposals to make this structure more active and to focus on strategies to improve the dialog and consultations between the CSOs and Government. In August 2010, new members will be appointed for a 5 years mandate with a set of objectives to be reached by the two players.

Although more usually placed within the Government, some instances of structures for cooperation with **the Parliament** also exist in the region. The *Office for Cooperation between the CSOs and Parliament* was

established in 2004 with signing of *Memo-randum for Cooperation between Citizens' Association MOST and the Parliament of the Republic of Macedonia*. The main goals of this office are: institutionalization of the cooperation among the civil society organizations and the Parliament, connecting of the citizens with the legislative bodies, providing relevant information and data needed for intensifying the dialogue between the Parliament and civil society organizations, including all channels for communication. Such is also the case in **Romania**, where the *Office for Public Information and Relations with Civil Society in the Romanian Chamber of Deputies* (lower chamber of Parliament) exists. The Office was established with EU funding under the PHARE programme for civil society (1994 – 1996) with a support of about 200,000 Euro. The Office is also linked to a mechanism for funding the CSOs to participate in the legislative process (i.e. 200,000 Euro/per year with grants up to 10,000 Euro). The Office is judged to be effective support to cooperation with the Parliament and CSOs have fought against initiatives for its dissolution in midst of cost cuts.

### 4.3. Track-record in Access to Information, Policy-making and Consultations

As outlined in Chapter 3.2., specific acts (bylaws) exist in some countries and set out the minimum standards for either access to public information as well as participation of CSOs in policy-making. However, when looked at the practice, one of the main problems is that **the rules are often insufficient or are implemented poorly**.

In **Serbia**, the *Government's Rules of Procedure* are judged not to be an efficient mechanism for participation of citizens and CSOs in the process of drafting laws and other public policy instruments, so that the participation of CSOs rests more



on the initiative and self-organizing of the sector than the written rules. In **Bosnia and Herzegovina**, the provisions of the *Rules on Consultations in Legislative Drafting Processes* have been applied only on rare occasions<sup>11</sup>, in most cases as a result of the need to fulfil conditions of funding for an internationally supported initiative. In **Albania**, only a small number of ministries have taken measures to implement the provision of the *Law on Access to Official Documents* and to the implementation of the *Council of Minister's Ordinance to establish Public Information Offices* at the line ministries, so in some cases even the basic precondition of participation, such as access to information, are not fulfilled. In **Macedonia**, the *Government Strategy* provides for the need of all Ministries to publish new proposed policy changes on the internet, but has so far gone little towards creating a real (face-to-face) partnership between the two parties.

In some cases, the provisions are also **ambiguous or may undermine the essence of participation to policy- and decision-making**. In **Macedonia**, the *Law on Lobbying*, adopted in August 2008, may limit direct participation by citizens, associations, and foundations in policy and decision-making processes, as lobbying is defined very broadly so to include almost any activity aiming to influence the position of national or local government or Parliament on any law of regulation. Nevertheless, the Law is not applied in practice and thus, has little practical effect on conduct of dialogue.

11 A recent assessment of the implementation of the Rules by the non-governmental think-tank, ACIPS (Association Alumni of the Centre for Interdisciplinary Postgraduate Studies) observed that these measures are being carried out in only one of the state's 9 ministries, i.e. the Ministry of Justice. In conclusion, ACIPS asserts that the Rule on Consultations are no more than "a dead letter on paper."

**Comprehensive mechanisms for implementation of legal provisions** have been established in very few government ministries and departments in the region and their **administrative capacity** to engage with civil society is often inadequate. Nevertheless, in lack of systematic solutions, **good practice of involvement of CSOs in policy development and consultation** do exist. Most recent examples of CSO involvement include:

- In **Albania**, the Law On Legal Aid (December 2008), which establishes provision for a structured system of legal aid and access to justice for people in need, was the work of a project organized by the Tirana-based NGO the Free Legal Service Tirana, in co-operation with government and civil society partners. In March 2010, the Law on Anti-discrimination was adopted by the Parliament, which was prepared in consultation with civil society;
- In **Bosnia and Herzegovina**, a new Development Strategy 2008-2013 is currently being developed, in parallel with a Strategy of Social Inclusion 2008-2013, and civil society has been active in consultations, with work coordinated by working groups selected by the CSO Council and the Network of Elderly People;
- In **Kosovo**, a number of cases of either CSO participation or pressure towards the government initiatives were noted recently. The participation of numerous NGOs in drafting the NGO Law in 2008/09 is one of the best cases of the civil dialogue between sectors;
- In **Macedonia**, CSOs were recently involved in the preparation of the Law on Associations and Foundations. The working group by the Ministry of Justice had intensive activity in 2009 and 2010, when numerous meetings were held with active participation of several ministries, civil society organizations and university experts;

- At the end of 2009, **Montenegrin** CSOs actively participated in the drafting of the Law on the Prohibition of Discrimination, which was prepared by the Ministry of Human and Minority Rights with the great involvement of the CSO sector in all public debates, round tables and other events pertaining to this law;
- In **Serbia**, where CSOs have occasionally been consulted during the drafting of legislation, especially in areas such as social protection and social policy, a recent example is the case of the Law on the Professional Rehabilitation and Employment of Persons with Disabilities, which engaged a considerable number of CSOs that deal with this issue.

The practice in the **three NMS** is illustrating and **advanced** and has been **influenced partially by EU Acquis requirements, especially in the area of strengthening both administrative capacity and monitoring of implementation**. In **Bulgaria**, the CSOs have proposed amendments to the *Legal Acts Law*, proposing clear set of rules for consultation with interested parties at the stage of drafting and enhancing impact assessment. In **Romania**, also, several advocacy CSOs (ProDemocracy Association, CeRe, FDSC, Advocacy Academy and CENTRAS) have advocated throughout 2007 for the introduction of public hearings to increase the transparency of the Parliamentary process. As a result of this initiative, all draft laws must now be accompanied by a regulatory impact assessment developed in a participatory manner with all stakeholders. In **Slovenia**, Center for Information, Cooperation and Development of NGOs (CNVOS) developed in 2002 the *Procedure for Selection of NGO' Representatives* into different bodies involved in policy and decision-making process. The purpose of the selection procedure is to offer all interested individuals and organizations a

unified procedure with clear rules, binding for all involved and according to principles of openness, equal opportunities and transparency. Until now, 16 such procedures have been carried for the needs of different Ministries and Government Office for European Affairs. Finally, the obligatory rules for public consultation under the *Rules of Government Procedure* adopted in March 2006 and newly adopted *Resolution on Normative Activities* from November 2009, which guarantees the minimal standards for consulting the public, has provided for the strongest legal basis for CSOs inclusion, but the practice is always the key test to the partnership.

#### 4.4. Conclusions

While we can today witness existence of state framework documents regulating civil dialogue in most Western Balkan countries, the challenges remain in their **full implementation**. We have especially seen considerable progress in development of mechanisms in the past two years. The implementation is hampered with the **lack of political will or strong prioritization** of civil society participation at the top level. The prioritization of the EC within the Enlargement Strategy from 2007-8 and allocation of IPA funding as well as funding by other donors has helped made these moves, but the government ownership of the process is then sometimes lacking.

Similarly, on lower **administrative and operational levels**, knowledge about the sector in the administration as well as lack of their capacity to engage and implement the adopted strategies, agreements and rules is missing. The government's institutional capacities for engagement are often not matched with the comparable capacities of the CSOs in terms of professional staff or lobbying skills to engage with the Government, so they are often not able to respond to invitations to

participate in the consultative processes initiated by Government or develop a more serious partnership with government institutions. Still, while possessing the motivation and expertise, **CSOs** equally need to build incentives and capacity to respond, organize and monitor the specific legal measures for consultation in the policy-making process.

One of the crucial tests remains further development of specific acts and regulations (bylaws) allowing CSOs **mandatory participation** in the policy- and decision-making process (e.g. Slovenia). Also, the right to policy and legal initiative is an important issue, especially in the background of the Lisbon Treaty Article 11 debate. Thus, while the first step has been made with the defining of strategies and agreements and as such in defining the general role of CSOs in policy-making, further **legal** but for mostly **practical measures** need to be taken.

Several common shortcomings regarding the cooperation **on local level** were identified. Developed and organized procedures of cooperation between CSOs and local authorities are rare. The level of cooperation varies from one municipality to the other. Cooperation is mainly based on short-term efforts and dependents on understanding by local representatives. In general terms though, even if the mechanism and the practice is still poor, the level of engagement of CSO on local level is often judged more favorably compared to that on the national level.

## 5. EU Integration and Civil Dialogue

### 5.1. Enlargement Policy

In the Enlargement Strategy 2007-2008, the EC made civil dialogue, alongside civil society development one of the key reform priorities for accession of the Western Balkans countries. In the Balkans, it was the first time that civil society development and civil dialogue would become one of the key reform priorities of EU Enlargement policy. The benchmark is part of the Copenhagen Political criteria ever since.

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 *Communication*<sup>12</sup> 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 the benchmark was 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 **internal enlargement 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

<sup>12</sup> COM (2005) 290, 29th June, 2005

Political criteria, not just passed legislation, but *functioning* democratic institutions, processes and decision-making are crucial to their fulfilment. As in some EU NMS, the EC has observed slower and less effective implementation than desired. Thus, prioritization of civil society was seen as a way to push these forward.

The **objective** was to support better communication of enlargement processes and mutual understanding between EU MS 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) dialogue, similarly as development of civil society in the Enlargement Strategy, save of the above stated objective.

According to the Strategy 2007-2008, there were 4 main **reasons** for civil society development and civil society dialogue to be prioritized:

- strengthening support for reforms;
- strengthening democracy and functioning democratic institutions;
- anti-enlargement fatigue measure; and
- ensuring public support for enlargement.

Again, in terms of **the benchmark definition and what they assess**, civil society dialogue benchmarks usually assess:

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

while civil society development benchmarks assess:

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

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, i.e. what was stated in the Strategy, but rather on what is really **generally defined as civil dialogue**, i.e. relations between civil society and public institutions, especially Government. It seems that ensuring public support for enlargement and anti-enlargement fatigue measure have (rightly) disappeared or became rather a horizontal and regional issue, thus not addressed under the assessments and benchmarks for individual countries.

While the benchmarks were first set under regional priorities, they became increasingly reflected in **individual countries' benchmarks and assessments** in the Progress Reports. Before 2007, only Serbia had a specific benchmark. In 2007, benchmarks for Macedonia and Kosovo were introduced and in 2008 for Albania<sup>13</sup>. To date, Croatia, Bosnia and Herzegovina and Montenegro do not have specific benchmarks related to civil society development or civil society dialogue. The Accession/European Partnerships, which define benchmarks to be achieved in order for a country to progress in its path to accession to the EU, have not been up-dated since February 2008 (while for Montenegro since January 2007), so no additional concrete benchmarks were introduced. Nevertheless, discerning from the subsequent Progress Reports for individual countries as stated above, **development and functioning of civil dialogue and in some cases state funding of CSOs has become the main focus of Commission's monitoring of progress**. All countries, save of Croatia, have comments in this respect. Moreover, the emphasis is on the implementation of adopted measures or serious partnership (e.g. Montenegro) engagement with the civil society. The

<sup>13</sup> See Table 1, p. 22-23.

bellow table outlines specific benchmarks and progress in the area per country.

Looking at the latest development in civil dialogue on the ground, it can be said that the introduction of the EC benchmarks, which took place in the period of intensified development, coincides and thus, has had **positive effect** especially on development of state framework documents in some countries. However, this impact is still **not strategic or coherent across countries**. If Progress Reports from 2006 are compared to Progress Reports 2007, 2008 and 2009, the new priorities do not seem to be translated yet in terms of equal application of 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 Albania, Kosovo and Serbia where the mechanisms are still missing 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.

The “buzz” words of the last Enlargement Strategy 2009-2010 was the need to focus on difficult areas for reforms early on in the accession such as the rule of law, anti-corruption measures and freedom of expression, based on the negative lessons-learned from Bulgaria and Romania. Moreover, the Strategy advocated that “enlargement countries need to ensure that new legislation is thoroughly prepared, following necessary consultations with stakeholders, and is properly implemented.”<sup>14</sup> At the same time, in the Enlargement Strategy 2008-20099 and 2009-2010, development of civil society,

14 COM (2009) 533, 14<sup>th</sup> October, 2009, p. 8.

while less civil dialogue were reaffirmed (only) as measures that “strengthens quality of democracy and contributes to reconciliation.”<sup>15</sup>

As has been shown throughout Chapter 3, implementation of state framework documents, but especially development and implementation of specific bylaws and their implementation on access to information and minimum standards for consultation seem to be the key test both of real partnership with civil society, but if analyzed carefully, also as a **horizontal policy measure directly related to public administration reform, anti-corruption measures and rule of law, i.e. all key EU Acquis areas**. Thus, if the Commission means “business”, civil dialogue needs to be prioritized like other key EU *Acquis* measures, i.e. possibly by **becoming an EU Acquis area itself**. Finally and at the same time, **IPA assistance** needs to be **coherently and strategically** used in funding crucial civil dialogue measures, esp. those owned and lead by local civil society.

In terms of further **monitoring of progress in the accession process**, the focus should be on the **implementation of state frameworks or measures of their development if non-existent** in terms of **openness and Government engagement in the process**. Moreover, **the role assigned to coordinating mechanisms and establishment of joint CSOs-Government structures** should be measured in terms of **administrative capacity and openness of the institutions**. Last but most important, **the adoption and full implementation of specific legal acts (bylaws) for minimum standards for access to information and consultation in policy- and decision-making** should be made **mandatory and followed in the Progress Reports** as the key test to Government commitments to **honest, open and equal partnership**.

15 Ibid.

**Table 1: EC Civil Dialogue (and Civil Society Development) Benchmarks and Assessments 2007-2010**

Country	2006-2007	2007-2008	2008-2009	2009-2010 <sup>16</sup>
Albania	N/A	N/A	Encourage the active participation of NGOs and other CSOs in the government decision-making process and the continued improvement of the quality of journalism.	The participation of CSOs in policy-making requires further strengthening.
Bosnia and Herzegovina	N/A	N/A	N/A	The executive needs to make further efforts to enhance dialogue with the civil society sector and to support its development. The authorities need to ensure that allocation of funding to NGOs is conducted in an objective and transparent manner.
Croatia	N/A	N/A	N/A	N/A
Kosovo	N/A	Adopt legislation on associations and the legal status of NGOs, encourage the development of CSOs and regular dialogue with civil society on policy initiatives.	Adopt legislation on associations and the legal status of NGOs, encourage the development of CSOs and regular dialogue with civil society on policy initiatives. Implement the anti-discrimination law effectively. In particular, make the human rights units within ministries fully operational, and ensure their independence and coordination with Ombudsperson's activities. Organize awareness campaigns to inform the private sector, civil society and academic circles about this law. Monitor the implementation of the law and report on it. Continue efforts to increase public awareness and civil society participation in environmental matters. Develop sectoral action plans to fight corruption and increase awareness of the corruption problem within the public administration as well as in civil society.	Civil society needs to be integrated better in policy formulation and implementation.

<sup>16</sup> There was no up-date of the Accession/European partnerships since February 2008 (save of Montenegro since January 2007). The required measures/benchmarks are discerned from Progress Reports 2009.

Country	2006-2007	2007-2008	2008-2009	2009-2010 <sup>16</sup>
Macedonia	N/A	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.	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.	Progress on implementing the government's strategy and action plan for cooperation with CSOs and the Law on Sponsorship and Donations is needed. Respect by the Government for existing consultation mechanisms and full engagement in a meaningful dialogue with civil society. Make the draft legislation and regulatory impact assessment forms available to the general public for review. There is a need for systematic and transparent mechanism for consulting civil society on national development policies, legislation, programmes or other strategic documents.
Montenegro	N/A	N/A	N/A	The Government needs to engage constructively with civil society representatives.
Serbia	Encourage the development CSOs financially and otherwise, notably by adopting the law on associations, and legislation on the legal status of foreign NGOs. Implement and support activities to increase public awareness and civil society participation in environmental matters.	Adopt legislation on associations and the legal status of NGOs, encourage the development of CSOs and regular dialogue with civil society on policy initiatives.	Adopt legislation on associations and the legal status of NGOs, encourage the development of CSOs and regular dialogue with civil society on policy initiatives. Implement the anti-discrimination law effectively. In particular, make the human rights units within ministries fully operational, and ensure their independence and coordination with Ombudsperson's activities. Organize awareness campaigns to inform the private sector, civil society and academic circles about this law. Monitor the implementation of the law and report on it. Continue efforts to increase public awareness and civil society participation in environmental matters. Develop sectoral action plans to fight corruption and increase awareness of the corruption problem within the public administration as well as in civil society.	There have been some efforts within the Serbian administration to improve cooperation with civil society, but this needs to be further developed.

## 5.2. EU Funding Support to Civil Dialogue

Following the Enlargement Strategy of 2007-2008, the funding mechanism to support fulfillment of the civil society development and civil dialogue benchmarks was announced through the Civil Society Facility (CSF) by the EU Council in December 2008. The aim of the CSF is three-fold: to support capacity-building and the role of civil society, to expose civil society representatives to EU institutions and procedures, and to support partnership between civil society and other sectors as well as with counterparts in other countries of the region and the Member States. Combined with this and for the first time, the IPA Regulation brought a responsibility on the part of the Commission and the beneficiary country to consult civil society actors in the management, implementation and evaluation of IPA assistance (i.e. the Partnership principle). Thus, IPA promised to bring both *political, financial and partnership* support to the role of the civil society sector in the Western Balkans. Within the framework of the CSF, the financial support to civil society in the Western Balkans and Turkey in the period 2008-2010 was to approximately triple when compared to CARDS period (2005-2007), when the Commission support to civil society amounted to 27 million Euros.

If one looks to the particular funding for civil dialogue in the region, it can be concluded that the Commission is a relative newcomer in this funding area and is far from being the only or the main player. Under the regional funding, s.c. Multi-beneficiary programme, the CSF has indirectly funded civil dialogue under the Technical Assistance for Capacity Building of CSOs in the Western Balkans and Turkey (now called the TACSO project). However, the last regional call for

proposal aimed at directly supporting civil dialogue was launched in 2008, i.e. *CARDS 2006 Support to Civil Society Dialogue - People to People Actions: Consolidating Partnership between CSOs and Public Authorities for Raising Minority Rights in the Region* (1,95 million Euros). Under the CSF national projects, Albania, Bosnia and Herzegovina, Croatia and Macedonia are countries where the Commission has invested in development of civil dialogue mechanisms either with the Governments or in capacity-building of the civil society to participate in the civil dialogue (or both). So far, only in Macedonia, the Commission support has been the outset of development of civil dialogue mechanisms, while in other countries the support is complementary or continuing other donor or local efforts. In some case, such as Bosnia and Herzegovina, the lack of coordination and timing of the Commission intervention is having an adverse impact on the development of local civil dialogue efforts.

While it might be still early to judge the results, currently, the Commission has invested effectively, through national level CSF funding in some countries to develop civil dialogue mechanism, but substantial results are so far still lacking. In Macedonia, where the Commission has so far invested most in development and functioning of civil dialogue mechanism, it notes in the latest Progress Report 2009-2010 that “progress on implementing the government’s strategy and action plan for cooperation with civil society organizations slowed”, the intervention that is financed by Commission under both CARDS and IPA support. One of the problems is that the investment in civil dialogue mechanism has heavily dependent on Commission and not Government funding, such as is the case in other countries. In Bosnia and Herzegovina, the current EC project is investing in both



**Table 2: Selected Civil Dialogue Projects in the Western Balkan Countries**

Country	Name of project	Donor
Albania	Consultation on Albanian State Budget Line for Civil Society/Drafting of Charter of Albanian Civil Society	OSCE
	Strengthening Civil Society and Democratic Structures	GTZ
Bosnia and Herzegovina	Civic Advocacy Partnership Program (CAPP) Sustainable Development of the Non-Profit sector in BIH (CCSP)	USAID
	IPA Capacity building of Civil Society to take part in policy dialogue	EC
Croatia	PHARE Enabling the Civil Society Sector for Active Contribution in the Pre-accession Process - Grant Scheme in the area of: Democratization and Human Rights, Environmental Protection and Sustainable development, Youth Participation CARDS Good Governance and Rule of Law Grant Scheme CARDS 2004 Grants to Civil Society Organizations Active in Environment and Sustainable Development and Social Services Delivery IPA Developing Capacities of CSOs for Systematic Monitoring and Advocacy of Sustainable Development Policies and Integrated Approaches to Waste and Water Management, Transport, Energy Efficiency, Regional Development, Sustainable Use of Natural Resources IPA Enhancing the participation of the CSOs in monitoring of the implementation of the EU <i>Acquis</i> in the field of fight against corruption and the overall transparency, openness and accountability of public administration bodies IPA Enhancing the Capacities/Roles of the CSOs in Monitoring of the Implementation of the EU <i>Acquis</i> in Field of the Comprehensive Anti-discrimination Strategy	EC
Kosovo	N/A	
Macedonia	CARDS Technical Assistance to the Civil Society Unit in the Government IPA Strengthening the Capacity of the General Secretariat – Sector for Policy Analysis and Coordination -Unit for Public Administration Reform and Unit for NGO Cooperation	EC
Montenegro	N/A	
Serbia	Civil Society Advocacy Initiative	USAID
	IPA Strengthening Serbia-EU Civil Society Dialogue Grant Scheme through Technical Assistance	EC

capacity-building of civil society as well as of the Government. In Albania, the intervention is solely on the part of civil society, while in Croatia, it is the Government that has programmed the EC funds in consultation with civil society. On the regional level, the TACSO project has only a sub-component dealing with civil dialogue, i.e. capacity-building of Governments to cooperate with CSOs, but this is neither the focus nor the

aim of the intervention. While in March 2008, a workshop had been organized in Skopje to bring together existing Governmental Offices for Cooperation with CSOs and other bodies (from countries, where these did not exist), such regional synergetic activities have not been of interest to Commission funding, although civil dialogue is an Enlargement regional priority.

Thus, it seems that the EC funding to civil dialogue measures is **scattered and incoherent with benchmarks**, which **reduces possibility of being effective in supporting local civil society efforts as well as achieving accession benchmarks.**

**Thus, in terms of funding, the EC should closely coordinate and strategically use the IPA support to fund areas of civil dialogue identified as weak such as:**

- Measures aimed at **developing and implementing existing state framework documents and mechanism with local ownership;**
- Measures of **capacity-building and awareness-raising** of the **coordination mechanisms and administration for implementation of state frameworks and specific acts (bylaws);**
- Measures for **capacity-building of CSOs and their ability to initiate advocacy in policy- and decision-making;**
- **Synergy initiatives for exchange of good practices and information** between (pre-)accession as well as EU countries.

## 6.10 Recommendations for Effective Civil Dialogue in the Western Balkans

- Principles of policy and assistance **coherence, effectiveness, ownership and sustainability** need to be the guiding principles of EU interventions in civil dialogue in the Western Balkans;
- Civil dialogue should be understood as a **horizontal policy measure** directly related to public administration reform, anti-corruption measures and rule and law, i.e. all key EU *Acquis* areas. If the Commission means “business”, civil dialogue needs to be prioritized like other key EU *Acquis* measures or even become an EU *Acquis* area itself;
- The monitoring of progress should at the same time focus on the **implementation of state frameworks and measures for their development** if non-existent in terms of openness and Government engagement in the process. Moreover, the progress should specifically follow the adoption and **full implementation of specific legal acts (bylaws) for access to information and mandatory minimum standards for consultation** as the key test to Government commitments to honest, open and equal partnership;
- **IPA support should be coherent and strategically directed to benchmarks fulfillment, i.e. fund identified challenges in the civil dialogue area**, especially measures aimed at developing and **implementing existing state framework documents and mechanism** with local ownership, **capacity-building** and **awareness-raising** of the **coordination mechanisms and administration** for implementation of state frameworks and specific acts (bylaws), **capacity-building of CSOs** and their ability to initiate advocacy in policy- and decision-making, **synergy initiatives for exchange** of good practices and information between (pre-)accession as well as EU countries;
- **National Governments** together with **local CSOs (especially platforms/networks)** should have the main ownership over the development and implementation of framework or mechanisms. National Governments should demonstrate **open, honest and equal partnership** towards the civil society;
- **Local CSOs** should strengthen **regional and national cross-sector cooperation** and coordinate sectoral initiatives on joint issues of concern, especially in matters such as civil dialogue in the common interest of the sector;
- **Regional synergies** between national Governments in development and implementation of civil dialogue mechanisms should be identified and linked to **regional inter-governmental cooperation forums** to share the lessons-learned and enable peer- and institutional learning;
- Measures, such as **development of financial sustainability** of the civil society actors through transparent and effective state budget support and support to development of enabling environment for corporate and individual giving should be considered as an important **indirect measure** in securing equal partnerships of the civil society in the policy- and decision-making;
- While the accession process is primarily linked to Government performance, civil dialogue should be understood and thus measured in a **much broader sense**, especially including here the functioning of the Parliament in terms of initiating

new legislation and cooperation with CSOs;

- The **value of citizens and CSOs** contribution to the policy- and decision-making process should not be weighted and valued in terms of representativity and membership, but in the quality of **arguments and solutions** it brings to the policy- and decision-making process. The role of CSOs is not in representativity, but in **correcting** and **value-adding** through expertise and access of marginalized voices in society to the mainstream policy- and decision-making process.