GUIDELINES FOR INCLUSION OF CIVIL SOCIETY ORGANISATIONS IN THE REGULATION ADOPTION PROCESS

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Relying on the Code of good practice for civil participation in the decision-making process adopted by Council of Europe, Guidelines for the inclusion of civil society organizations in decision making process is a document initiated and drafted by the Office for Cooperation with Civil Society of the Government of the Republic of Serbia, as the first legislation of its kind, aiming to define the principles, standards and levels of civil society participation in the processes of preparing, adopting and monitoring the implementation of regulations.

Through the adoption of this document on August 26th 2014, Serbian Government confirmed its understanding of the role and importance of participation of CSOs in the design and implementation of the reform processes in the Republic of Serbia. The Guidelines for the inclusion of civil society organizations in decision making process represent a basic document for future modalities of cooperation between governmental bodies and civil society.

Guidelines for the inclusion of civil society organizations in decision making process aim to further support the government administration in understanding and improvement of existing models of information, consultation and inclusion of CSOs in the processes of drafting and adoption of regulations.

Having in mind that Government of the Republic of Serbia recommended this document not only to governmental bodies and line ministries, but as well to the institutions of autonomous province and local self-governments, demonstrates necessity of resolving the issues of cooperation between the public and civil sector on all levels of governance, as a key precondition for further growth and development of civil society in Serbia and the overall improvement of the institutions' work towards transparency of decision-making process and their effective and efficient implementation.

Ivana Ćirković
Director of the Office for Cooperation with Civil Society
Of the Government of the Republic of Serbia.

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Based on Article 43(3) of the Law on Government (Official Gazette of RS, No. 55/05, 71/05 – corrigendum, 101/07, 65/08, 16/11, 68/12 – CC, 72/12, 7/14 – CC and 44/14) in conjunction with Article 61 of the Law on Public Administration (Official Gazette of RS, No. 79/05, 101/07 and 95/10), on the proposal by the Office for Cooperation with Civil Society,

the Government adopts

CONCLUSION

1. Guidelines for inclusion of civil society organisations in the regulation adoption process are hereby established and shall be an integral part of this Conclusion.

2. Authorities of the autonomous province and local government units are recommended to provide participation of civil society organisations in the preparation process of regulations whose adoption they are competent for, in accordance with the Guidelines from point 1 of this Conclusion.

3. This Conclusion shall be published in Official Gazette of the Republic of Serbia.

05 No. 011-8872/2014
Done in Belgrade on 26 August 2014
The Government
The President
Aleksandar Vucic, duly signed

GUIDELINES FOR INCLUSION OF CIVIL SOCIETY ORGANISATIONS IN THE REGULATION ADOPTION PROCESS

1

Civil society shall have one of the basic roles in the development of the Republic of Serbia. It shall promote development, democratisation and self-organisation of the society. In addition, civil society shall provide support to the state and shall represent correction factor in reform process it implements.

Active participation of civil society organisations in the process of regulation adoption shall entail timely availability of information, consultancy, inclusion and partnership of civil society organisations with public authorities.

For the purposes of this document, civil society organisations shall be: associations, endowments, foundations, syndicates, chambers, university conferences and/or academy of applied studies and other organisations whose objectives and activities are directed at achieving public interest.

With a view of internal reforms and harmonisation with the EU acquis during the last decade in the Republic of Serbia a number

of steps have been taken to establish legal and institutional framework for participation of civil society organisations in the drafting process for regulations and strategic documents. Having regard to significantly improved communication and cooperation with civil society organisations and with a view of practice unification in the whole public administration system for enabling full cooperation with civil society organisations in accordance with contemporary European tendencies in this field, the Guidelines for Participation of Civil Society Organisations in the Regulation Adoption Process (hereinafter: Guidelines) shall be established.

2

The purpose of these Guidelines is to direct the work of public administration in regard to inclusion of civil society organisations in the process of preparation, adoption and implementation monitoring of regulations in order to provide their efficient and effective implementation.

The basic objectives of the Guidelines are improvement of participation of civil society organisations in the process of preparation, adoption and implementation monitoring of regulations on matters and positions of public interest. This way, conditions shall be created for better understanding of needs and manners of participation of civil society in a public administration body regulation adoption process and thus for achieving optimal publicity, increasing effectiveness, efficiency and cost-effectiveness of their work. The overall objective is improvement of relations with civil society organisations in a democratic process as well as promotion of their more active role in public life.

Participation of civil society organisations in the process of preparation, adoption and implementation of regulations shall increase their punctuality and intelligibility and positive effects they produce, their implementation shall be facilitated and costs for the implementing authority and the subject they are applied to shall be reduced.

The basis for this document are achieved standards and measures for participation of interested public in regulation adoption process without prejudice to their implementation.

3

For the purposes of this document, levels of participation of civil society organisations in the process of preparation, adoption and implementation monitoring of regulations may include:

1) Information - representing one-way process within which public administration bodies inform civil society organisations with a view to enable timely, complete and objective information in order to simplify understanding of issues and manners for their resolution. Usual methods of information shall be: online informational materials, media campaigns, public discussions, round tables, presentations.

2) Consultancy - representing two-way process during which public administration bodies request and receive information from civil society organisations in the regulation adoption process and publish positions taken in connection with them (for example, consultations in the phase of planning and drafting of strategic documents, drafts/regulation proposals, public debate).

The objective of this participation level shall be to acquire, from civil society organisations, information on issues, possible solutions and their advantages and disadvantages regarding drafts/regulation proposals in all phases of their adoption process. In addition, it is necessary to provide feed-back on the importance and influence that civil society organisations have achieved in that regard.

Usual methods of consultancy shall be: written consultancy, ques-

tionnaires, interviews, focus groups, expert and public discussions, round tables, meetings, workshops, online consultancy.

3) Inclusion - representing the higher level of the two-way process by which representatives of civil society organisations are actively involved in the process of regulation drafting (for example, membership in working groups for regulation drafting).

The objective of this participation level shall be to enable presence and participation of civil society organisations in the process of regulation preparation in order to consider their interests in continuity. Usual methods of inclusion shall be: working groups meetings, expert and public discussions (round tables), workshops.

4) Partnership – representing the highest level of cooperation and mutual accountability of public administration bodies and representatives of civil society organisations in the process of regulation adoption and implementation.

The objective of this participation level is to enable active participation of civil society organisations in the regulation preparation process as well as their implementation process. The objective of this participation level shall be to enable constant presence and active participation of civil society organisations in making mutual decisions.

Usual methods of partnership shall be: meetings of bodies comprising representatives of public administration bodies and representatives of civil society organisations (committees, commissions, negotiating bodies), thematic conferences and other.

4

Participation of civil society organisations in the process of preparation, adoption and implementation monitoring of regulations shall be based on the following principles:

1) Active participation of civil society organisations in all phases of the regulation adoption process.

This principle shall represent one of the basic principles of the European management of public affairs. In modern democracies, civil society organisations have active role and through their participation they influence improvement of regulation quality and thus quality of public administration services. For that purpose, cooperation process need to be considered in relation to all phases of regulation preparation and implementation starting from planning through selection of regulatory instruments and regulation drafting to monitoring of regulation implementation in order to evaluate their expediency.

2) Mutual trust

Open and democratic society is based on constant dialogue between citizens, different social groups and sectors. Although public administration bodies and broad circle of representatives of civil society organisations often have different roles, the common objective of improving quality of citizens' life may be achieved only

based on trust, mutual respect and appreciation. In that regard it is necessary to develop methods and mechanisms on all levels of their participation in scope required for achieving the common goal.

3) Transparency and accountability

Participation in the adoption process of regulations on maters and positions of public interest requires transparency and accountability of public administration bodies and representatives of civil society organisations. Observance of this principle must be provided on all levels of participation of civil society organisations in the regulation adoption process. In addition, in implementing consultancy with civil society organisations, public administration bodies shall clearly define: matters for which a feed-back is requested, measures used in implementing the consultancy and reasons for adopting certain regulation. In providing their contribution to consultancy implementation, representatives of civil society organisations shall transparently and responsibly state interests and/or categories and number of users they represent. In a case of inclusion being higher and partnership the highest level of cooperation, transparency and accountability of all participants in the process have particular importance.

4) Effectiveness, efficiency and cost-effectiveness

In order to provide effectiveness, efficiency and cost-effectiveness of participation of civil society organisations, time and manner where there is a real possibility of influence on drafts i.e. regulation proposals should be ensured, that is in an early drafting phase when all possibilities for their amendments are still open. In the

elaboration process of drafts i.e. regulation proposals, experts and representatives of civil society organisations may be appointed as members of working groups in accordance with current regulations or based on a public call. In appointing members of working groups from representatives of civil society organisations, account should be taken about competence criteria, previous public contribution in a certain field and other qualifications relevant for matters regulated with a public administration body regulation.
Public administration bodies and representatives of civil society organisations should conduct periodical monitoring and assessment of the process and results of participation of civil society organisations in the process of regulation preparation and adoption with a view of improving the process and raising awareness on its importance.

In the regulation preparation phase, consultancy should be organised and especially on financial, economic and social effects of adoption and implementation of certain regulations as well as effects on environment and human rights.

Participation of civil society organisations should establish acceptable balance between the need for effective decision making and the need for appropriate contribution from representatives of civil society organisations.

5) Timely information on regulation adoption plan

Civil society organisations shall be timely informed on regulation adoption plan through publication of a list of regulations whose

adoption is being proposed in that calendar year stating the drafting body and suggested elaboration deadline. If, for some reason, amendments to the regulation list are performed during the year, they should be timely published.

6) Enabling participation of disabled persons in regulation adoption process

On all levels of participation of civil society organisations in the process of regulation preparation, public administration bodies should take special attention to participation of disabled persons by applying appropriate measures for providing their equality (for example, accessible manner of information, provision of physical accessibility to meetings, expert and public discussions, conferences, workshops, online consultancy in accessible forms, provision of translation to sign language and other).

5

Feed-back on the results of conducted public debate

Feed-back on the results of conducted public debate should contain list of invited participants, list of attendees who gave proposals, objections and suggestions on the draft i.e. regulation proposal, summary of proposals, objections and suggestions submitted for the draft i.e. regulation proposal, unified reasoning of manner and reasons for acting upon objections. In addition to publication on a web-page of public administration body competent for regulation drafting and e-government portal, feed-back may be published in another suitable manner in order to consider the public debate results most effectively.

6

Conformity of participation principle implementation in public administration bodies

In order to provide conformed implementation of these principles, it would be expedient to appoint persons within public administration bodies for cooperation with civil society organisations with knowledge and skills required for these activities.

It is recommended that, in addition to public administration bodies, authorities of autonomous province and local government units observe principles given in the Guidelines during the regulation adoption process.