

**REGIONAL CIVIL SOCIETY CONFERENCE:
FOR EUROPE OF THE WESTERN BALKANS AND TURKEY
26 – 28 September 2012
Zadar, Croatia**

**CONSENSUS STATEMENT¹
29 September**

Introduction

This statement is not a self-standing document, but a synthesis of national reports sent in by correspondents across the Region for the Regional Civil Society Conference in Zadar. It should be read alongside those reports.²

The accession of Croatia to the European Union on 1 July 2013 should provide a new impetus to further enlargement, reforms to meet European standards and the development of civil society. For the first time in the current enlargement negotiations the European Commission is making participatory democracy one of the political criteria for membership. This is reflected in the creation of a civil society facility as part of the Instrument for Pre-Accession (IPA) with a mission to achieve “a more dynamic civil society actively participating in public debate and democracy, human rights, social inclusion and the rule of law and with the capacity to influence policy and decision-making processes.” This is an outcome the European Commission must encourage, but it cannot bring it about: that depends as much on the efforts of civil society itself and national governments. Only if three sides of the triangle- civil society, national governments and European Commission- work together, can it happen. This triangle together with other stakeholders needs to both promote reforms and ensure that they are irreversible. The report from Turkey and examples from other reports show how important it is to guarantee the irreversibility of reforms.

The inclusion of civil society in the enlargement process implies benchmarking progress to which the reports presented to the Zadar conference are designed to contribute. An interesting development is the use of tools such as the monitoring matrix being drawn up by the Balkan Civil Society Development Network, which is close to other indicators such as those of the Council of Europe for civic participation, reports by the civil society facility, USAID or CIVICUS, as well as other declarations and other conference results. It is not

¹ As concerns were raised at the Regional Conference in Zadar, it was agreed that the initial title “Draft Declaration” should be changed to “Consensus Statement” - a term which reflects less formality and political implication.

² The country reports were prepared by Partners Albania, Centre for Change and Conflict Management (Albania), Civil Society Promotion Centre (Bosnia and Herzegovina), GONG (Croatia), Kosovar Civil Society Foundation (Kosovo), Macedonian Center for International Cooperation (Macedonia), Centre for Development of Non-Governmental Organisations (Montenegro), Civic Initiatives (Serbia), Third Sector Foundation of Turkey (Turkey).

possible to measure exactly such a rich, changing and varied phenomenon as civil society but benchmarking of progress is achievable. What these tools and the conference such as the one in Zadar provide are opportunities to compare countries, spot weaknesses and share best practice. External evaluation is necessary, but more benchmarking should be local with more responsibility given to civil society for self-assessment. There should be a clearer definition and understanding of the scope and limits of different instruments for benchmarking, monitoring and evaluation.³

By comparison with the 10-point Ljubljana Declaration of 2 April 2008, progress is remarkable. In most countries across the Western Balkans there has been intense legislative activity on the legal and fiscal regime for civil society development which largely corresponds to European standards. Although legal reforms has a positive impact on CSOs, Turkey should display more commitment to furthering reforms to create a more enabling environment for the operations of the civil society sector. On the surface, the reports suggest that civil society development has reached European standards. There have also been successes for advocacy activity by civil society organisations (CSOs) in the decision-making processes: laws on associations, anti-discrimination legislation, disability rights or legal aid, for example, which show that civil society does “have the capacity to influence policy” and is further ahead than governments or international donors think.

The reports single out such successes, but they are still more the exception than the general rule.

- There is a gap between the fine intentions of reforms to reach European standards and their implementation on the ground. It is easier for civil society organisations to come together and campaign for a new law than to monitor, gather the evidence and show that existing legislation is not working.
- There is a long way to go before a real culture of openness and cooperation between citizens, civil society and government in a participatory democracy can be established. Overall capacities and levels of trust are still at a low level. Even when there is political will to strengthen dialogue, the two “sides” often do not know each other well enough.⁴
- The withdrawal of many international donors from the Region means that the European Union is now the main source of funding. In the long run, this cannot remain the case and national sources have to fill the gap. More imaginative and diverse strategies towards sustainability are now necessary.

³ The final version of this statement will include a bibliography of benchmarking tools, reports and conference conclusions.

⁴ A complex picture is well sketched in the report from Croatia pages 2-3.

Civil society is a broad concept including local community groups, service delivery and advocacy organisations. The emphasis in this statement is on the advocacy and watchdog role of civil society and therefore the relationship with national government and the European Commission.

Against this background, the following 10-point synthesis drawn from the national reports is offered up for discussion:

1. Listen to citizens and civil society

Connecting better with citizens is an immediate challenge. Lack of a membership base reflects a largely donor-driven civil society. The majority of CSOs are poorly supported by the community. This “directly translates to slow improvement of the image among citizens as well as low level of support from local sources of funding, thus increasing dependency on project support.” (See report from Serbia, also Albania and others). How to break out of this vicious circle and overcome apathy towards civic engagement? In theory, many instruments of participatory democracy are available: open town hall meetings, citizens’ initiatives, and petitions. In practice many municipalities remain closed shops. The practice of citizen participation is being developed in the Region. To ensure that such processes are trusted, they must respect ethical standards, methods of recruiting and involving citizens to ensure they are representative. Above all there must be direct dialogue between citizens and decision makers to increase the chance that the views of ordinary people will be taken into account and followed up.

Lack of “constituency” hinders impact, particularly in gaining broader support to influence the social and political agenda (see Serbia report page 11). In turn, cooperation by public authorities with civil society organisations is still variable depending on the issue “under pressure of relevant domestic legislation or recommendations from the dialogue with the EU” (Montenegro report). Several reports highlight the lack of a climate of cooperation. “Within the government sector generally, at all levels, there is no clear understanding of the importance of participatory democracy... Government tends not to recognise civil society as a representative of legitimate, alternative and independent voices.” (Bosnia and Herzegovina). Bringing about a more participatory and deliberative democracy, even more than finance, is the key to a sustainable civil society.

2. Create an enabling legal and fiscal environment

This basic building block for a sustainable civil society is largely achieved, but remains an on-going process. For example, “The new law on associations and foundations was adopted, containing measures proposed by CSOs” is in accordance with European standards and procedures” (report from Macedonia). More recently, a law was adopted in Kosovo in August 2011 “after a difficult process involving defeat of a number of restrictive provisions.” Guaranteeing freedom of association in law is one thing, often it is possible to undermine its effects by restrictive requirements in practice. In this country, the law has been deviated

from its original purpose and should be abolished or re-interpreted (page 3). Freedom of association can never be taken for granted. Public benefit status may be achieved only to find that other laws on tax or financial transactions undermine its recognition.

Guaranteeing freedom of association is theoretical if its practice is not supported by the fiscal environment. The reports show a varied picture. In some countries the legal framework is evolving to cover tax, volunteering, and social enterprise. In other countries, there is a conflict of legal provisions such as the decision in Albania to impose VAT on the operation of associations which has soured civil society-government relations. In all countries in the Region, the need to develop corporate social responsibility is recognised, but what is missing everywhere is the “government strategic orientation towards encouraging development of CSR.” The European Commission should draw up a detailed comparative study of the legal and fiscal regimes and their implementation in order to highlight weaknesses and encourage the spread of best practice and provide indirect support to the development of a national non-profit economy (see also recommendation no. 7).

3. Strengthen the voice of civil society within government

Since the Ljubljana declaration of 2008 where it was noted that several countries had either set up offices for cooperation with non-governmental organisations or had promised to do so, there has been real progress. This type of office is now common to nearly all countries. The national reports are both supportive and critical. The intention generally is to make the administration able to recognise the role of civil society across the different policy areas, and develop partnership with the sector itself. Often though such offices are under-resourced, and lack a clear mandate and political support to carry out this role. “Institutional mechanisms and strategic documents are the missing.” This statement would not apply to the developed office and strategies in Croatia, but in general it is true. This reform is still fragile and in its infancy. There are, though, the beginnings of providing citizens and civil society with an interlocutor in central government across different ministries and in each municipality. More use of national funds and IPA technical assistance can help build the links and infrastructure. It is not enough to have NGO focal points, civil society has to be integrated in the concerns of different ministries and areas of policy. From the reports, it also appears important that such liaison officers should have the support of consultative bodies, which in some cases are composed on an equal basis of civil servants and CSOs and a strategy for taking civil society concerns into account across government.

4. Create strategies for civil dialogue

Developing such strategies has spread since the Ljubljana declaration, when they were already in place in Croatia and Macedonia. Croatia has just adopted a strategy for 2012-2016. How effective are such government strategies for cooperation with civil society? From the reports it is difficult to assess their impact. Civil dialogue and participation in law-making appears to be concentrated in areas directly connected to civil society itself such as laws on associations, public benefit, tax provisions, philanthropy. To strengthen civil dialogue, the reports highlight three C's or types of measures necessary:

- Capacity building. Here the report from Macedonia is very clear. In practice, the state institutions/civil servants recognize the importance of dialogue with CSOs, but there are only few examples when laws, by-laws or other policies and regulations are adopted in a participatory manner. In their attempts to include the public and CSOs, the state institutions are facing the problems of time constraints and insufficient financial means. On the other side, most of the CSOs don't have adequate capacities (time, financial, knowledge) to be actively included in the processes of law adoption.⁵
- Civil society has to have a more concerted approach. Reaching out to civil society has to respect the diversity of the sector with its social movements, more institutionalised service delivery organisations or independent advocacy groups. Nevertheless there is a need for CSOs to come together across broad policies or when government affects issues for the sector as a whole.
- "Compact" or charter type of agreements. Already in the Ljubljana declaration attention was drawn to the value of such agreements, provided they are drawn up in a bottom-up and participatory fashion. Such agreements generally codify the rights and responsibilities of both "sides" in civil dialogue and set standards for information, consultation, and civil participation. Such framework agreements are open to anyone and have the advantage of being applied both at national or regional and local level. There is though a problem of implementation, as the fate of codes on CSO-government dialogue in Albania and Bosnia and Herzegovina show.

5. Develop practices for open consultation and partnership

⁵ Meeting the requirements of the "acquis" is often an excuse for rapid law making and lack of consultation. The European Commission should insist on open consultation for draft legislation implementing European standards.

In the national reports, it emerges that the process of reform and modernisation of the administration has developed to the extent that public consultation and impact assessment should be the rule rather than the exception. The situation in Serbia may well though be true of other countries "Although public discussions for legislative changes are normally obligatory, procedures are vague and there are no consequences if the state fails to apply them." With the entry into force of the Lisbon Treaty, the EU could do well to revise and update its own standards of consultation under article II which are limited in scope, geographical and institutional application. To persuade applicant governments to consult on major or sensitive issues the EU should do the same beginning with negotiations with national governments on the application of the "acquis".⁶ For example, in its proposals for the future of EU Cohesion policy, the Commission goes further in making partnership with civil society an obligation at all stages in fund operations and proposes a European code of conduct. This should also apply to IPA.

Across the Region, the principle is becoming established that draft legislation should be subject to open consultation. Consultation is however by no means systematic. In any systems of consultation, there have to be clear mandatory rules so that failure to consult may be challenged for example with the ombudsman as maladministration. There has to be clear, timely and extensive public communication about the purposes, and main questions to which answers are sought from the consultation process. Participants must receive feedback as to whether their views are taken into account or their willingness to participate in future consultations will be reduced.

On the other hand, improving governance also requires improving the capacity of civil society to play its part. The report from Serbia recommends "There is an absence of CSO activity in the oversight of public administration and the work of parliamentarians and local assemblies. This is an important gap in civil society performance. There are roles to be filled in monitoring the political process at national, provincial and local level to ensure proper democratic process, in providing citizens' watch dogs of the correct implementation of laws and the application of standards in service delivery, particularly at the local level, as well as overseeing the public administration budgetary process, the proper allocation of public resources and activities in the fight against corruption."

This is ambitious, but is an echo of the aim of the civil society facility. There has to be more support going directly in the form of grants to human rights and watchdog organisations to keep up constant pressure for the implementation of reforms. In this connection, support for media organisations and investigative journalism is particularly important.

⁶ This is the body of European Law and standards to be applied for membership of the EU.

6. Spread freedom of information and transparency

In the national reports, the case for transparency as a lever for civil society development is made forcefully. Whilst national funds are being developed slowly (see below), their operations remain opaque. This is despite the fact that in principle different funding techniques have been codified and the principles of open calls for proposals generalised. In Macedonia for example, there is a codex of best practices for financial support but only a minority of funds are used according to the code. Lack of transparency and criteria for the distribution of funds is neither in the general interest of the administration nor civil society. More transparency helps guarantee fairer distribution of funds and can encourage CSOs to come together rather than just compete. Whilst EU procedures are over-complex (see below) they are at least transparent: open calls, announcement of criteria for eligibility and assessment, contractual provisions, reporting and publication of lists of organisations which received grants or service contracts. A regional network could do well to propose a model law on national procedures for financial support to civil society and its implementation.

Transparency in distribution of funds is part of a much bigger picture of the general lack of enforcement of freedom of information laws. In the case of the Western Balkans, which in theory have among the most advanced national laws, the gap between theory and practice is particularly glaring. As pointed out in the Serbian report, the formation of independent watchdog institutions such as ombudsmen and commissioners for free access to information can help to roll back the curtains of transparency. Normally, CSOs can work effectively with such institutions. There should be more support for CSOs and media watchdog activity using freedom of information laws and the AARHUS Convention on access to Information, public participation and access to justice in environmental matters.

7. Create national civil society resources

To fill the funding gap created by the withdrawal of international donors, the development of national resources for civil society development is an overriding priority. The European Commission can only fill this gap partly and in the long run, particularly after membership, funding will not be possible outside areas of EU competence. A comparison of national resources is necessary. The national reports make a start, but given opaque funding practices, figures are difficult to interpret, let alone compare. At least in all countries, the principle is accepted that there should be a national fund. Even in some cases, where amounts appear significant, distribution often concentrates on already strong national,

service delivery rather than advocacy organisations, excluding human rights organisations or those defending minorities.

It is unrealistic to expect the resource base to derive only from the national government or municipalities at a time of economic crises and cuts in public expenditure. Sources of funding will be increasingly mixed as recognised in the report from Albania emphasising collaboration rather than competition. There should be "support of strategies that promote innovation, growth and capacity development within CSOs, including perhaps by such means as promoting peer support and peer exchange networks amongst CSO personnel, improving information sharing channels and platforms for unusual collaborations, and enhancing understanding of underexplored aspects of funding such as those enabled by social and mobile media, social enterprises and traditional and community-based techniques." In most countries in the region, forums or coalitions have been set up round the UN compact to encourage corporate social responsibility, which remains underdeveloped in the Western Balkans and in Turkey. There is a need for more support in governments to promote philanthropy and introduce tax relief schemes.

8. Create coalitions with the necessary staying power

The national reports indicate that coalition building is more developed in the Region than might be apparent with most CSOs members of one or more coalition. The majority are sectoral, focussing either on specific issues such as application of anti-discrimination legislation, access to justice or on particular groups in the population: children and young people, minorities. There is also significant membership of international or European coalitions, whilst sectoral regional coalitions or networks for CSOs across the Western Balkans remain weak and small in numbers. The development of the legal and fiscal environment and the creation of NGO focal points and strategies within government have encouraged the emergence of cross-sectoral coalitions, as titles such as Agreement Plus, Advocacy Advisory Group, Civikos, Civil platform and Balkans Civil Society development network show. Coalitions are also emerging on criteria on EU accession. For example, there is a coalition of Chapter 23 on the rule of law, democracy and human rights. Another example is the Open Government Partnership. The jury is very much out on the efficacy of coalitions with some national reports stressing good results from ad hoc coalitions with others pointing on the contrary to their lack of structure and staying power. Some coalitions are donor driven, which does not work either. The need for coalitions is widely recognised, but there are doubts about their viability. Are there more flexible forms of funding for ad hoc coalitions such as technical assistance rather than grants? In what circumstances should coalitions become more structured or permanent and acquire legal personality? As was clear at the time of the Ljubljana declaration, coalition building is seen as a necessity which has yet to prove its worth.

9. Reduce bureaucracy and simplify financial management

At European level in the run-up to the negotiations on the financial perspectives 2014-2020, simplification and the abolishing of paper transactions is a political priority in response to the economic crisis and the need to widen access to EU funding beyond insiders knowledge. Therefore the Commission is seeking to generalise the use of flat rates, lump sums, encourage innovative or local financial mechanisms and generally change from a zero risk to an acceptable risk approach. For example the artificial limits on sub-granting will disappear, so that this example of best practice can spread. As the programme for the civil society facility states, there should be "increased access of grass-root organisations and civic initiatives to financial resources, in kind contributions or expertise from established CSOs and networks." Types of support are being diversified (action grants, re-granting, longer term partnership agreements, small grants schemes). When the simplification measures being mainstreamed under other EU programmes are put together with those proposed for the civil society facility, it should be possible to put an end to a situation still criticised in these reports where European funding is simply too complex for most CSOs, let alone those at the local level. In the context of the negotiations of the new IPA framework, the Commission should propose a simplification agenda.

10. Strengthen the European dimension

The civil society facility was being designed at the time of the Ljubljana declaration. The introduction of the facility and its network of resident advisors as well as local advisory groups bringing together the 3 sides of the triangle (CSOs, government and European Commission) have increased CSO "ownership" of the European project, access to information and regular consultations with Commission delegations, monitoring for European affairs or councils for European integration. Examples of best practice in training CSOs, helping them connect to networks, encouraging consultations are mentioned in the reports. There has been real progress but often the EU is the only lever for reforms. There are still though gaps in access to documents on accession criteria and negotiations and in communication between the European Commission and civil society. Sometimes reforms are too easily accepted by the Commission.

Progress can be developed further on the same basis:

- Increase the role which can be played by CSOs themselves which have less need with time and experience for external assistance, for example by supporting regional networks, as clearing houses for benchmarking and exchange of best practice.

- Build on the success with abolishing the visa requirement for the Western Balkans by completing this process with Kosovo and extending it to Turkey
- Increase opportunities for CSOs to participate in European programmes which are gradually opening up to the Region, whilst increasing access and numbers of participants in European exchange programmes.
- Recommend that the European Commission should encourage national governments to introduce in IPA programmes stronger partnership, more local development, a commitment to fighting all forms of social exclusion and discrimination as member states are being asked to do in Cohesion policy within the EU.

Conclusions and recommendations

This consensus statement is not set in stone. Further changes will be made as part of an on-going and dynamic process. Moreover, new ideas are emerging for civil society development to underpin a new set priorities and a changing economic environment;

- Connecting to citizens is seen by all interested parties as an overriding priority to develop CSO "constituency", membership and a public sphere in cooperation with the media. Use of techniques of participatory and deliberative democracy should be developed.
- Advocacy will be strengthened by gathering evidence of citizens' concerns and placing it in the decision-making arena. The role of CSOs in the reform process can only gain in legitimacy and strength. In turn the support for advocacy and human rights organisations has to be supported through grants. Reducing the gap between reforms and their implementation requires persistence overtime.
- Questioning about the role of civil society to underpin such priorities is also on the agenda. With the withdrawal of foreign donors from the Region, a process of reassessment of relations with other stakeholders and other sources of funding is essential to achieve more diversification.

In a climate of uncertainty and contradictory trends there is also the spread of dangerous warning signals; declining respect for freedom of association, freedom of expression and other basic human rights in a climate of growing public distrust in the democratic process.

Finally there is agreement on the follow-up process to this consensus statement. The next task is for the authors of the reports to check their contents, if necessary consulting more widely back home. This is because there was no real intention at the outset to publish these reports which were requested simply as contributions to the event in Zadar. The quality of the reports was such that participants at Zadar considered that there should be prepared for distribution to a wider audience. This will result in further changes proposed to this document. The intention is to publish the final set of national reports and the consensus statement as a basis for awareness raising with the media, national governments, parliaments and the EU Institutions.

This outcome is insufficient and not an end in itself. It is a basis for networks in Turkey and in the Western Balkan Region to develop an Action Plan. The mood among CSOs is not just for benchmarking and updating the Ljubljana Declaration. Over the past five years, significant progress has been made. The next stage should be not just analysis but more determined concerted action with targets and deadlines. It is to be hoped that building on the basis established these days in Zadar, progress will be sufficient for such an Action Plan to be prepared in Turkey and in the Region, then submitted to widespread consultation and debates before being presented to a further Regional Conference.