

Policy Brief

“Preparing for accession negotiations: What role for Civil Society Organizations in Albania?”

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Background

The accession of Albania in the European Union has long been trumpeted as a matter of national interest, which requires the involvement of all actors, especially Civil Society. The aim of this policy brief is to provide insights and recommendations on the most important aspects concerning the inclusion and contribution of Civil Society Organisations.

Granting candidate status to Albania in late June 2014 sent a positive signal for the EU enlargement policy towards the Western Balkans, after Croatia's entry the year before. It is high time now to reflect on what is to be expected in the upcoming months and years with the European integration agenda of the country.

The next expected step is opening accession negotiations with the EU. While executive works to address the five priorities of the European Commission roadmap (Establishment of a professional and depoliticized public administration; Strengthening the judiciary's independence; The fight against corruption; The fight against organized crime and Protection of Human Rights)¹ have started, major challenges at the policy and societal level remain unanswered. One of the challenges is the

inclusion of civil society in the European integration process.

Recent efforts undertaken by the Albanian government and the new context of becoming an official candidate country have created the conditions for opening this debate to the larger public. The government, in office since 2013, has shown positive signs by being open to changing the approach of cooperation with CSOs regarding integration processes.

Although the policy making process in this context is not exactly being blocked (at least recently and currently), it has been slowed down by other policies taking the lead in the priorities of the government.² Thus, civil society organizations should take advantage of the momentum created by the Third High Level Dialogue between the EU and Albania June 4th 2014, on the prospect of opening accession negotiations, to bring the issue to the table as soon as possible and prepare for this future development.

This paper will examine different steps undertaken by the government, namely: 1) The establishment and functioning of the National Council for European Integration, 2) The Agency for Support of Civil Society in Albania (ASCS),

¹ Ministry of European Integration, Online: <http://www.integrimi.gov.al/al/newsroom/deklarata-per-shtyp/pese-prioritetet-per-statusin-jamasat-konkrete-te-qeverise&page=1>

² The fight against organized crime and corruption, public administration reform, etc.

3) The Civil Society National Council, 4) The “Guideline to the Government Policy on the Creation of an Enabling Environment for Civil Society Development”.

An all inclusive mechanism to cope with Accession Negotiations – The National Council for European Integration

According to the latest EC Progress Report (2014) on Albania: “Civil society was regularly consulted on policy and legal initiatives, although with limited follow-up. Cooperation between CSOs and local government units remains very weak due to the lack of adequate capacity to ensure proper cooperation and funding for CSOs. The civil society sector remains fragmented and overly dependent on donor funding”.

Other issues identified by the progress report are: The need for more systematic and transparent consultations with CSOs and the lack of transparency in policymaking. Moreover, The EU Enlargement Strategy 2014-2015 stipulates that: “More needs to be done to foster an enabling environment for civil society organizations. A strong civil society enhances political accountability and promotes deeper understanding of accession related reforms.”³

The Monitoring Matrix on Enabling Environment for Civil Society Development (Partners Albania Center

for Change and Conflict Management) Country Report for Albania, providing insights about the development of the civil society in Albania, including legal framework, relationship with state institutions and financial sustainability, highlights that: “There are no national strategic documents dealing with the State-CSOs relationship. Consultations among state and CSOs are sporadic, more at the informative level and as a result ineffective, characterized by lack of standard procedures and binding rules to engage in a meaningful and timely dialogue with civil society.”⁴

Meanwhile, The National Council for European Integration (NCEI) has been established by law no.15/2015 “On the role of the National Assembly in the EU integration process of the Republic of Albania”⁵, adopted on 05.03.2015. The council was established after extensive pressure exercised by the EU and has the objective of “Promoting and guaranteeing the comprehensive cooperation between political forces, public institutions and civil society, as well as providing greater transparency in decision-making on European integration issues”⁶.

Article 7/f foresees that the Council will undertake meetings with the heads of negotiating groups and the chairman of the Albanian Delegation in the EU accession negotiations. Further, the law sets forth that the National Council for European Integration will be chaired by the head of the Parliamentary

³ European Commission, Enlargement Strategy and Main Challenges 2014-15.

⁴ Partners Albania Center for Change and Conflict Management, „Monitoring Matrix on Enabling Environment for Civil society Development, Country Report for Albania“, Tirana 2014. Online:

http://www.partnersalbania.org/Monitoring_Matrix_Albania_Country_Report_2014.pdf, pg.6.

⁵ Assembly of Albania. Online: http://www.parlament.al/web/pub/ligj_nr_15_dt_5_3_2015_21653_1.pdf

⁶ Idem

Commission for European Integration, currently Ms. Majlinda Bregu (Democratic Party), opposition MP. During the first meeting of the Council, on May 8 2015, six CSOs were invited: Institute for Democracy and Mediation, European Movement Albania, Open Society Foundation for Albania, Albanian Institute for International Studies and the Albanian Policy Center and Urban Research Institute.

The CSOs were called in its first meeting by the NCEI based on their expertise related to European Integration without any prior selection process as foreseen by the relevant regulation. This exception was made in order to involve all competent CSOs, with respect to the further eventual discussions on matters dealing with the regulation, such as the CSOs selection procedure.⁷

The draft NCEI regulation sets forth that the Council will be, among others, composed of three CSOs, specialized in EU integration and chosen by the Chair and Deputy Chair of the Council⁸. In this regard, the draft regulation is very vague and provides a broad outlook on the selection of CSOs, which should be a more inclusive democratic process including all permanent members of the Council or another independent mechanisms, such as the Civil Society National Council.⁹

Chairmanship of the NCEI was granted to the opposition in order to establish a co-ownership Government-Opposition for

the European integration efforts. This idea was also inspired by the best practices from the region, such as the case of Croatia and Montenegro¹⁰. The National Council for European Integration is still in its initial stages and in this regard Albania is far behind its neighbors, which have already constituted this mechanism. It is rather early to analyze the efficiency of the Council, with only two meeting held so far. It remains to be seen how it will evolve in the future. The granting of the chairmanship to the opposition is an encouraging sign. However, further efforts should be taken with regard to accession negotiations, whereas the NCEI is expected to play an important role.

Encouraging Developments – The Agency for Support of Civil Society

The Agency for Support of Civil Society in Albania (ASCS) is a government institution that through financial assistance aims at a sustainable development of civil society and the creation of favorable conditions for civic initiatives to benefit the public¹¹. Since its establishment in 2009, ASCS has organized a series of calls for proposals for different projects focused mainly on corruption, citizen participation, advocacy initiatives, domestic violence,

⁷ Interview with Alba Cela, Deputy Director of the Albanian Institute of International Studies, 08.06.2015.

⁸ Assembly of Albania, National Council for European integration, Decision “On the Approval of the Regulation of the National Council for Integration”, Article 4/5.

⁹ More details see below

¹⁰ European Policy Center, “EU integration and party politics in the Balkans“, Pg.37. Online: http://www.epc.eu/documents/uploads/pub_4716_eu_integration_and_party_politics_in_the_balkans.pdf

¹¹ Agency for the Support of Civil Society. Online: <http://www.amshc.gov.al/web/misioni-en.php>

employment etc¹². The main challenges of the institution have been identified as: limited funds, capacity development of its staff, and establishing effective working cooperation with the CSO sector.¹³

ASCS has given a valuable contribution to the drafting of several legal and strategic initiatives such as the law “On the Establishment of Civil Society National Council” and the “Draft Guideline to the Government Policy on the Creation of an Enabling Environment for Civil Society Development”. However, due to limited institutional and financial means the Agency so far has failed to engage with CSOs in a serious dialogue on issues dealing with their involvement in EU integration processes in general and Accession negotiations in particular.

Furthermore, the law on the “Constitution of the Agency for Support of Civil Society in Albania” and the relevant statute of the agency, do not contain any provisions addressing the facilitation of the inclusion of CSOs in the EU integration process and this constitutes an obstacle to an increasing role of the Agency in this context.

Lack of Reference to European Integration - The Civil Society National Council

With the aim of securing a favorable environment for Civil Society in line with

EU recommendations and policies, the Albanian government has drafted a law “On the Establishment of Civil Society National Council”, which awaits approval by the Albanian Assembly in the months to come.

The objectives set by the law in its first article, provide that: “Civil Society National Council is formed to guarantee the institutional cooperation with CSOs in Albania for the enhancement of democracy, consolidation of good governance, increase of transparency in public decision-making by the better inclusion of Civil Society in this process”¹⁴. Other objectives are related to the drafting and implementation of the national strategy and roadmap on creating an enabling framework for the Civil Society sector and also the establishment of key principles and procedures on the dialogue and counseling process for the Civil Society National Council.

The objectives set by this legal initiative do not have any reference to the ongoing European Integration process in Albania. The term “European Integration” is mentioned in the draft law only three times, namely: In article 3/ç, which sets forth the inclusion of the Ministry of European integration in the Civil Society Council, in article 6/a, defining the area of expertise of those CSOs represented in the council and in article 9/(6) on the say of the Council concerning the priorities of EU funds aimed at the development of Civil Society in Albania.

¹² Technical Assistance for Civil Society Organizations in the IPA Countries (TACSO), Albania, Revised needs Assessment Report. Online: http://www.tacso.org/doc/nar_al2014april.pdf, pg.17.

¹³ Idem

¹⁴ Agency for Support of Civil Society in Albania (AMSHC), Online: <http://www.amshc.gov.al/web/#>

The decision-makers didn't want to give to the Civil Society National Council wider competencies with regard to EU integration, since they were granted to the National Council for European Integration.

The lack of reference to the contribution of this mechanism in terms of EU integration of the country represents a major flaw of this legal initiative, which is expected to further facilitate the relationship between the government and CSOs in terms of democracy and good governance. Furthermore, this initiative was expected to fulfill all recommendations set by the EU Commission on the inclusion of Civil Society in the decision-making process in Albania.

Needless to say that European integration process has played a major role in the country's efforts with regard to both these issues and therefore it should be undoubtedly included in the objectives of every legal initiative or mechanism that targets the inclusion of Civil Society in these areas. The Council is envisaged as an advisory body attached to the Council of Ministers, without any relation to the National Council for European Integration, which on the other hand is established by the National Assembly. However, both mechanisms might complement each other in many areas. For instance, the Council could include among its duties the competency to have a decisive role in the selection process of the CSOs involved by the NCEI in the accession negotiations process. Thus, the mechanism could contribute to a fair and transparent selection process of all CSOs

involved by giving the accession negotiations a more democratic dimension.

The Creation of an Enabling Environment for Civil Society Development

The "Guideline to the Government Policy on the Creation of an Enabling Environment for Civil Society Development" was commissioned by the Civil Society Unit of the Ministry of European Integration, under the assistance of TACSO and the Swedish Institute for Public Administration. This strategic document proposes a set of actions with the scope of enhancing the role of CSOs for nine priority areas, namely: National Environment of strategic policies for the development of Civil Society, Institutions that support the cooperation between the government and CSOs, Inclusion of CSOs in the decision-making process, Public Financing Framework for CSO programs, legislative framework for the registration of the work of CSOs, Financial and accounting reporting of CSOs, Gathering of Data for the development of Civil Society, Development of good practice in volunteering and last; Contribution of CSOs in the European Integration of Albania¹⁵.

With regard to the Contribution of CSOs in European integration the guideline proposes among others the following actions:

¹⁵ Agency for the Support of Civil Society: Udhërrëfytes i politikës së Qeverisë për të krijuar

mjedis mundësues për zhvillimin e shoqërisë civile.pg.4. Online: <http://www.amshc.gov.al>

- ✓ Enabling of the participation of CSOs representatives in all expert, working groups for every chapter that will be discussed in the context of accession negotiations. Inclusion of CSOs in the assessment process and due identification of risks related to the main negotiation stances taken by the Albanian government in the context of the EU accession negotiations.
- ✓ Transparency of procedures related to negotiating structures. Strengthening the capacities of the Civil Society Unit in the Ministry of European Integration, with respect to the inclusion of CSOs in all aspects of European Integration Process of Albania¹⁶

Furthermore, the strategic document provides technical assistance in these areas: Assistance to the Ministry of European Integration for the drafting and implementation of the European Integration communication strategy in partnership with civil society; Organization of debates on EU *acquis* issues with the participation of citizens and CSOs; Strengthening of CSOs capacities in terms of participation in EU integration processes.

The Guideline is currently the only official strategic document addressing the issue on the active involvement of CSOs in the EU accession negotiations. As such it constitutes a positive sign by the government to the progress of this process in the future. However, the

¹⁶ Agency for the Support of Civil Society: Udhërrëfytes i politikës së Qeverisë për të krijuar mjedis mundësues për zhvillimin e shoqërisë civile.pg.27. Online: <http://www.amshc.gov.al>

Ministry of European Integration has not issued the document yet. It used to be object of consultations with the International Community and Civil Society in different parts of Albania until March 2015¹⁷.

The strategy was first published in its draft form during November 2014, before the end of the consultations period in March 2015. The document needs to be elaborated and amended with respect to some issues, which have not been sufficiently identified, such as the selection process of the CSOs in the framework of accession negotiations. Although it is probable that the Civil Society National Council will have a say in this regard, the strategy should explicitly determine the mechanisms responsible for this task.

It remains open, whether the document will be approved and above all, how and when it will be implemented by the government agencies. The document was due to be approved by a Decision of the Council of Ministers during 2015. However, due to bureaucratic procedures the approval has been postponed indefinitely, although the government has expressed its willingness to adopt the document. In this regard, the EU delegation to Albania should exercise more pressure on the Albanian government for the timely approval of the strategy.

Conclusion and Recommendations

¹⁷ Ministry of European Integration. Report on public consultation of the roadmap. Online: http://www.integrimi.gov.al/files/documents_file_s/RAPORT_mbi_konsultimin_publik_per_Udher_refyesin_e_SHC.pdf

The establishment of new mechanisms such as the National Council of European Integration, and the new active role of the Agency for Support of Civil Society in Albania is an important push factor for the inclusion of CSOs in the upcoming accession negotiations. The new legal initiatives such as laws on, “The Establishment of Civil Society National Council” and the strategic document: “Guideline to the Government Policy on the Creation of an Enabling Environment for Civil Society Development”, further emphasize the intentions of the Albanian government to comply with EU recommendations and to sign progress in the EU integration process. Nevertheless, all these measures might result ineffective if during the accession negotiations the government will use consultations with CSOs as a mere façade to gain credibility in front of EU officials.

In the past, Albanian governments have adopted legislation in line with EU standards and domestic legislation has been mostly approximated with the EU Acquis. However, when it came to implementing the aligned legal framework, the government could not comply with the EU recommendations and standards. Lack of government willingness to establish transparent and depoliticized institutions and never-ending bureaucratic procedures were two of the most important hindrances.

The same applies to the relationship between government institutions and CSOs. As the 2014 Technical Assistance

for Civil Society Organizations in IPA Countries report, issued by TACSO, suggests: “Many parts of public administration are suspicious about CSOs that are often seen as political opponents of the Government and, therefore, as potential obstacles to the ongoing reform process. There is also the perception that CSOs exist to serve the interests of private individuals or selective fractions of society rather than the public at large”¹⁸. Moreover, the CSO Sustainability Index 2012, published by USAID in 2013, emphasized that: “State institutions failed to address civil society concerns and recommendations, further discouraging civic advocacy.”¹⁹ This lack of cooperation by the government is likely to continue in the accession negotiations, whereas again CSOs might be included only for the sake of the image of an EU candidate country that complies with all directives and recommendations set by the EC.

The role of CSOs in the upcoming European integration developments will be largely defined by the pace of Albania’s efforts to effectively implement the required reforms set by the European Commission and also by the willingness of individual EU member states for the advancement of the enlargement process in the future.

In this context, Albania’s traditional regional partners, Italy and Greece, but also Germany, which lately has been very active in terms of promoting the European integration of Western Balkans

¹⁸ Technical Assistance for Civil Society Organizations in the IPA Countries (TACSO), Albania, Revised needs Assessment Report. Online: http://www.tacso.org/doc/nar_al2014april.pdf, pg.18

¹⁹ USAID, 2012 CSO Sustainability Index for Central and Eastern Europe and Eurasia, 16th Edition, 2013, Online: https://www.usaid.gov/sites/default/files/documents/1863/2012CSOSI_0.pdf, pg.20.

countries, are more likely to push for Albania's EU integration in the future. Nevertheless, their willingness will largely depend on Albania's ability to address key areas related to EU integration, such as: Fight against organized crime and corruption, Reform of the Public Administration and Judiciary and the capacity to organize free and fair elections. On the other hand, the economic crisis within the EU followed by political reluctance to admit new members into the union are also potential risk factors that might inhibit the country's accession for a long time.

Albanian CSOs and the relevant government actors should initiate engagement in an intensive dialogue for being prepared by all necessary legal and institutional instruments during accession negotiations. The lack of willingness by the Albanian government to engage in an open and transparent dialogue with CSOs remains a serious challenge that could hamper the process of inclusion of Civil Society in Albania's Accession Negotiations.

As mentioned above, government institutions at local and national level have been very often suspicious about CSOs and their intentions. The reluctance of the government to constitute mechanisms that will facilitate accession negotiations such as in the case of the National Council for European Integration, which has been established only several months ago and the Civil Society National Council, which is not in place yet, indicate that the government is not interested in a real and fruitful dialogue with Civil Society. If these

mechanisms along with relevant legal initiatives will fail to properly engage CSOs in the process, then their participation in the Accession negotiations will not bring any benefits to the process at all. In this regard, diplomatic pressure from the EU delegation and EU member states in Albania should be exercised so that the Albanian government substantially addresses the identified concerns.

On the other hand, the small number of Albanian CSOs dealing exclusively with European Integration affairs and as emphasized by EC reports, the fragmentation of Civil Society along with the lack of sustainable and transparent structures²⁰, suggest that also the Civil Society community needs to undertake reforms until being fully prepared for its inclusion in the Accession Negotiations.

With the aim of addressing the main concerns outlined by this policy brief, the **following recommendations** should be taken into consideration:

Civil Society National Council

Amendment of the law "On the Establishment of Civil Society National Council" by granting to the CSNC a role in the selection process of CSOs that will participate in accession negotiations. This would give the Council a new dimension that might contribute to the transparency and comprehensiveness of the selection process of all CSOs that will be involved in accession negotiations. This new role of the CSNC requires a new legal framework that would enable an institutional coordination with the

²⁰ Polish Institute of International Affairs, Civil Society in the EU Integration, Online: http://www.pism.pl/files/?id_plik=18260

of the Western Balkans, pg.25.

National Council for European Integration, the competent mechanism for the accession negotiations.

Additionally, the law should be approved as quickly as possible in order to enable the swift constitution of the Council.

The Creation of an Enabling Environment for Civil Society Development

The “Guideline to the Government Policy on the Creation of an Enabling Environment for Civil Society Development” should be approved as soon as possible.

In the section dedicated to the “Proposed Actions”, the guideline should include measures that will increase transparency in the selection process of CSOs participating in negotiation teams. In this regard, the Civil Society National Council could play an instrumental role.

National Council for European Integration

Amendment of the draft regulation of the National Council for European Integration, by including more detailed provisions on the selection criteria of the CSOs represented in the Council.

The council should draft an elaborate strategy on the constitution of the negotiation teams according to every EU acquis chapter and the modalities of the

inclusion of CSOs. This document would contribute to the due preparation in the context of the EU accession negotiations.

Agency for Support of Civil Society

Initiation by the Agency for Support of Civil Society in Albania of a series of roundtables with CSOs representatives focused on the possibilities of the active involvement of the latter in the accession negotiations.

ASCS should undertake a proactive role in the formation of a coalition of CSOs, which would monitor the approval and implementation of the reforms relevant to Albania’s EU integration. This mechanism would ensure the participation of CSOs and simple citizens in the decision-making process of EU integration reforms by assuring the protection of their best interests.

European Commission

The European Commission should exercise more pressure upon the Albanian government by the EC annual progress reports and via diplomatic means, with respect to the constitution and strengthening of mechanisms and institutions that aim to the increasing cooperation between the government and the CSO sector such as: National Council for European Integration, Agency for Support of Civil Society and the Civil Society National Council.