

European Union



Delegation of the
European Commission

Civic
Initiatives



CITIZENS' PARTICIPATION IN THE PROCESS OF PREPARATION AND IMPLEMENTATION OF LAWS AND OTHER PUBLIC POLICY INSTRUMENTS



The contents of this publication is the exclusive responsibility of Civic Initiatives
and in no way reflects the opinion of EU.

Contents

1. Foreword	5
2. Introductory Notes	7
3. Civil Participation Mechanism in the Republic of Serbia	17
3. 1. Government of the Republic of Serbia	17
Diagram of the Law-Adoption Procedure in the Government	20
3.2. National Assembly	21
Diagram of the Legislative Procedure in the National Assembly of the Republic of Serbia	23
3.2.1. Direct Decision-Making Forms: Referendum and People's Initiative	24
3.3. Ombudsman	25
3.4. Commissioner for Information of Public Concern and Personal Data Protection	26
3.5. Local Self-Government	27
Diagram of the procedure of passing acts in the <u>Municipal/City Assembly</u>	33
Diagram of the Procedure of Passing Acts in the Municipal Council	34
4. Success Examples of Civil Participation in the Process of Passing Public Policies	35
4. 1. National level	35
4.1.1. Case study: Space for NGO activities with regard to the Parliament	35
4.1.2. Poverty Reduction Strategy	40
4.1.3. Civil Society Organizations Contact (CSOC).....	41
4.1.4. Memorandum of Cooperation between the European Integration Office (SEIO) and CSOs	41
4.1.5. Ministry of Youth and Sports and the Design of the National Youth Strategy	43
4.1.6. Ministry of Human and Minority Rights and the Memorandum of Cooperation with Nongovernmental Organizations	44
4.1.7. Fund for Social Innovations (FSI)	47
4.1.8. Work on Designing the Gender Equality Strategy	47
4.1.9. Supervising the Process of Designing the National Activity Plan for Improvement of Position of Women and Promotion of Gender Equality	49
4.1.10. Experiences in Implementation of the Law on Unrestricted Access to Information of Public Concern	51

4.2. Local Level	52
4.2.1. Fund for Civil Participation in the Scope of the "PRO - Development Programme for Municipalities in Southwest Serbia"	52
4.2.2. Poverty Reduction Committee – Municipality of Ada	53
4.2.3. Municipal Coordination Committee for Social Policy (OKOSP)	54
4.2.4. Council for Issues Related to Persons with Disabilities in the City of Kragujevac	55
4.2.5. Direct Participation of Citizens in Decision Making in Sremski Karlovci	55
4.2.6. Youth Offices.....	56
5. Obstacles for Participation of Citizens and Civil Society Organizations in the Procedure of Designing and Implementing Laws and Other Public Policy Instruments	59
General obstacles on the side of the State:	59
General obstacles on the side of civil society:.....	64
6. Recommendations	65
Recommendations for the State.....	65
Recommendations for Civil Society Organizations	67
Annex I Comparative Review of Civil Participation Mechanisms in the Preparation Process of Public Policies	69
Anex II Code of Good Practice for Civil Participation in the Decision-making Process.....	75
I. Introduction.....	77
II. General Framework for Civil Participation.....	78
III. How to Engage.....	81
IV. Matrix of Civil Participation	99

Foreword

Dear Readers,

Here is a brochure that aims to give information, in a popular way, on main issues regarding civil participation in the process of designing and implementation of laws and other public policy instruments; why it is important for citizens to take part in the process; what is the nature of rights of civil participation in the process; what is the role of civil society organizations in the process; in what way is the right exercised; what mechanisms of civil participation exist etc. Besides, the brochure contains a diagrammed view of legal procedure and the procedure of passing local self-government by-laws in the Republic of Serbia, examples of successful civil participation, i.e. advocacy in the domain of public policies, as well as challenges and shortcomings accompanying the process in the Republic of Serbia. The brochure contains a comparative review of different civil participation mechanisms, as well as the amended Draft Code of Good Practice for Civil Participation in the Decision-Making Process, approved by the INGO Conference of the Council of Europe, at its meeting on 29 April 2009.

The brochure is in the first place intended for civil society organizations, particularly the ones addressing the impact on public policy, poverty and vulnerable groups (underrepresented social groups: Roma, children, youth, women, elderly, persons with disabilities, refugees and IDPs and others). Therefore, examples of successful civil participation specified in this brochure, to the extent possible, were adjusted to these social groups. Moreover, the brochure is intended for civil servants in the Government and local self-governments, as well as Members of Parliament at different levels of authorities, given the key role they play in the process of passing and implementing public policies. We hope that the brochure – taking into account its popular and educational character – will be useful for other stakeholders as well.

We extend our special gratitude to Jelena Marković (Team of the Vice Prime Minister of the Republic of Serbia for implementation of the Poverty Reduction Strategy) for her contribution in the parts of the brochure addressing the problem of civil participation from the point of view of the Poverty Reduction Strategy implementation. We also thank Ivana Gliksman, Project Coordinator in the scope of the Civil Society Development Programme, and Bojana Jevtović, student at the Faculty of Political Sciences in Belgrade and volunteer in Civic Initiatives, for their selfless assistance in preparation of the brochure. Finally, we extend our gratitude to all participants in events organized in the scope of projects financially supported by EU and UNDP, who contributed to making of this brochure by their active participation and by sharing their experiences.

You may send all comments on the brochure, as well as suggestions for improvement of its contents in possible preparation of the second edition, on the following address:

dubravkav@gradjanske.org

Prepared by
Dragan Golubović,
Dubravka Velat

Introductory Notes

1. What importance does civil participation have in the process of passing and implementing laws and other instruments of public policies?

Civil participation in the process of passing and implementation of laws and other instruments of public policies (national strategies, budgets and plans in specific social fields etc.) makes an integral part of the participatory democracy. It is important to understand that participatory democracy *is not a replacement* for representative democracy – which is based on the rule of law, division of power into legislative, executive and judicial, multi-party system and free elections – it is in the function of its higher efficiency. Pursuant to it, participatory democracy *does not suspend* Constitutional and legal competences possessed by representatives of the executive and legislative powers in the procedure of passing and implementing laws and other instruments of public policies; it enables authorities to carry out these competences more efficiently. Together with representative democracy, participatory democracy is the foundation that the modern democratic society is based on.

It is therefore no wonder that the importance of participatory democracy is recognized in the European Union as well. In Chapter II of the Lisbon Treaty (democratic principles) of 2007, the importance of representative democracy (the role of political parties) and participatory democracy (the role of civil society) in functioning of the Union¹ is pointed out.

¹ The Lisbon Treaty is a shortened version of the unsuccessful (new) Constitution of the European Union, which aims at institutional reform of the Union, for the purpose of enabling its more efficient functioning (after several enlargement circles), of bringing the work of the Union closer to citizens – and of creating institutional preconditions for continuation of the Union enlargement process. This Treaty has not become effective so far, in the first place because of unsuccessful referendum in Ireland. If the Treaty ratification process is successfully completed (for which the precondition is that citizens of Ireland at the re-referendum verify the Treaty, but also that ratification processes of the Treaty are completed in Poland and the Czech Republic), the Lisbon Treaty will replace the constituent agreements of the European Communities and their numerous amendments.

The Lisbon Treaty of the European Union

Article 8A

- The functioning of the Union shall be founded on representative democracy.
 - Citizens are directly represented at the Union level by their delegates in the European Parliament. Member states are represented in the European Council by their Heads of State or Government and in the Council of Ministers by their governments, themselves democratically accountable either to their national Parliaments or to their citizens.
 - Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.*
 - Political parties at the Union level contribute to forming European political awareness and to expressing the will of citizens of the Union.
-

2. In what way does the participatory democracy contribute to efficiency of representative democracy?

Participatory democracy contributes to efficiency of representative democracy in different ways:

- Participatory democracy makes possible continuous civil participation in the political process, not only during elections.
 - Participatory democracy makes possible for citizens to advocate and defend their legitimate interests in the procedure of passing public policies, thus contributing to vibrant development of democratic society.
 - Participatory democracy contributes to open and transparent work of executive and representative authorities – and brings the work of their bodies closer to citizens.
-

- Participatory democracy contributes to quality of adopted public policies and their efficient implementation: if all actors participate in the procedure of passing of public policies, there is more chance for their legitimate interests to be protected, and transaction costs of implementation of such policies to be reduced (with reference to less opportunities for legal proceedings and different aspects of obstruction in implementation of the adopted public policy). Individual empirical researches point to the fact that citizens are readier to take part in implementation of a specific public policy if they took part in the procedure of its passing – even when their proposals were not fully accepted.
- Participatory democracy enables easier supervision over implementation of the adopted public policies; without efficient and fair implementation even the best formulated public policy remains just a dead letter.

3. *What is the role of civil society organizations in the process of passing and implementing laws and other instruments of public policies?*

Although final addressees of laws and other instruments of public policies are in the final instance citizens, civil society organizations (CSOs) play an important role in the process of their passing and implementation. Actually, CSOs have a double role in this process:

1) Civil society organizations are an important *instrument* in this process: they make it possible for citizens to express and advocate more successfully their legitimate interests (particular and general) to both the authorities and broader public; this is especially the case with so-called overarching and representative civil society organizations. In that sense CSOs represent “organized citizens”, who are a partner with the authorities in the procedure of passing and implementing public policies.

2) If one takes into account that CSOs enjoy the direct protection of individual rights, from which is derived the right to participate in the process of passing and implementing laws and other instruments of public policies (the right to healthy environment, the right of access to information of public concern, the freedom of speech and association etc.), they are an important *subject* of this process as well.

The double role of CSOs was also recognized in international documents, such as the Lisbon Treaty of the European Union and Recommendations by the Committee of Ministers of the Council of Europe to member states on the legal status of civil society organizations in Europe. Both documents are important for Serbia, too, if one bears in mind the fact that Serbia is a member of the Council of Europe and that full membership in the European Union is the strategic goal of Serbia. Moreover, numerous international conventions, for instance, the Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (Aarhus Convention), recently ratified by Serbia, also recognize this double role of CSOs.

European Union Lisbon Treaty

Article 8 B (extract)

- 1. The Union institutions shall, by appropriate means, give *citizens and representative associations the opportunity to make known and publicly exchange their views* in all areas of Union action.
 - 2. The Union institutions shall maintain an *open, transparent and regular dialogue* with representative associations and civil society...
-
-

**Recommendations of the Committee of Ministers of the Council of Europe
to member states on the legal status of civil society organizations in
Europe (2007)**

Recommendation 76. Governmental and quasi-governmental mechanisms at all levels should ensure the *effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions*. Such participation should ensure the free expression of the diversity of people's opinions as to the functioning of society. This participation and co-operation should be facilitated by ensuring appropriate disclosure or *access to official information*.

Recommendation 77. CSOs should be consulted during the drafting of *primary and secondary legislation which affects their status, financing or spheres of operation*.

**The Law on Confirming the Convention on Access to Information, Public
Participation in Decision Making and Access to Justice in Environmental
Matters**

Article 1

Objective

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.

Article 2 (extract)

Definitions

For the purposes of this Convention,

5. “The public” means one or more natural or legal persons, and, in accordance with national legislation or practice, their *associations, organizations or groups*;

6. “The public concerned” means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, *civil society organizations promoting environmental protection* and meeting requirements under national law shall be deemed to have an interest.

4. What forms of civil participation in the procedure of passing laws and other public policy instruments exist?

According to OECD methodology, there are three different levels of co-operation between citizens and authorities in formulating public policies:

- *Informing* – it is a one-way process. Information flow one way, from authorities to citizens, the authorities inform citizens at their discretion or citizens obtain information through their own initiative. As an example for this relation is quoted access to public documents, Official Gazette or Internet pages of the legislative and executive authorities.
- *Counselling* – the authorities require and obtain feedback from citizens in the procedure of public policy formulation. This is a two-way relation in which it is necessary to designate participants in a specific process. Besides, in order to obtain feedback, it is necessary that the authorities previously give adequate information to citizens. As an example for counselling are specified comments on the draft law or law proposal.
- *Active participation* – it is a higher level of two-way relation. Citizens are actively included in public policy forming (for instance, membership in working groups for law designing).

5. Is the right of civil participation in the procedure of passing the laws and other public policy instruments a special right guaranteed by the Constitution?

The right to participation of citizens (and civil society organizations) in the procedure of passing the laws and other public policy instruments *is not* a special right guaranteed by the Constitution. This right is rather derived from *general principles* of a democratic political order and other *rights guaranteed by the Constitution*, such as the right of unrestricted access to information of public concern, the right to petition the authorities, the right to healthy environment, the right to propose laws, the right to referendum, freedom of speech and association etc. The method of exercising some of these rights is regulated in more detail by a special law. For instance, the method of exercising the right of *citizens, media and other persons* to unrestricted access to information is regulated in more detail by the Law on Unrestricted Access to Information of Public Concern, adopted in 2004. For the purpose of efficient exercising of this right, the Law also stipulated the Commissioner for Public Information, as an autonomous and independent state body.

GENERAL PRINCIPLES OF A DEMOCRATIC POLITICAL ORDER

- Citizens as inalienable bearers of sovereignty, exercised through referendum, people's initiatives and through their freely elected representatives (Article 2 of the Constitution of the Republic of Serbia).
- The rule of law exercised, *inter alia*, through constitutional guarantee of human and minority rights (Article 3 of the Constitution).
- Direct implementation of human and minority rights guaranteed by generally accepted rules of international legislation, verified by international agreements and laws (Article 18 of the Constitution).

- The right to judicial protection of rights guaranteed by the Constitution (Article 22 of the Constitution).

RIGHTS GUARANTEED BY THE CONSTITUTION IMPORTANT FOR CIVIL PARTICIPATION

- The freedom of opinion and expression (Article 46 of the Constitution)
- The right to be informed (Article 51 of the Constitution)
- The freedom of association (Article 55 of the Constitution)
- The right to petition (Article 56 of the Constitution)
- The right to healthy environment (Article 74 of the Constitution)
- The right to propose laws for which there is, *inter alia*, an initiative of a minimum of 30,000 voters (Article 107 of the Constitution)
- The right to referendum for which there is, *inter alia*, an initiative of a minimum of 100,000 voters (Article 108 of the Constitution)

Given that the Constitution does not guarantee the right of civil participation as a special right, this right – as such – may be exercised through a judicial procedure. However, it does not necessarily mean that this right does not enjoy a judicial protection. As mentioned above, this right is often derived (and consequently enjoys judicial protection) from other rights guaranteed by the Constitution. For instance, the right to healthy environment or the right of unrestricted access to information of public concern (guaranteed by the Constitution) may be violated because of lack of conducting - or poorly conducted – public hearing on a public policy document in the domain of environmental protection; i.e. because citizens were not given a chance to participate – or to participate efficiently – in the process of designing of the document.

6. In what way can be institutionally regulated the mechanism of civil participation in the procedure of passing of laws and other public policy documents?

The institutional mechanism of civil participation in the procedure of passing of laws and other public policy documents differs from country to country. There are differences regarding the mechanism volume (general or partial mechanism), level of (legal) binding of these mechanisms, prescribed by sanctions, type of acts and level of organization of authorities encompassed by the participation mechanism, as well as subjects taking part in this mechanism. In principle, in some (still rare) countries that have adopted the comprehensive participation mechanism, this mechanism is established in several ways: by a special law (Romania); by a by-law (Bosnia and Herzegovina), or by a code of good practice (Great Britain). A detailed presentation of different civil participation mechanisms may be seen in Annex I to the Manual.

3. Civil Participation Mechanism in the Republic of Serbia

3. 1. *Government of the Republic of Serbia*

In the so-called Westminster model of power division (which prevails in the majority of European countries, including Serbia), the Government has a decisive role in the process of preparation and adoption of laws and other public policy instruments. It is therefore exceptionally important to have an effective mechanism for civil participation in the stage of *designing of law* and other public policy instruments; after a law enters the Parliament, chances of citizens and CSOs to have an impact on the contents of the legal proposal are much smaller. Pursuant to provisions of the Serbian Law on Government, the Government implements laws and other general acts of the National Assembly, proposes to the National Assembly laws, budget and other general and individual acts, supervises constitutionality and legality of general acts, supervises the work of State administration bodies, guides State administration bodies in implementation of policy and enforcement of laws and other general acts, and harmonizes their work.

According to provisions of the Rules of Procedure of the Government of the Republic of Serbia, the Government forms committees and commissions as standing and interim working bodies (council, task force, expert group etc.). The chairman of the standing working body may invite to the session representatives of other bodies and experts in specific issues, for the purpose of getting their opinion.

The Rules of Procedure define the obligation of the law proposer to conduct a **public hearing** during preparations of a law that essentially changes regulation of an issue, or regulates an issue of special interest for the public. However, provisions of the Rules of Procedure *do not contain* more precise

criteria that define when the new law essentially changes regulation of an issue, or regulates an issue of special interest for the public – nor does it define in detail (minimum standards of) public hearing conduction – which opens up the opportunity for different interpretation during preparation of the provisions of the Rules of Procedure.

Rules of Procedure of the Government of the Republic of Serbia

Public Hearing during Preparation of the Law

Article 41

When preparing the law that essentially changes regulation of an issue, or regulates an issue of special interest for the public, *the proposer shall be obliged to conduct a public hearing.*

The programme of the public hearing and its timeline shall be determined by the competent committee, at the proposal of the proposer.

If the proposer fails to conduct a public hearing, although obliged to do it, the competent committee, when considering the draft law, shall by itself define the public hearing programme and its timeline.

The competent committee shall oblige the proposer who fails to conduct the public hearing according to the determined programme, to fully conduct the public hearing.

Accessibility of the Material to the Public

Article 42

If conducting of the public hearing is not obligatory, the material shall be accessible to the public at the latest when the competent committee makes the decision on proposing to the Government to pass the act or to determine the proposal of the act.

Rules of Procedure of the Government of the Republic of Serbia

E) Work Programme of the Government and Report on Activities of the Government

Annual Report on Activities of the Government

Article 76

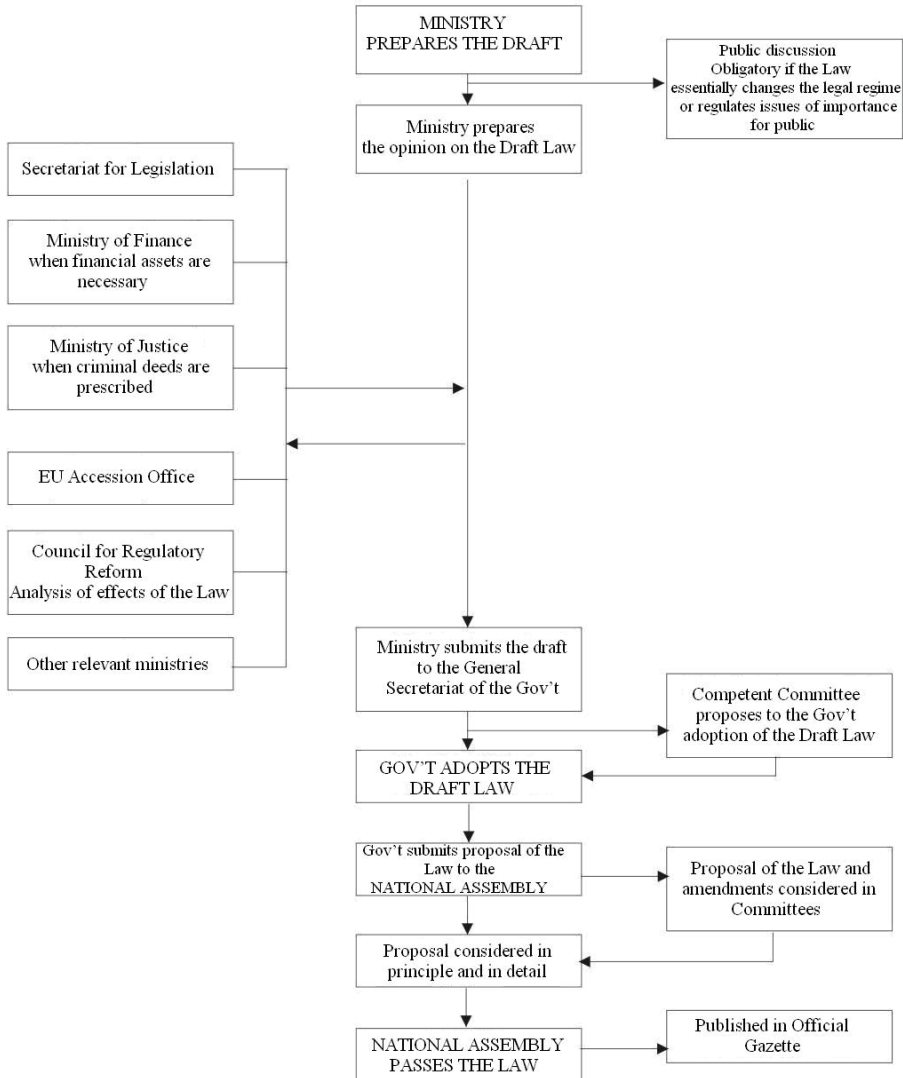
The Government shall determine its main activities in the Annual Work Programme, while successfulness in their carrying out shall be evaluated in the Report on Activities.

In the Annual Work Programme shall be separately specified proposals of laws and other acts that the Government will propose to the National Assembly, and for each act shall be specified a brief statement explaining why it is necessary.

The Government shall adopt the Annual Work Programme by the end of December of the current year for the next year.

According to the procedure in force, the Ministry that is the draft law proposer sends the draft law to the General Secretariat of the Government after acquiring the opinion of the draft law from the Secretariat for Legislation, Ministry of Finance (if financial assets are necessary for implementation of the law), Ministry of Justice (if the law stipulates criminal deeds), European Integration Office (that verifies harmonization of the law with EU legislation), Council for Regulatory Reform (that analyzes effects of implementation of the new law), and other competent ministries. The General Secretariat checks whether the draft meets formal and legal requirements for further procedure. After that, the competent committee of the Government (Committee for Legal System and State Bodies, Committee for Economy and Finances, Committee for Public Services, or Committee for Foreign Relations) considers the draft. When the competent committee proposes adoption of the draft, it is being decided on at the session of the Government. Here is the diagram of the law-adoption procedure in the Government of the Republic of Serbia.

Diagram of the Law-Adoption Procedure in the Government



3.2. National Assembly

The Rules of Procedure of the National Assembly stipulate forming of committees and commissions as working bodies with different competences. Particularly important role is the one of committees that are formed for the purpose of considering issues under jurisdiction of the Assembly, acts proposals, as well as getting an insight into the state of conducting politics, implementation of laws, other regulations and general acts of the Government of the Republic of Serbia. If invited, both professionals and scholars may take part in committee sittings. For the purpose of considering individual issues from its domain, as well as preparations of proposals related to the issues, the working body may form working groups and determine that professional and technical workers will participate, too.

Rules of Procedure of the National Assembly of the Republic of Serbia

Article 40

Committees shall be established to consider and review issues falling within the purview of the National Assembly, to propose official documents, as well as to carry out reviews of policies pursued, and laws, by-laws and other regulations implemented by the Government of the Republic of Serbia, to be done by each committee for the field that falls within its purview; and also to perform other duties foreseen by the present Rules of Procedure. A committee may appoint its sub-committees.

The National Assembly may establish boards of inquiry and commissions.

Article 76

The Chairperson of the National Assembly, at the proposal of a committee, board of inquiry, or commission, may contract research or professional institutions, as well as individual scholars or professionals, in order to study particular issues from within the purview of the National Assembly.

Article 78 (extract)

If invited, professionals and scholars may also take part in committee sittings.

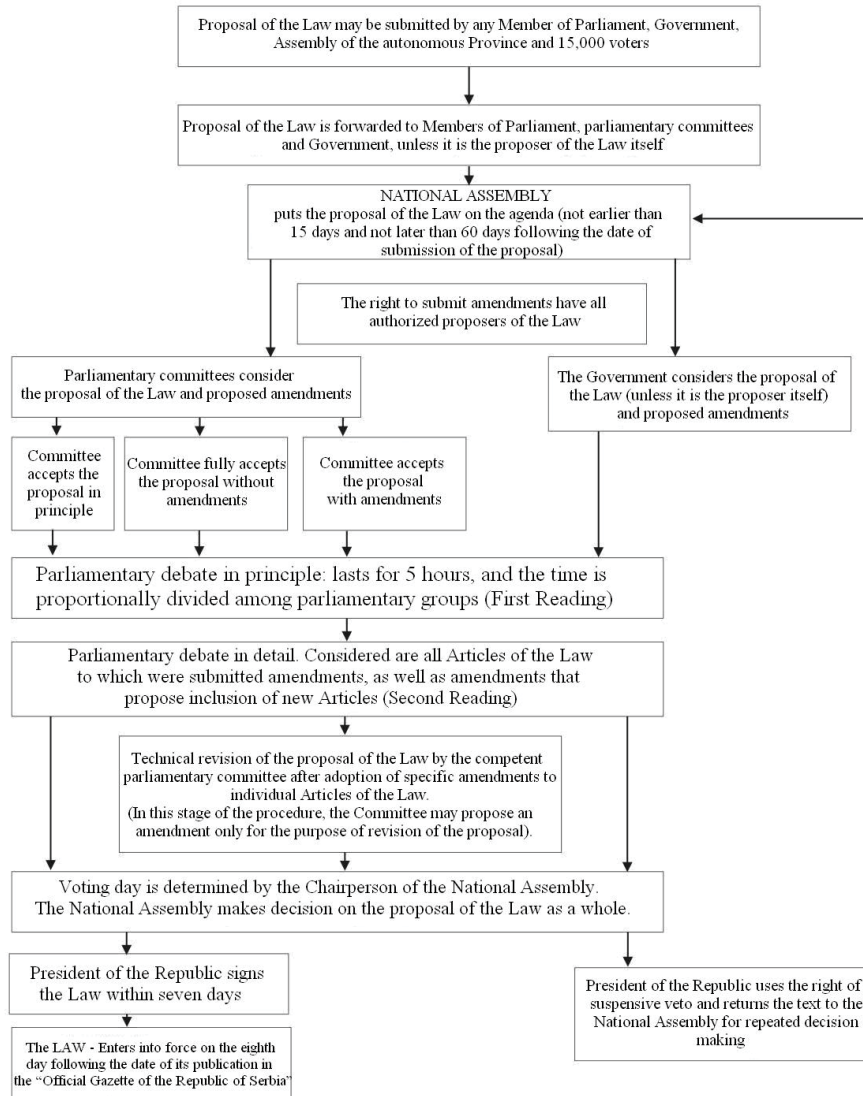
With the support by foreign donors (UNDP, OSCE, Council of Europe), individual committees of the National Assembly have developed good practice to invite to their sittings, presentations or round tables professionals and representatives of civil society organizations. For instance, in 2003, the National Assembly established the **Committee for poverty reduction**, which started its activities in 2004. The task of the Committee, consisting of 15 members, is to contribute to making quality legal solutions related to poverty reduction. The Committee considers law proposals on the grounds of implementation of Poverty Reduction Strategy, and it supervises the procedure of passing and allocating the budget with reference to its implementation. Also, the Committee makes suggestions, remarks and evaluations regarding the Strategy and it *facilitates the dialogue between Governmental bodies and civil society organizations* on issues important for poverty reduction.

The Committee has also initiated the **National Assembly Forum**, which is thematically organized by topics. The aim of the Forum is to have the participants in the process of the Strategy implementation better informed about examples of good practice and initiatives for problem resolutions that were recognized during the Strategy implementation process. Civil society organizations are regular participants in the Forum.

Regarding the law adoption procedure, after considering in the parliamentary committees, the law proposal is considered in principle and in detail, whereafter the law is being voted and published in the Official Gazette.

Here is the diagram of the legislative procedure in the National Assembly of the Republic of Serbia.

Diagram of the Legislative Procedure in the National Assembly of the Republic of Serbia



3.2.1. Direct Decision-Making Forms: Referendum and People's Initiative

In compliance with the Constitution and Law, the National Assembly calls a referendum on issues under its jurisdiction, at the request of the majority of all Members of Parliament or a minimum of 100,000 voters. Serbia has a special Law on Referendum and People's Initiative. In a referendum citizens make decisions on issues stipulated by the Constitutions and Law, as well as issues under jurisdiction of the National Assembly, Assembly of the Autonomous Province, municipality and city that the Assembly makes decision for. In a manner stipulated by this Law, citizens propose the change of the Constitution, laws, other regulations and general acts, announcement of a referendum on specific issue; they also submit other proposals in compliance with the Constitution, Law and Statute (national initiative). The subject of a referendum may not be: obligations ensuing from international agreements, laws related to human and minority rights and freedoms, tax and other financial laws, budget and annual balance sheet, emergency situation and amnesty, as well as issues referring to electoral competences of the National Assembly. The referendum is valid if voted by the majority of citizens entered in voters' rolls, and the decision regarding their declaration on the issue is considered to be made if voted by the majority of these citizens.

In case of the people's initiative, the initiative committee may form special committees for collection of signatures; it submits the proposal to the body competent for passing legal documents, i.e. for making decisions regarding the issue that the proposal refers to, for the purpose of informing it that signatures are being collected for the proposal. When the competent body fails to accept the proposal, it is obliged to inform the initiative committee about it. If the initiative committee deems that the competent body did not act properly, it may submit a complaint to the Supreme Court. In the people's initiative citizens participate by signing the relevant proposal.

3.3. Ombudsman

The Ombudsman is an independent and autonomous State body, in charge of protecting and improving the observance of freedoms and rights. The immunity that the Ombudsman enjoys enables him to be independent and autonomous in his work. The Ombudsman pays special attention to the:

- rights of members of national minorities
- rights of children
- rights of persons with disabilities
- rights of persons deprived of liberty
- gender equality

The Ombudsman controls, investigating complaints or acting on his own initiative, whether State administration bodies, Republic Attorney General, Government agencies and organizations in charge of public with public powers towards citizens act in compliance with laws and other regulations of the Republic of Serbia or principles of good governance.

It is particularly important for CSOs that the Ombudsman has the right to propose laws from the domain of his competence. The Ombudsman is authorized to submit to the Government, or the National Assembly an initiative for changes and amendments to the law and other regulations and general acts, if he deems that violation of the rights of citizens ensue from lack of positive regulations; he also may initiate passing of new laws, other regulations and general acts that he deems to be important for exercising and protecting the rights of citizens. In this connection, the Government, or the competent committee of the National Assembly are obliged to consider initiatives submitted by the Ombudsman. The Ombudsman is authorized, in the procedure of preparation of regulations, to give his opinion to the Government and the National Assembly on proposals of laws and other

regulations if they regulate issues important for the protection of citizens.

Pursuant to the Law on Local Self-Government, the Ombudsman authorized to control the observance of the rights of citizens may be established in a local self- government unit, in order to establish infringement done by documents, activities or lack of activities of administration and public services, if it refers to infringement of regulations and general acts of the local self-government unit.

3.4. Commissioner for Information of Public Concern and Personal Data Protection

The right of citizens to obtain information possessed by the public authorities in Serbia is regulated by the Law on Unrestricted Access to Information of Public Concern, passed in early 2004. Pursuant to the Law, information of public concern is any information held by a public authority body, created during work or related to the work of the public authority body, contained in a document, and related to everything that the public has a justified interest to know.

LAW ON UNRESTRICTED ACCESS TO INFORMATION OF PUBLIC CONCERN

I . General provisions

Information of public concern

Article 2

Information of public concern, in the context of this Law, is information held by a public authority body, created during work or related to the work of the public authority body, contained in a document, and related to everything that the public has a justified interest to know.

Information of public concern held by public authorities shall denote the fol-

lowing notwithstanding: whether the source of information is public authorities or another person; the information medium (paper, tape, film, electronic media et al) containing the document with the information, the date of creation of information, the manner of obtaining information, or another similar features of information.

For CSOs, the Commissioner is a valuable “ally” in exercising their right to being informed; when they believe that they were deprived of any information and that they cannot obtain it through regular procedure, they may and should turn to the Commissioner who will, if the legal conditions are met, help them by submitting an official requirement to the relevant body or institution.

Referring to the Law on Unrestricted Access to Information of Public Concern, on 20 May of the current year, Civic Initiatives sent on addresses of 167 municipalities in Serbia the request for obtaining the list of available public spaces in their territory, information on procedures for obtaining premises for use for citizens’ associations and youth initiatives, as well as an explanation of what body is competent for that domain. Up to now have arrived replies from 54 municipalities, and cities of Subotica, Čačak and Kragujevac sent the most complete lists of available public spaces under their jurisdiction.

3.5. Local Self-Government

For the development of the participatory democracy existence of efficient mechanisms is particularly important, as well as practice of civil participation in the process of designing and implementing public policies at the local level. These policies regulate issues that have a direct impact on the quality of life of citizens in a local community; therefore citizens have a special interest to take part in the process of their designing and implementation. Of course, efficient civil participation at the local level presupposes

that local self-government has adequate competences, its own property and revenue, that it is autonomous in its work and that its most important bodies are elected directly.

A number of international documents of importance for the Republic of Serbia point to the link between local self-government and participatory democracy. In 1985, the Council of Europe adopted the European Charter on Local Self-Government (*European Charter*) that was ratified by almost all member states of the Council of Europe, including Serbia. This Charter is the fundamental document for member states of the Council of Europe regarding the role of local self-government in solving problems of local communities and the role of citizens in the work of the local self-government. Proceeding from provisions of the European Charter, the Committee of Ministers of the Council of Europe adopted in 2001 Recommendation No. 19 on civil participation in the public life at the local level, which points to the necessity of building an efficient mechanism for civil participation in the activities of the local self-government, and establishes principles that enable building of such mechanism. Annex I to Recommendation establishes main principles on which should be based civil participation in the activities of the local self-government, including the right of citizens to clear and comprehensive information on issues of importance for local community – as well as the right of citizens to direct participation in making the most important decisions that have an impact on their lives.

European Charter on Local Self-Government of the Council of Europe

Article 4 (extract)

3. Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizens.

Recommendation No. 19 of the Committee of Ministers of the Council of Europe (extract)

The Committee of Ministers of the Council of Europe recommends that member states...

1. frame a policy, involving local and – where applicable – regional authorities designed to promote citizens' participation in local public life, drawing on the principles of the European Charter...
2. ...adopt the measures within their power, in particular with a view to improving the legal framework for participation and ensuring that national legislation and regulations enable local and regional authorities to employ a wide range of mechanisms and instruments for participation of citizens in local self-government activities.

Under local self-government, in the context of the Law on Local Self-Government, is presupposed the right of citizens to manage public issues of direct, joint and general interest for local population, directly and via their freely elected representatives. For the purpose of exercising this right, the Law stipulates the obligation of bodies and services of a local self-government unit to inform the public of their activities through public media and in other appropriate manner. Moreover, bodies and services of a local self-government unit are obliged to give citizens necessary data, explanations and information, when exercising their rights and obligations. Local self-government is exerted in a municipality, city and City of Belgrade. The possibility of cooperation between local self-government bodies and civil society organizations (nongovernmental organizations) in solving the issues under its jurisdiction is explicitly mentioned in the Law.

Law on Local Self-Government

Article 13 (extract)

Bodies of local self-government units may cooperate with nongovernmental organizations, humanitarian and other organizations in the interest of the local self-government unit and its residents.

Under the Law on Local Self-Government in force, municipal bodies are: ***municipal assembly, president of the municipality, municipal council*** and ***municipal administration***. The same bodies, under different names (city assembly, mayor, city council and city administration) exist in cities. Besides, instead of former municipal managers, head architects and other main experts, the Law stipulated the function of ***deputy president of the municipality***. In nationally mixed towns and municipalities, the Law requires forming of a council for interethnic relations. ***Ombudsman*** is still an optional body². The council for interethnic relations is considering the issues of exercising, protection and improvement of national equality, in compliance with the Law and Statute. Scope of activities, selection of members and method of work of the Council for Interethnic Relations is defined by the decision of the assembly of local self-government unit, which is made by majority of votes of the total number of councilmen, in compliance with the Statute.

The Law on Local Self-Government provides three main methods of direct civil participation in the activities of local self-government: civic initiative, citizens' meeting and referendum.

- **Civic initiative**. Pursuant to provisions of the Law, through a civic initiative, citizens propose to the assembly of local self-government unit

2 Taken over from the "A Guide to Monitoring the Work of Local Self-Government", published by the OSCE Mission in Serbia, www.osce.org, in cooperation with CESID, http://www.cesid.org/lt/articles/izdanja/posebna_izdanja/prirucnik-za-pracenje-rada-lokalne_samouprave.html

to pass an act that will regulate a specific issue under the jurisdiction of the local self-government unit, change of the Statute or other general acts and calling of referendum. The Statute of the local self-government unit defines the number of signatures of citizens necessary for valid initiation of a civic initiative, which may not be less than five (5) percent of voters. The Statute also regulates other issues of importance for starting a civic initiative.

- Citizens' meeting. A citizens' meeting is called for the part of territory of local self-government established by the Statute. The citizens' meeting discusses and makes proposals on issues under the jurisdiction of the local self-government unit. The citizens' meeting adopts requirements and proposals by majority of votes of present audience, and forwards them to the assembly or individual bodies and services of the local self-government unit. The Statute and decision made by the Municipal Assembly define in detail issues declared by the citizens' meeting.
- Referendum. Pursuant to the provisions of the Law, at the proposal submitted by a minimum of 10 percent of voters of the entire electorate in the local self-government unit, the assembly of the local self-government unit is obliged to call a referendum on issue from its competence, in a manner established by the Law and Statute. The decision by means of a referendum is considered to be made if the majority of citizens who voted declared for it, provided that more than one half of the total number of citizens voted. The decision made in referendum is binding, and the assembly of the local self-government unit cannot abrogate it, nor change its essence through changes and amendments within the period of one year following the date of the decision making. Moreover, the assembly of the local self-government unit may at its own initiative call a referendum on issues under its jurisdiction.

The to date results in implementation of these instruments of direct civil participation are not satisfactory. Therefore, the Standing Conference of Towns and Municipalities has prepared a document identifying normative and other measures that should necessarily be taken in order to make these instruments more efficient³.

³ Standing Conference of Towns and Municipalities: Direct civil participation in the public life at the local level (www.skgo.org)

Diagram of the procedure of passing acts in the Municipal/City Assembly

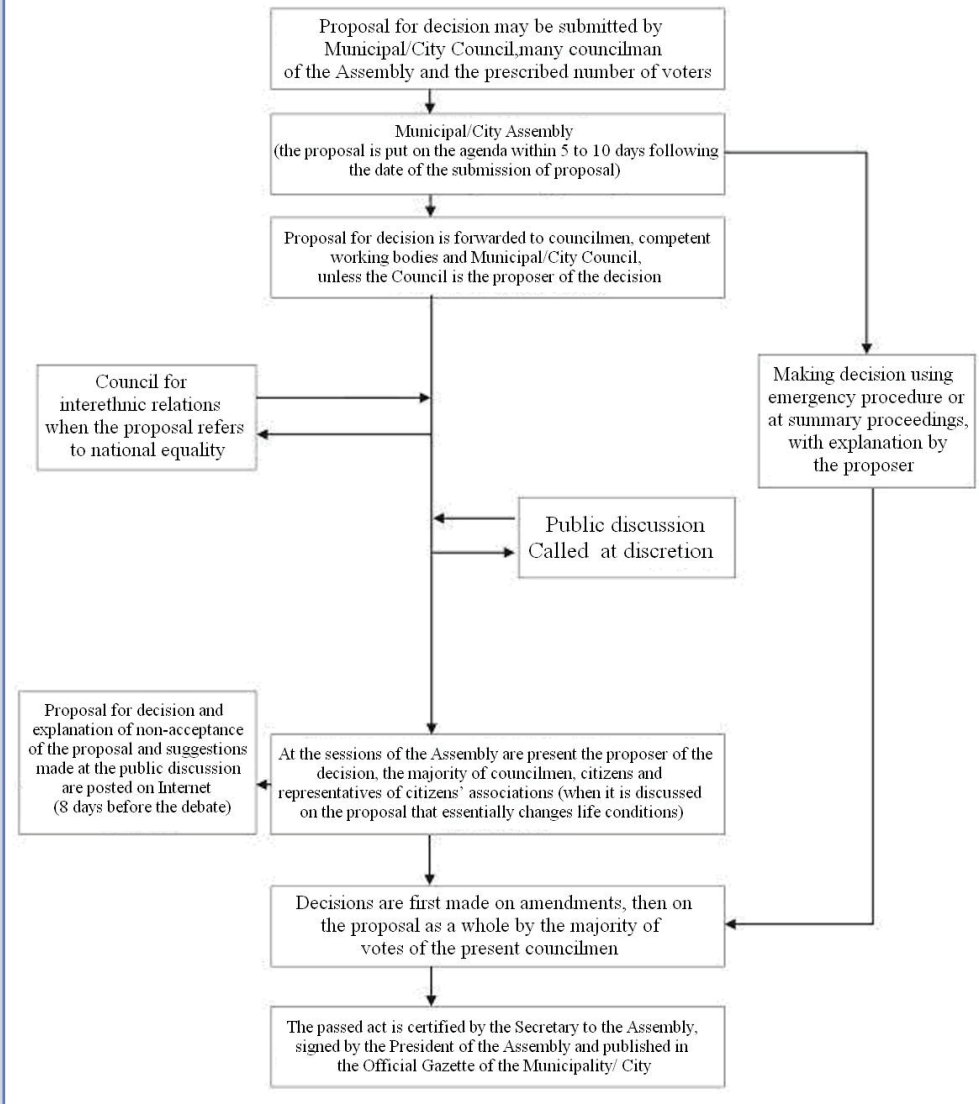
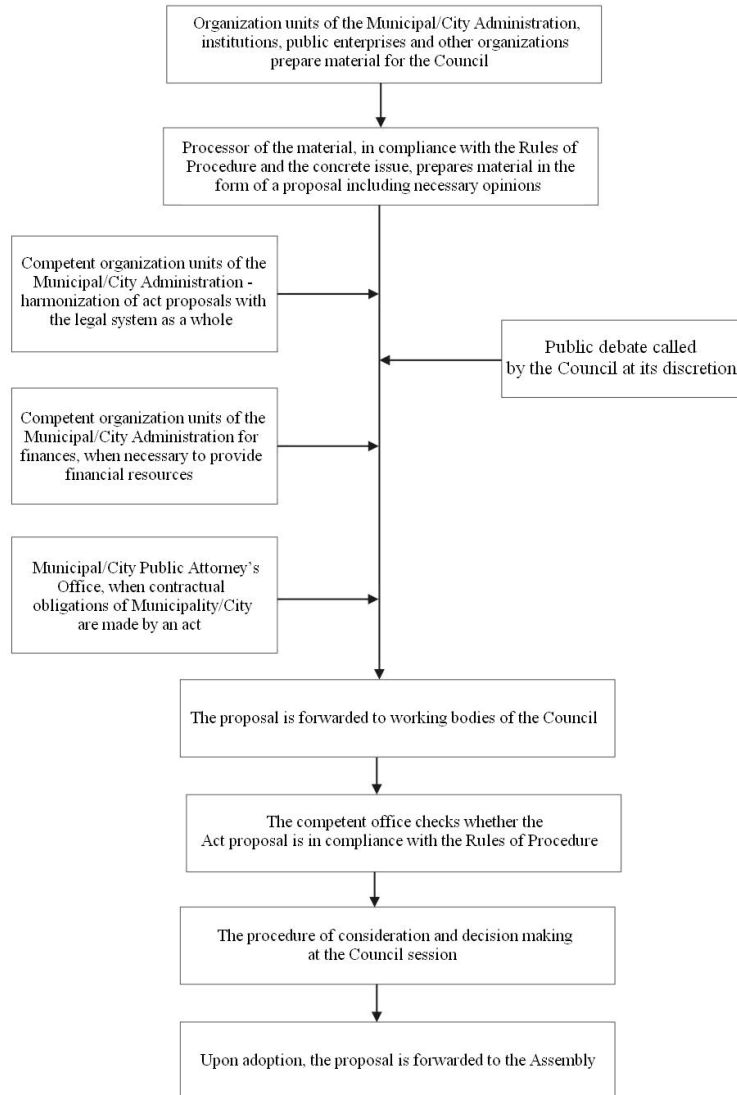


Diagram of the Procedure of Passing Acts in the Municipal Council



4. Success Examples of Civil Participation in the Process of Passing Public Policies

4. 1. National level

4.1.1. Case study: Space for NGO activities with regard to the Parliament

Presentation of Gordana Rajkov, Member of Parliament, at the Civic Initiatives Conference, organized on 24 June 2009, on the topic of “Civil Participation in Forming, Implementing and Monitoring Public Policies. We thank Gordana Rajkov for giving her presentation for the needs of this brochure.

Civil Participation in Public Policy Forming, Implementing and Monitoring

Space for NGO Activities Relative to the Parliament

Belgrade, 24 June 2009

Gordana Rajkov
Member of Parliament

• • •

National Assembly of the Republic of Serbia

National Assembly is the supreme representative body and holder of constituent and legislative powers in the Republic of Serbia

(Article 98 of the Constitution of RS)

Competences (Article 99 of the Constitution of RS)

- Item 7. passes laws and other by-laws falling within the purview of the Republic of Serbia,
- Item 10. adopts the Development Plan and the Spatial Plan,
- Item 11. adopts the Budget and Annual Balance Sheet of the Republic of Serbia, at the proposal of the Government

Laws under procedure

www.parlament.sr.gov.rs

Activities of the National Assembly

- Plenary sessions
- Committees (30)
- Delegate groups (10)
- Public hearings
 - (Position of the Roma, 8 April 2009)
- Public debates
 - (Preparations for passing the Law on the National Assembly, 18/19 June 2009)

National Assembly of the Republic of Serbia



 **Gradanske
Inicijative**

Practice Example

Law on Professional Rehabilitation and Employment of Disabled Persons

- In December 2007 was held a Public Hearing regarding the Law on Employment of Disabled Persons
- Committee for Labour, Veterans and Social Issues
- President of the National Assembly, Chairperson of the Committee, Members of Parliament, representatives of professional and non-governmental organizations

National Assembly of the Republic of Serbia

- Joint session of the Poverty Committee and Committee for Labour, Veterans and Social Issues on 3 and 4 December 2008

- Outside the Assembly building, in Leskovac
- Round table on employment of disabled persons and the role of local authorities, in Niš
- Visit to the institution for permanent accommodation of elderly and disabled persons in Doljevac

National Assembly of the Republic of Serbia

- Meetings with organizations of disabled persons and their legal representatives
- Issues regarding working engagement of disabled persons with deprived working ability
- Practice has proven it to be possible, the law proposal has not stipulated such an opportunity
- National Assembly of the Republic of Serbia
- Submitted amendment
- Meeting with representatives of MoERD, MoLSA and initiators of changes
- Changes of amendments
- Proposal at the session of the Committee for Labour, Veterans and Social Affairs
- Presence of CSO representatives

Amendment to the Wording of the Law Proposal

- In Article 43 Paragraph 6
 - "Working engagement as a working therapy activity of beneficiaries may also be provided in a social protection institution for accommoda-

tion of beneficiaries under conditions and in the manner prescribed by the Minister in charge of social policy issues”

- In Article 43 Paragraph 6 the wording is changed, now reading as follows:
 - “Working engagement as a working therapy activity of disabled persons may also be provided in a social protection institution for accommodation of beneficiaries and with an employer by the instrumentality of a working centre, under conditions and in the manner prescribed by the Minister in charge of social policy issues”

- **The Law adopted on 13 May 2009**

- Including amendments initiated by citizens through their interest organizations

National Assembly of the Republic of Serbia

- Civil society organizations as well as citizens
- may start different initiatives for policy shaping
- law proposals (15,000 signatures)
- submit to a Delegate Group or Committee, individually to the President or Vice -Presidents of the National Assembly or to individual Members of Parliament
- participate in shaping, implementation and monitoring of public policies

Thank you for your attention

www.parlament.sr.gov.rs

4.1.2. Poverty Reduction Strategy

The Government of the Republic of Serbia adopted in 2003 the **Poverty Reduction Strategy** (Strategy or PRS), as the main document of public policy in this domain. The Strategy results from a wide consultative process. For the first time in designing a national strategic document were created mechanisms that made possible joint and active participation of governmental institutions, CSOs and representatives of the business sector. Some 250 CSOs took part in designing the Strategy. The process of Strategy designing was managed by seven representative advisory committees, including the **Civil Society Advisory Committee**. The main role of the Advisory Committee was to establish a functional and constructive cooperation between representatives of the Government and CSOs. Thanks to the activities of the Committee, a broad consultative process was conducted with a large number of CSOs, and proposals of the poorest groups of population were incorporated in the strategic priorities of the country.

The Civil Society Advisory Committee stopped working in early 2006 because of awareness that this mechanism was not sufficiently functional in the Strategy implementation process. However, there still existed the need for cooperation. The **team of the Vice Prime Minister of the Republic of Serbia for Implementation of the Poverty Reduction Strategy** (Team for PRS Implementation), as the focal (project) institution of the Government for Strategy implementation, faced several challenges while trying to define a new, more efficient mechanism for cooperation. One of the challenges referred to the **lack of understanding of importance of cooperation** with CSOs by **governmental institutions**, as well as **lack of capacities on both sides** for constructive cooperation. Additional, practical challenge that the Team encountered was how to establish an efficient mechanism of cooperation with such a dissected sector like the civil sector.

4.1.3. Civil Society Organizations Contact (CSOC)

In solving this problem, the Team decided for broad consultations with all relevant actors, whereupon was designed the programme: **Civil Society Organizations Contact (CSOC)**. CSOC consists of seven civil society organizations, which represent one socially vulnerable group each: Roma, persons with disability, women, elderly, refugees and IDPs, children, youth. The main aim of the CSOC programme is to enable participation of CSOs in defining, implementing and monitoring measures taken by the Government and other relevant actors in the Strategy implementation process, as well as other reform processes. In cooperation with the broader CSO Forum, CSOC develops mechanisms of communication, creates and improves partnerships between the Government and CSOs, formulates recommendations and makes proposals on key reform processes and method of Strategy implementation. The CSOC programme made possible for 545 civil society organizations to get included in implementation of different activities related to poverty reduction at local and national levels. One of the most important results of this programme is initiative for establishment of a **general institutional mechanism of cooperation** between the Government and CSOs.

4.1.4. Memorandum of Cooperation between the European Integration Office (SEIO) and CSOs

The European Integration Office initiated in 2005 the signing of the *Memorandum of Cooperation in the European Integration Process* with civil society organizations bearing in mind the to date role of CSOs in the process of society democratization, as well as their role in spreading European ideas and values. The Memorandum is aiming at institutionalization of cooperation with CSOs in the process of association of our country with the European Union, improvement of activity coordination, as well as cooperation for the purpose of regular and objective informing of citizens on the EU accession process of our country.

More than 70 CSOs signed this Memorandum, thus becoming partners of SEIO. Besides CSOs, this Memorandum was signed by four universities. For a CSO to be able to sign this Memorandum, it should meet the following conditions:

- to have activities for a minimum of two years, and
- to have implemented at least one project in the previous year related to European Integration.

The Office organizes regular trainings for CSOs, so that they could acquire knowledge about EU, and they keep regular communication with them via Internet. Partners from CSOs also help that regular trainings, as a rule opened for the public, are delivered in regions all over Serbia. The Office holds two to three meetings with partner CSOs annually, and its representatives regularly respond to invitation to take part in events organized by local CSOs, requiring participation of experts from the domain of European Integration,

MEMORANDUM
of Cooperation in the European Integration Process

between

the Government of the Republic of Serbia, represented by the Serbian European
Integration Office (hereinafter referred to as the Office)

and

Non-governmental organizations
(hereinafter referred to as the Parties)

Article 1.

The Parties shall undertake all necessary activities in future in order to ensure

regular information exchange related to the activities for preparation, adoption and implementation of laws and policies in the area of European integrations i.e. related to projects and other activities in the European integration process.

Article 2.

The Office will, at organization of public debates on draft laws and other regulations related to the accession of the Republic of Serbia (as the member of State Union Serbia-Montenegro) to the European Union, take all necessary steps so as to ensure the participation of members from non-governmental organizations.

Non-governmental organizations will ensure the participation of the Office representatives in activities and meetings related to European integrations.

4.1.5. Ministry of Youth and Sports and the Design of the National Youth Strategy

The Ministry of Youth and Sports was formed after elections in May 2007. It is specific because of the fact that its establishment, *inter alia*, resulted from a four-year advocacy effort by the Coalition of Youth of Serbia, founded by eight national youth organizations: Civic Initiatives, Students' Union of Serbia, JAZAS, Youth Information Centre, Scouts of Serbia, Young Researchers, Youth Council of Vojvodina and Youth Council of Serbia. The Coalition was formed for the purpose of organizing an advocacy campaign for youth issues at the local and national levels. The aim of the campaign was to form bodies and strategies for youth at both levels. This campaign is one of the best examples of good practice of consultations of the State with civil society and it was highly evaluated by the Council of Europe.

For the process of designing the Strategy and Action Plan were formed the following bodies: Working Group (representatives of competent ministries); Advisory Body; eight thematic groups for areas defined as priority ones (health, security, education, employment, active youth participation,

leisure time, social protection, environmental protection and sustainable development); six Advisory Boards (representatives of youth citizens' associations, local self-government units, media, business sector, international partners and youth sections of political parties) and the Support Team.

In the course of the first round of consultative process were held 167 round tables in 166 local self-government units where were discussed youth problems in the Republic of Serbia. The total of participants was 4,077. This process was conducted by 47 citizens' associations. In the second cycle of the consultative process were organized seven regional conferences for collecting comments and proposals related to the wording of the Draft Strategy, while citizens' associations organized 170 public events. In the Strategy designing part took, in different ways, some 16,000 young people. During the consultative process and public discussion were collected opinions not only of participants in the Strategy design process but also opinions of broader public, through Internet website and sent directly to the address of the Ministry of Youth and Sports.

For the purposes of the Strategy were additionally conducted two researches on youth: the Institute of Psychology of the Faculty of Philosophy in Belgrade conducted a research on leisure time and everyday life of young people, while CESID conducted a research on youth activism.

4.1.6. Ministry of Human and Minority Rights and the Memorandum of Cooperation with Nongovernmental Organizations

The Ministry of Human and Minority Rights was established in May 2008. Its establishment was under question due to complex post-election negotiations on division of portfolios between the coalition led by the Democratic Party and coalition around the Socialist Party of Serbia. At one moment, the forming of this Ministry was in jeopardy, which provoked a strong reaction of civil society organizations and the entire democratic

public. After a very short and intensive advocacy campaign led by CSOs and under the public opinion pressure, the Ministry was formed nonetheless.

In November 2008, the Ministry, supported by the OSCE Mission, started establishing its official cooperation with civil society organizations addressing the protection and promotion of human rights. The Ministry's invitation for cooperation was responded by more than 150 CSOs. The Memorandum of Cooperation between the Ministry and authorized representatives of CSOs was signed on 9 February 2009. Pursuant to provisions of the Memorandum, the Ministry will include CSOs into the activities on drawing up reports, strategies, action plans, draft laws under the jurisdiction of the Ministry. Moreover, the Ministry will implement projects in the domain of human rights together with CSOs.

MEMORANDUM OF COOPERATION

between

The Ministry of Human and Minority Rights of the Republic of Serbia
(hereinafter referred to as the Ministry)

and

"Name of the organization" citizens' association from...

Respecting the role of nongovernmental organizations in building a democratic society, as well as their contribution to spreading the ideas of human rights and rule of law in Serbia;

Recognizing the interest for establishing closer cooperation for the purpose of improvement of the human rights status in Serbia, as well as the necessity of permanent and objective information on cases of human rights' violation and timely and appropriate reaction to such violations,

The Parties agreed as follows:

Article 1

To provide in future regular exchange of information on activities referring to preparation, adoption and implementation of laws and strategies in the domain of observation of human rights and fundamental freedoms, with reference to drawing up reports on implementation of assumed international obligations, as well as other activities from the domain under the Ministry's jurisdiction.

Article 2

The Ministry shall inform representatives of nongovernmental organizations during public discussions on draft laws and other regulations from the domain of the protection of human rights, so that they could take part in these activities.

Nongovernmental organizations shall inform representatives of the Ministry on their activities and gatherings organized for the purpose of the protection and improvement of the human rights status in Serbia.

Article 3

The Ministry shall render support to nongovernmental organizations in their work and strengthen connections with them, in order to use the capacities in that sector, *inter alia*, for informing the Ministry of human rights violation cases, encountered by nongovernmental organizations during their activities.

Nongovernmental organizations shall, in accordance with their knowledge, point to the Ministry human rights violations occurring due to shortcomings in the legal system framework or due to practice that is discriminatory or inadequate.

Article 4

The Ministry shall respect independence of activities of nongovernmental organizations unless they are prohibited by the Constitution or Law.

4.1.7. Fund for Social Innovations (FSI)

The Fund for Social Innovations is a project of the Ministry of Labour, Employment and Social Policy, implemented in cooperation with the United Nations Development programme (UNDP), supported by the European Union, Government of the Kingdom of Norway and Government of the United Kingdom. The Fund for Social Innovations programme is one of the mechanisms for the reform of the social protection system. The Fund is the main mechanism for implementing “fast reforms” in the social protection system and it cooperates closely with the reform projects of the Ministry of Labour. In practice, the Fund announces competitions for projects implemented at the local level. The projects should help in resolution of local needs and priorities, in the manner that is in compliance with the strategy of the reform of the social protection system.

4.1.8. Work on Designing the Gender Equality Strategy

The National Strategy for Improvement of Women’s Position and Promotion of Gender Equality was adopted by the Government of the Republic of Serbia on 13 February 2009, and it is the first strategic document of our country in the domain of gender equality.

This document regulates the integral and harmonized policy of the State in view of eliminating discrimination of women, improvement of their position and integration of gender equality principle in all areas of activities of the system institutions, as one of elements of modernization and democratization of the society, for the purpose of faster, more uniform and efficient social development, in compliance with the equal opportunities policy proclaimed in the Constitution of the Republic of Serbia (Article 15).

The National Strategy for Improvement of Women’s Position and Promotion of Gender Equality encompasses areas related to the participation of women in policy creation and decision making in the areas of economy,

education, health, violence against women, as well as the role of media and public opinion, given that in a broad and democratic discussion it was assessed that these areas are crucial for improvement of women's position and promotion of gender equality.

The planned activities were determined on the basis of prior insight into needs, and they refer to the period from 2009 to 2015. Their implementation should provide that the long-term accumulation of positive changes up to now leads to a deep and lasting transformation of gender relations in the Republic of Serbia. Activities are also included in the National Programme for Integration of the Republic of Serbia with the European Union and they make an integral part of total efforts of the Republic of Serbia on its path to EU membership.

In the period since 2000 up to now, by individual breakthroughs, such as forming of the Gender Equality Council of the Government of the Republic of Serbia, forming of special internal organization units in the Ministry of Labour and Social Policy, Gender Equality Administration, and forming the Gender Equality Committee with the National Assembly of the Republic of Serbia, were set priorities of actions and measures aimed at improvement of the position of women and promotion of gender equality. Also, amendments were made to Criminal, Labour and Family Laws. Gender equality principle was included in the draft Law on the Ban on Discrimination and Gender Equality Law, as well as in some governmental strategies.

In May 2007, to the United Nations Committee on the Elimination of Discrimination against Women at the 38th session was presented the Initial Report of the Republic of Serbia on implementation of the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). From the UN Committee were obtained Final Comments with recommendations to operate upon.

This strategy should not only enable widening and deepening of the existing capacities and programmes but also provide systematic work on establishment, development, implementation and promotion of equal opportunity policies.

4.1.9. Supervising the Process of Designing the National Activity Plan for Improvement of Position of Women and Promotion of Gender Equality

The Voice of Difference – a group of promotion of women’s political rights (authors Tanja Ignjatović and Jelena Višnjić) in the course of 2007 prepared the **Final Report on independent monitoring of the process of designing the National Activity Plan for Improvement of Women’s Position and Promotion of Gender Equality, by the name of BETWEEN INCLUSION AND IMPACT⁴**. Here is an excerpt from the Report: “*Independent monitoring* of the designing of the National Action Plan for Women (hereinafter referred to as NPA), provided by the Voice of Difference as an extra-project voluntary activity, is an organized observation of the process of designing a State document, with the idea to “establish” in our country the practice of monitoring public operations by the civil sector and other stakeholders. The *purpose* of the independent monitoring of the consultative process of NPA designing was also to get an insight and knowledge of principles of efficient and effective participatory and transparent processes of designing public documents and laws, so that the acquired knowledge could be used in the future.

We believe it to be important that different social groups take part in conceiving public policy, in resolving concrete problems and in improving the conditions in the community, because the selected solutions have an impact on the entire society. Consultative processes and public discussions

⁴ We thank the VOICE OF DIFFERENCE and authors for the opportunity to use excerpts from the Report for the purposes of this brochure.

give the opportunity to become aware of the complexity of problems, as well as of different options for resolving them. To creators and direct executors of future policies and strategies it gives an opportunity to make out a good case of their concepts and to ask public support for them. Consideration of options of different groups, and particularly assessment of their consequences, in an open discussion of all stakeholders, makes possible proposing and adopting the best solutions, while the entire process reflects an aspiration towards democratization and decentralization of decision making and governance.”

From the **Conclusion** we single out the following, which we consider to be especially useful for this publication: “Although there are no doubts regarding intention of the Gender Equality Council, as the key actor in the process of designing NPA for women, to organize a comprehensive, democratic process of designing this document, that would follow the principles of transparency, inclusion and participation, it is certain that understanding of the proclaimed principles and their implementation were not this process’ forte in all of its segments. The description of some “crisis situations” may point to spots of “lack of understanding or discrepancies” that should be taken care of in the future, which in our opinion ask for a definition of notions and an open discussion on the “women’s scene” on politics, sector positions, relations of power, responsibility, manners of efficient communication and cooperation, reasons for lack of cooperation, methods of decision making in joint activities.

It is clear that satisfaction with outcomes is not necessary in participatory processes, and that participants may not expect that all of their proposals will be included in the final variant of the document. Nevertheless, the process therefore must be transparent, it must provide the space and rules for discussion on contents and arguments when there is no agreement upon, it must calculate with inequality (formal and informal) in positions and powers, in order to enable real (and not declarative) participation and impact.”

4.1.10. Experiences in Implementation of the Law on Unrestricted Access to Information of Public Concern

In the scope of the project “Monitoring implementation of the Law on Unrestricted Access to Information of Public Concern” of the Open Society Fund, which encompassed more than 30 municipalities in Serbia, as well as a larger number of the Republic bodies, and which was implemented by Citizens’ Association Sretenje from Požega, Resource Centre Negotin from Negotin, Centre for Civil Education from Vršac, Civic Council of the Municipality of Kraljevo from Kraljevo, Toplica Centre for Democracy and Human Rights from Prokuplje and Forum Iuris from Novi Sad, numerous problems were perceived in implementation of the Law on Unrestricted Access to Information of Public Concern. Good news is the fact that the least contribution to these problems makes the wording of the Law itself.

The fact is that there are specific shortcomings in the Law, and they were segmented through this research; however, not for a moment may they be denoted as reasons that prevent its more successful implementation.

The three main problems that are setting back a more successful implementation of the Law on Unrestricted Access to Information are:

1. normative environment in which the Law exists,
2. insufficient interest of right holders – information seekers, and
3. lack of knowledge and obstruction by bodies of public authorities as the object of the right.

You may see the complete Report on NGO Coalition’s monitoring of implementation of the Law on Unrestricted Access to Information of Public Concern at the Open Society Fund web address:

www.fosserbia.org/view_file.php?file_id=100

4.2. Local Level

4.2.1. Fund for Civil Participation in the Scope of the "PRO - Development Programme for Municipalities in Southwest Serbia"

The Programme of development of municipalities in Southwest Serbia (PRO) is one of the most important development activities implemented in eight municipalities in this part of the country – Ivanjica, Novi Pazar, Nova Varoš, Priboj, Prijepolje, Raška, Sjenica and Tutin. Since summer 2006, when PRO implementation started, assistance has been rendered to municipalities in their efforts to improve the quality of life of citizens in the area. Broadly speaking, this project joins efforts of the Government of the Republic of Serbia to reform administration and reduce poverty by following relevant national strategies.

This programme results from successful cooperation of donors, such as the European Union, through the European Commission Delegation to the Republic of Serbia and the Government of Switzerland through the Swiss Agency for Development and Cooperation (SDC); while the programme is implemented by the United Nations Development Programme (UNDP); activities are coordinated with the relevant ministries of the Government of the Republic of Serbia; eight municipalities included in PRO are partners in key activities.

The Fund was formed with a desire to assist citizens in municipalities of Priboj, Nova Varoš, Ivanjica, Raška, Prijepolje, Sjenica, Novi Pazar and Tutin, who have good ideas to do something for the wellbeing of their communities. The Fund is allocating resources for projects addressing improvement of quality of municipal services, with special focus on increased access to local administration services for vulnerable and marginalized communities and individuals, by stimulating inclusion of citizens, in particular the youth, into the activities of municipal organizations in any as-

pect of work of the local administration, by improving the environment, and human rights.

4.2.2. Poverty Reduction Committee – Municipality of Ada

One of the few institutional mechanisms of participation of citizens and civil society organizations in formulating public policies at the local level is the Poverty Reduction Committee with the Municipality of Ada. The Committee was formed in compliance with the Rules of Procedure on the work of the Assembly of the Municipality of Ada, pursuant to the Law on Local Self-Government. The Rules of Procedure define the tasks of the Committee, method of work and decision making, and number of members (seven). The Committee is an advisory body of the President of the Municipality. The Municipality Assembly has nominated members of the Committee from the following sectors: education, health care, social protection, labour market and *civil society organizations*. In the Committee there are also representatives of municipal bodies, as well as the President of the Municipality Assembly.

Tasks of the Committee, defined by the constituent act, include the following activities: making the social map of the municipality; designing the municipal Poverty Reduction Strategy; prevention of increase of further poverty; informing the public and its sensitizing for the poverty problem in the municipality; stimulating cooperation between municipal institutions and nongovernmental sector for the purpose of successful resolution of the poverty problem; preparing proposal for poverty resolution in concrete cases; advising and informing the poor and their education on protection against poverty; monitoring and realizing a competition for poverty reduction; designing and implementing scientific and research activities related to the poverty problem.

Moreover, the Committee is preparing projects for solving the perceived social problems in the municipality. The Committee may accept do-

nation in-kind and in pecuniary funds (pecuniary donations are paid to the sub-account of the Centre for Social Work of the Municipality of Ada), while allocation of donations is carried out according to the criteria defined by the Centre for Social Work.

4.2.3. Municipal Coordination Committee for Social Policy (MCCSP)

MCCSP emerged as one of the components of the project “Social Policy Reform”. The Committee is an advisory body of the President of the Municipality, which is formed in compliance with the Law on Local Self-Government. Besides cooperating with the President of the Municipality, this body also cooperates with the social activities service in the local self-government, as well as with the Municipality Assembly. The Committee consists of representatives of all relevant institutions of local self-government and representatives of CSOs. The main criteria for selecting the Committee membership are as follows: readiness and motivation for participation in the social protection reform process; expertise; knowledge of problems related to the needs of vulnerable groups; respectability in the municipality; readiness for teamwork. The Committee is in charge of the following activities: formulating a strategic plan that would solve problems of the most vulnerable groups in the municipality (preceded by designing action plans, analysis of situation, needs and existing resources); partnership promotion; proposing prevention measures in the areas of health care, social protection, employment and education; considering modalities for financing activities in the social policy domain and monitoring of the method of use of these funds; presentation of MCCSP activities and results; preparation of initiatives and proposals with reference to the process of decentralization in social policy, conditions permitting; organization of thematic conferences and other professional gatherings. However, it should be remarked that to date experience in the work of the Committee indicates that this mechanism may be used as a good practice example, but not necessarily as a universal model.

4.2.4. Council for Issues Related to Persons with Disabilities in the City of Kragujevac

The Council for issues related to persons with disabilities was formed in Kragujevac on 13 March 2009, at the initiative of the Forum of Young People with Disabilities. The need for establishment of the Council was based on insufficient inclusion of persons with disabilities in resolution of issues important for their status, as well as absence of institutional mechanism of cooperation between representatives of local self-government institutions and organizations of persons with disabilities. Processes of decentralization and deinstitutionalization in the domain of social policy that create an opportunity for establishment of cooperation between organizations of persons with disabilities and bodies of local self-government, as well as unfinished institutional-normative framework in the areas of interest for persons with disabilities created the need for mediation and establishment of democratic dialogue between organizations of persons with disabilities and local actors, with the aim to prevent discrimination, human rights violation, to advocate before the local public and stakeholders, for the purpose of creating an inclusive society.

4.2.5. Direct Participation of Citizens in Decision Making in Sremski Karlovci

Civil participation in decision making is operating through the Council for Development, formed in Sremski Karlovci in late 2008, in the scope of the project “Support to Strengthening Civil Participation in Serbia”, jointly implemented by local authorities, Standing Conference of Towns and Municipalities and a Swiss donor. The Council brings together citizens and representatives of local authorities. Through their participation in the work of the Council for Development, citizens of Sremski Karlovci had a task to choose a topic they believe to be the most important for their local community. Inhabitants of Karlovci chose tourism. By participating in the Council,

citizens have the opportunity to get concretely engaged in activities and plans for promotion of tourism in their community.

A pilot project for establishment of civil participation in decision making is being implemented in three urban and three rural municipalities in Serbia. Besides Sremski Karlovci, the Municipality of Čoka from Vojvodina is also included in the project.

4.2.6. Youth Offices

A Youth Office is a local self-government body established in some eighty municipalities or regions in Serbia, with the support by the Ministry of Youth and Sports. The task of the Office is to assist young people in solving their priority problems in the local community (municipality, region). Under jurisdiction of the Office is distribution of information important for young people, education through different programmes and trainings, creation of youth policy at the local level, stimulation of youth activism and voluntarism, finding opportunities for financing youth programmes etc.

Here is the text about the Youth Office in Kula that you may read in its full version on <http://www.kzmkula.com/>

“Local Action Plan for Youth in the Municipality of Kula defined the main principles of care for youth, as well as the work plan by which the Assembly of the Municipality of Kula allocates main tasks to subordinate bodies of the local self-government.

By adopting and implementing the Action Plan for Youth in the Municipality of Kula, our local community shows accountability towards young people that reflects in:

- creating a municipal body to deal with resolution of youth issues and problems,

- regulating youth legislative problems,
- providing participation of young people in all bodies related to youth,
- financing youth organizations and increasing funds and investments earmarked for young people, youth projects and programmes.

Main principles of Office's activities:

- openness towards everyone
- communication and information
- joint participation
- reliability.

Aims of the Youth Office:

The Youth Office is an operational body unifying all services and bodies dealing with youth, preparing plans, coordinating activities and harmonizing actions, for the purpose of improving the position of youth in the Municipality of Kula. Aims of the Youth Office are:

- implementation and monitoring of local action plan
- establishment of cooperation with the Students' Parliament
- establishment of mutual cooperation between NGOs by the instrumentality of the Youth Office
- building relations and cooperating with local organizations and youth initiatives
- promoting voluntarism among young people
- organizing social life of youth
- educating youth with regard to project writing.

Tasks of the Youth Office

- monitoring the implementation process of the local youth action plan
- finding new opportunities for financing the youth programme in Kula
- securing successful communication among all relevant and responsible subjects for development of youth at local, provincial and national levels
- rendering support to youth organizations and initiatives in the territory of Kula
- initiating cooperation with related institutions at provincial, national and international levels
- education of young people regarding addiction diseases (through workshops, seminars etc.)
- organizing different cultural and sports events
- rendering assistance to persons with disabilities (cooperation with associations for Mentally Challenged Persons)
- rendering assistance to youth initiatives
- protection and promotion of main values in lives of young people
- assistance to young people in their professional orientation
- education of young people on human rights observance
- recognizing problems of young people of all nationalities and their resolution
- improvement of youth standard and their public, cultural and sport life
- establishing cooperation with companies for the purpose of employing young people for seasonal works
- organizing young people's leisure time"

5. Obstacles for Participation of Citizens and Civil Society Organizations in the Procedure of Designing and Implementing Laws and Other Public Policy Instruments

Despite drawbacks of the Government's Rules of Procedure (*supra*, 3.1), in the past few years in Serbia has stabilized the practice that civil society organizations get included into processes of designing strategies and other important public policy documents. Up to now have been adopted more than 40 such documents (poverty reduction strategy, sustainable development strategy, youth strategy, national action plan for children etc.). This good practice indicates that civil society organizations are ever more recognized as an important partner of authorities in defining and regulating social priorities and needs. Nevertheless, in order to call this process a partnership, in the full sense of the word, it is necessary to eliminate the present obstacles, both on the side of the State and on the side of civil society.

General obstacles on the side of the State:

Obsolete status and legal regulations for associations. As well-known, the new Law on Associations that will regulate legal status of associations in compliance with international legal standards and good regional practice, has been waited for almost nine years, **although it is an obligation assumed by the Republic of Serbia after becoming a member of the Council of Europe and after ratifying the European Convention on the Protection of Human Rights and Fundamental Freedoms; meeting this obligation has been in delay for several years. The Law proposal was, for the fourth time**, submitted to the National Assembly in June 2009. Currently, its adoption is expected at the eighth extraordinary session of the National Assembly.

Non-transparent method of budget financing of civil society organizations, including criteria for allocation of budget funds, is a serious obstacle to their activities and sustainability. The main source of income of CSOs is still foreign donations. It results in the fact that the implemented projects are sometimes more in conformity with donor's requirements than with defined and recognized priorities at the national and local levels⁵. At the local level, a certain number of municipalities allocate funds from the local budget for financing activities implemented by CSOs, but in the majority of cases **without previously established criteria** and clearly **defined priorities**. It is expected that adoption of the new Law on Associations, as well as the new Law on Endowments and Foundations will establish unified and transparent criteria for CSO budget financing at all levels of authorities.

Unfavourable tax status of CSOs. Positive legal regulations do not sufficiently stimulate development of the so-called corporative philanthropy because of relatively narrow definition of givings for general useful purposes for which trade companies and other economic entities enjoy tax relieves. There are no tax relieves prescribed for physical persons – taxpayers for givings for general useful purposes. Associations are taxpayers for a (private) gift in the amount of 2.5 percent of its value, while foundations and funds are exempted of this tax; associations are taxpayers even when they carry out the same statutory activities as funds and foundations.

Lack of institutional framework for cooperation between the State and civil society, in the form of an office or another governmental body that would take care of creating enabling environment for CSO activities and improvement of their capacities. At the initiative of the Team of the Vice Prime Minister of the Republic of Serbia for implementation of the Poverty Reduction Strategy, last year was designed and presented to the public the

⁵ As examples of good practice of CSO budget financing may be specified the project of Roma health improvement, financed by the Ministry of Health; the project of improvement of status of persons with disabilities, financed by the Ministry of Labour and Social policy; as well as projects of the Ministry of Youth and Sports intended for implementation of the national youth strategy.

report “Institutional Mechanism of Cooperation Between the Government and Civil Society: Comparative Experiences and Recommendations for Serbia”. In the Report are analyzed different mechanisms of cooperation, their advantages and disadvantages, and there is recommendation for establishment of an Office of the Government of the Republic of Serbia for cooperation with civil society. This Report was presented in Belgrade, Niš and Novi Sad, and it obtained broad support by civil society organizations.

With regard to the above mentioned lack of the **State’s strategy for civil society development** that would define priorities of the State in creating a stimulating framework for CSO activities and building of their capacities, as well as in identifying strategy implementers.

Lack of **transparent and efficient mechanism of civil participation** in the procedure of drafting laws and other public policy instruments that would define in detail minimum standards of participation and consultations (this refers to both executive and legislative authorities). The Government’s Rules of Procedure in force are not an efficient mechanism for participation of citizens and CSOs in the process of drafting laws and other public policy instruments, therefore participation of CSOs in public discussions organized by authorized proposers in the first place results from initiative and self-organizing of the sector itself, more than from direct and formal invitation of authorized proposers of regulations and documents⁶.

6 An illustrative example is the Draft Law on Associations, in view of which Civic Initiatives and FENS sent a letter to all relevant State institutions (Prime Minister, ministries, Commissioner for unrestricted access to information and Ombudsman), requiring that the Draft should be returned in the parliamentary procedure. The letter was replied by Ombudsman, and after that by Ministry of Youth and Sports, which supported the requirements and officially asked the Government to return the Draft Law into the parliamentary procedure. The Law was reconsidered at the Government’s session, and it was posted on the website of the Ministry of State Administration and Local Self-Government, whereby the published version of the Draft underwent several significant changes regarding the prior one, which required from experts for nonprofit law urgent response and preparation of amendments. This kind of activities could be named more an advocacy than civil participation. The example of the Proposal of the Law against Discrimination is also indicative. After one-year public discussion, the Proposal of the Law was adopted by the Government and subsequently, at the request of the Serbian Orthodox Church and other religious communities, it was withdrawn from the parliamentary procedure. Even without entering details of this happening, it is

On the other hand, the Rules of Procedure of the National Assembly do not stipulate an obligation of public openness in the work of parliamentary committees, because committees have the discretionary right to decide on inclusion of public, although activities of committees are crucial (at least in formal and legal aspects) for formulating the final law proposal. Moreover, the Rules of Procedure of the National Assembly do not regulate the institute of public hearing, although public hearing, comparatively speaking, is the most important additional source of information for members of the committee regarding debate on issues under their jurisdiction. In practice, the National Assembly sometimes uses this institute, however, for optimal use of its advantages and opportunities it is necessary to regulate it by the Rules of Procedure of the National Assembly. Currently, there are ongoing preparations for the Draft Law on the National Assembly and new Rules of Procedure of the National Assembly. At the recently held public discussion on this matter (18 and 19 June), it was pointed out that just by organizing the public discussion a further step was made in development of legislative activities and parliamentary democracy. According to the words of the Chairperson of the National Assembly, Prof. Dr. Slavica Djukić-Dejanović, “In order to be a democratic institution, the National Assembly must provide adequate representation, it must be efficient and render accounts for its work, and organization of this discussion aims at giving opportunity to experts, public, media, to state their attitudes on how they see the Parliament, and to propose in what direction reforms should be carried out.” She also said that special attention during discussion should be paid to organization of the National Assembly and competences of parliamentary bodies, and she proposed to consider the option to introduce new working bodies, such as commissions.

undisputable that a bad precedent was made and that institutions of executive authorities succumbed to the pressure of the Serbian Orthodox Church and seriously undermined transparency and credibility of the public discussion on the Law Proposal.

With regard to the above mentioned, due to the current electoral system (i.e. the fact that mandates belong to parties, not to delegates), the **role of the Parliament in the procedure** of passing laws and other public policy instruments is reduced **to the lowest possible measure**.

Due to the pressure to pass as many laws as possible, harmonized with the EU legal system, the practice of **passing laws using emergency procedure** is ever more frequent, which often renders impossible conduction of a valid public discussion and at the same time reduces the quality of legal proposals.

Lack of general standards and procedures regarding appointment of representatives of civil society in foundation and activities of different **bodies at the national and local levels**; this is an obstacle to optimum use of available social resources. The criteria of selecting CSO representatives for these bodies is not always clear, because the process is not public, therefore it often occurs that in a body are not sitting the most competent CSO representatives for topics related to the civil sector⁷. It is still a frequent practice to form working groups for designing a law, which consist exclusively of representatives of competent ministries and professors, i.e. representatives of academic community without one civil society representative – even when it is about legal regulation of issues that representatives of academic community have modest academic and even more modest practical experience in (for instance, designing of the Law on Volunteering).

Bodies of executive authorities and local self-government still **do not understand** sufficiently advantages of cooperation with CSOs, both in the procedure of designing and in the procedure of implementation of public policies. It is not quite sure whether it is about lack of political will or about mere lack of understanding of the role and importance of civil society organizations in democratization of the society. Very often, partici-

⁷ In some cases, working groups for designing a draft law also included representatives of civil society (Law on Association). On the other hand, the Ministry of Labour and Social Policy recently formed a working group for drafting the National Strategy for socially accountable business activities with participation of civil society representatives, whereby the public was not duly informed either of plans to work on a strategy or of forming a working group.

pation of CSOs is conditioned by donor requirements (such an example is SIF, the Fund for Civil Participation in the scope of PRO programme), or it is a result of persistence and pressure by CSOs (example of a group of CSOs interested in participation in activities of the working group for designing the Draft Law on Volunteering, who “obtained through struggle” their participation in the work of the expanded structure of the working group).

Inadequate attitude of the State towards independent bodies (Ombudsman, Commissioner for Unrestricted Access to Information). For instance, there is still no satisfactory readiness of State bodies to make possible the access to information on their activities, which must be available to the public. It is also worrying that administration is still “quiet”, i.e. it ignores requirements for unrestricted access to information, although such practice is qualified by the law as illegal behaviour. Besides, it is utterly worrying that even bodies of public authorities have difficulties in exercising their right to unrestricted access to information, given that in individual cases they, too, are deprived of access to information.

General obstacles on the side of civil society:

Insufficient capacities of CSOs to take part in a quality manner in the process of designing laws and other public policy elements due to restricted human and material resources. In that context, insufficient cooperation between CSOs and scientific and educational institutions is particularly evident.

Lack of coalitions, networks, platforms at the local and national levels, which should systematically deal with advocacy towards public policy implementers.

Lack of understanding of the necessity of cooperation with State institutions in some civil society organizations.

Lack of understanding of the importance of laws and other instruments of public policies for regulation of issues of importance for CSO activities.

Recommendations

Recommendations for the State

Regulate the legal status of CSOs by passing the Law on Associations that will be in compliance with international legal standards and good regional practice. This Law will fully regulate establishment, internal organization, activities and public financing of associations in Serbia. Moreover, it will for the first time regulate the status and activities of representative offices of foreign associations.

Establish mechanism for allocation of funds from the budget that will be based on clear rules, procedures and criteria. Passing of the new Law on Associations and Law on Endowments and Foundations will considerably contribute to establishment of such a mechanism. In addition, the State should work on providing conditions for forming domestic sources of financing in order to establish the basis for long-term financial stability of CSOs, and thereby capacity building of CSOs for participation in forming, applying and monitoring the policy implementation. There are different mechanisms in the region which facilitate the work and activities of CSOs (for instance, allocation of public spaces to CSOs for use at minimum compensation etc.).

Improve the tax status of CSOs. Carry out appropriate amendments in the Law on Company Profit, which would expand the list of activities for general useful purposes, for whose allocation of funds trade companies and other economic entities enjoy tax relief. Equalize tax status of associations, funds and foundations in the Law on Property by abolishing the tax on a private gift, whose recipients are associations. Consider justifiability of introduction of tax relieves for givings by physical persons – taxpayers for general useful purposes.

Establish a governmental office for cooperation with civil society, which would be in charge of creation of enabling environment for CSO activities and capacity building of civil society. Develop good practice of appointing contact persons with ministries and local self-government bodies, particularly the ones referenced to more intensive cooperation with civil society, which would be assigned for that cooperation.

After establishment of the office, start designing the national **strategy for civil society development**, which would identify issues of importance for activities and sustainability of civil society, as well as obligations of different social actors in that context. This document would have not only strategic but symbolic importance, too, because it would be an expression of acknowledgement by authorities of CSO contribution to establishment of democratic society and to resolution of numerous social problems; it would also contribute to promotion of civic activism, i.e. participatory democracy.

Establish transparent and efficient civil participation mechanism in the procedure of designing of laws and other public policy instruments that would in more detail define minimum standards of participation and consultation (this refers to both executive and legislative authorities and to local self-government bodies). Such a mechanism should establish minimum standards of consultations and openness in drafting laws and other public policy instruments. When establishing this mechanism, account should be taken of transaction costs; the mechanism must be simple, and its maintenance costs low. In that sense, different new instruments of on-line communication may play an important role. Of course, before establishing the mechanism, an appropriate public discussion, conducted in a quality manner, on what mechanism would be optimal for Serbia is necessary.

Establish a continuous system of education of civil servants and employees in local self-government bodies on the role and importance of civil society in a democratic society, as well as necessity and usefulness

of cooperation. In that sense is particularly important continuous education of **contact persons** in governmental bodies and local self-government bodies in charge of cooperation with CSOs. In the Report by the European Commission on progress of Montenegro on its path to the European Union, as of November 2008, it is specified that in Montenegro there are 43 contact persons for cooperation with civil society at the level of State authorities and local self-government bodies. For these persons are regularly organized seminars and other activities helping them to carry out their work in a more efficient way.

Recommendations for Civil Society Organizations

It is necessary to work on **capacity building of CSOs**, so that they would be qualified for participation in the process of formulation and implementation of public policies. Among other:

- 1) it is necessary to establish tighter cooperation between CSOs and academic and educational institutions;
- 2) it is necessary to raise awareness on the necessity of cooperation with the State;
- 3) it is necessary to educate CSOs on functioning of the State administration, as well as on procedures and mechanisms of designing and adopting laws and other public policy instruments;
- 4) additional education and specialization of CSOs is necessary for monitoring of adopted public policies and for evaluation of projects realized in areas in which they have professional knowledge (e.g. direct experience with target groups);
- 5) with regard to the above mentioned, it is necessary to educate CSOs on the manner of using the right on information of public concern, guaranteed by the Constitution, and to strengthen cooperation be-

tween CSOs and the Commissioner for public information, as well as Ombudsman.

In order to facilitate establishment of efficient mechanism for participation and partner relations with the State authorities and local self-government bodies, it is necessary to **educate CSOs** on advantages of different forms of **functional coalitions and platforms**, particularly the ones of more lasting nature, where there are conditions for forming such coalitions. At the same time, it is necessary to work on inclusion of hardly accessible and marginalized groups, so that they would not be excluded from this process.

With regard to the above mentioned, it is necessary to **improve CSO capacities for successful regulation of internal relations in the coalition**, in order to establish a transparent mechanism of acting between members of the coalition, to regulate the method of coalition management, to set ethic and professional standards that oblige members of the coalition, as well as the method of dispute resolution (code of good practice, good governance etc.) – through these measures activities of coalitions would be more effective.

Annex I

Comparative Review of Civil Participation Mechanisms in the Preparation Process of Public Policies

TABLE 1 FORMS OF COOPERATION (AFTER THE OSCE MODEL)

BIH	GERMANY	ROMANIA	ENGLAND	EU
Counselling and active participation ⁸	Counselling	Counselling	Counselling	Counselling

TABLE 2 TYPES OF LEGAL ACTS ENCOMPASSED BY COOPERATION

BIH	GERMANY	ROMANIA	ENGLAND	EU
Laws and other general acts	Laws and other general acts	Laws and other general acts	Laws and other general acts	General acts initiated by the European Commission

TABLE 3 STATE ORGANIZATION LEVEL AND BODIES THAT OBLIGATION OF COOPERATION REFERS TO

BIH	GERMANY	ROMANIA	ENGLAND	EU
<i>National</i> Council of Ministers of BiH and other executive authorities' bodies at the State level	<i>National</i> Parliament and Government	<i>National</i> Government and governmental bodies. <i>Local</i> bodies of local self-government (representative and executive)	<i>National</i> Government and governmental bodies. Local self-government is encouraged (but not obliged) to use the Code	European Commission (EU executive body)

⁸ Of course, this does not mean that in other countries, except Bosnia and Herzegovina (BiH), there is no active participation, i.e. participation of representatives of CSOs, guild organizations and academic community in working groups for designing laws and other general regulations (both the ones concerning their legitimate particular interest and the ones regulating issues of general concern). On the contrary, this is a good regional and European practice. However, BiH is the only country specified in tables in which this form of cooperation is mentioned explicite.

TABLE 4 THE CIRCLE OF PERSONS HAVING PASSIVE ID IN COOPERATION

BIH	GERMANY	ROMANIA	ENGLAND	EU
Groups of citizens and private-legal persons (civil society organizations, business companies, professional organizations)	Civil society organizations, church and professional organizations, regardless whether entered in the Register kept with the Office of the President of the Republic	Citizens and associations	Citizens and private-legal persons	Special role of civil society organizations, but also of citizens, trading companies, local and regional self-government bodies etc.

TABLE 5 THE CIRCLE OF PERSONS DIRECTLY ENCOMPASSED BY THE COOPERATION PROCEDURE

BIH	GERMANY	ROMANIA	ENGLAND	EU
Groups of citizens and private-legal persons on the list of the competent ministry or another body of executive authorities at the State level	Civil society organizations, church and professional organizations, whose interests are directly affected by the proposal of the Law, which are organized in a representative manner at the State level and entered in the Register kept with the Office	Associations, professional organizations whose interests are directly affected by the proposal of a specific regulation	Citizens and private-legal persons	Persons whose interests are directly affected by the proposal of a specific regulation; persons who will take part in implementation of a specific regulation; legal entities whose status goals are in direct connection with the aim to be reached by means of a specific regulation

TABLE 6 COOPERATION PROCEDURE

BIH	GERMANY	ROMANIA	ENGLAND	EU
Cooperation at any stage of designing the preliminary draft of the act. The preliminary draft is posted on the website of the ministry or another body of executive authorities; invitation for submission of comments is sent to all persons on the list of the ministry or other institutions	Cooperation after the competent governmental body has prepared the Draft Law	Information on designing the preliminary draft and on the method of submission of comments is announced publicly in one or more ways stipulated by the Law (web-page, announcement in national and local media etc.). The preliminary draft is sent to all persons "who have shown interest"	Cooperation procedure in as early phase as possible of formulating public policy (<i>implicite</i> includes designing of the preliminary draft of the general act); particularly with persons whose interest would be affected by adoption of a specific public policy, as well as persons who are expected to be "proactive" in the procedure of formulation of public policy (including preparation of regulations)	Counselling in an early stage of formulating public policy and designing regulations

TABLE 7 COOPERATION VOLUME (MINIMUM OR BROADER COOPERATION)

BIH	GERMANY	ROMANIA	ENGLAND	EU
<i>Minimum cooperation</i> Announcement of the preliminary draft on webpage of the Council of Ministers or another institution; invitation to submit comments to persons on the list of the Council; information where to get the preliminary draft text. <i>Broader cooperation</i> (regulations of special importance): announcement of the preliminary draft in public media; direct forwarding of the preliminary draft to “organizations and individuals”, opportunity for forming working groups that include “experts and representatives of organizations and individuals”	There is no difference in cooperation volume	There is no difference in cooperation volume	There is no difference in cooperation volume	There is no difference in cooperation volume

TABLE 9 EXEMPTION FROM OBLIGATION OF COOPERATION

BIH	GERMANY	ROMANIA	ENGLAND	EU
Only for broader cooperation practice: emergency situations; unforeseen international obligations; or judicial annulling of a part or of the entire law	Not specified	Emergency situations, for which is stipulated emergency procedure of adoption of regulations	Emergency situations: obligations ensuing from EU membership and other international obligations; the ones ensuing from the obligation of adopting the State budget; for the purpose of health protection and security of citizens etc.	Not foreseen

TABLE 10 SANCTIONS FOR BREACH OF COUNSELLING OBLIGATION

BIH	GERMANY	ROMANIA	ENGLAND	EU
The Council of Ministers may reject to consider the draft regulation for which was not respected the counselling procedure and send it back to the competent ministry	Disciplinary responsibility for executives and employees in the Government and ministries	Political and disciplinary responsibility for executives and employees in the State bodies	Political and disciplinary responsibility for executives and employees in the State bodies	Not foreseen; <i>implicite</i> disciplinary sanctions for Commission employees

Anex II

Code of Good Practice for Civil Participation in the Decision-making Process



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

CONFERENCE DES OING DU
CONSEIL DE L'EUROPE

CODE OF GOOD PRACTICE FOR CIVIL PARTICIPATION IN THE DECISION-MAKING PROCESS

Draft approved by the Conference of INGOs
at its meeting on 29 April 2009

Index

I. Introduction.....	77
I.i Background.....	77
I.ii Objectives	77
I.iii Targets.....	78
II. General Framework for Civil Participation	78
II.i Parameters of Civil Society	78
II.ii Principles for Civil Participation.....	79
II.iii Conditions for Civil Participation	80
III. How to Engage.....	81
III.i The different levels of participation	82
III.ii Steps in the political decision-making process	84
III.iii Cross-cutting tools and mechanisms for civil participation	97
IV. Matrix of Civil Participation.....	99

I. Introduction

I.i Background

At the meeting of the Council of Europe Forum for the Future of Democracy held in Sweden in June 2007, participants called on the Conference of INGOs of the Council of Europe to prepare a Code of Good Practice for Civil Participation which would cover subjects such as mechanisms for NGO participation in decision-making processes and civil society involvement in public policy.

I.ii Objectives

The principal objective of this Code of Good Practice for Civil Participation is to contribute to the creation of an enabling environment for NGOs in Council of Europe member States and Belarus by defining at European level a set of general principles, guidelines, tools and mechanisms for civil participation in the political decision-making process. The intent is that the Code of Good Practice for Civil Participation will be implemented at local, regional and national level. The Code of Good Practice for Civil Participation is based on actual experiences from NGOs across Europe sharing their good practices and valid methods for engaging with public authorities.

An additional objective for the Code of Good Practice for Civil Participation is to be a relevant and effective tool for NGOs from local to international level in their dialogue with parliament, government and public authorities. It aims to be an interactive instrument and to be action-oriented so that it is useful for NGOs as well as public authorities across Europe. As a way of supporting the application of this Code of Good Practice for Civil Participation, there will also be a bank of case studies and an additional set of practical tools.

I.iii Targets

The Code of Good Practice for Civil Participation is aimed at national NGOs including regional and local organisations in Council of Europe member States and Belarus, as well as organisations at European and international level.

A second target is public authorities, which includes parliament, government and public administration at local, regional and national level. The target is wide, but it is intended that there will be segments of the Code of Good Practice for Civil Participation that can be used at all levels of public administration.

II. General Framework for Civil Participation

II.i Parameters of Civil Society

NGOs and organised civil society are essential contributors to the development and realisation of democracy and human rights. A Council of Europe definition of NGOs can be found in the Committee of Ministers Recommendation (2007) 14, which states that ‘NGOs are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members.’ In relation to this Code of Good Practice for Civil Participation the term is taken to refer to organised civil society including voluntary groups, non-profit organisations, associations, foundations, charities, as well as geographic or interest-based community and advocacy groups. The core activities of NGOs are focused on values of social justice, human rights, democracy and the rule of law. In these areas the purpose of NGOs is to promote causes and improve the lives of people.

NGOs form a crucial component of participation in an open, democratic society through engaging large numbers of individuals. The fact that many of these individuals also are *voters* underlines the complementary relationship with representative democracy.

NGOs can bring benefits of knowledge and independent expertise to the process of decision making. This has led governments at all levels, from local and regional to national, as well as international institutions, to draw on the relevant experience and competence of NGOs to assist in policy development and implementation. NGOs enjoy a unique trust from their members and society to voice concerns, to represent their interests and to gain involvement in causes, thereby providing crucial input into policy development.

This text highlights the contribution of *organised civil society* in the democratic process and is not focused on the related question of civic participation, i.e. *individuals*. In this case it is understood that the act of developing associations and community organisations constitutes an act of independent social organisation and is not purely centred on individual action. It is understood that organised groups exist to further the needs of their members and for the benefit of wider society; therefore they act as a key channel of participation and multiplier for the engagement of citizens.

II.ii Principles for Civil Participation

To foster a constructive relationship, NGOs and the public authorities at different levels, should act on the following common principles:

Participation

NGOs collect and channel views of their members, user groups and concerned citizens. This input provides crucial value to the political decision-making process, enhancing the quality, understanding and longer

term applicability of the policy initiative. A pre-condition for this principle is that the processes for participation are open and accessible, based on agreed parameters for participation.

Trust

An open and democratic society is based on honest interaction between actors and sectors. Although NGOs and public authorities have different roles to play, the shared goal of improving the lives of people can only be satisfactorily reached if based on trust, implying transparency, respect and mutual reliability.

Accountability and transparency

Acting in the public interest requires openness, responsibility, clarity and accountability from both the NGOs and public authorities, with transparency at all stages.

Independence

NGOs must be recognised as free and independent bodies in respect to their aims, decisions and activities. They have the right to act independently and advocate positions different from the authorities with whom they may otherwise cooperate.

II.iii Conditions for Civil Participation

The conditions to enable associational life are well documented. In accordance with the European Convention on Human Rights and Fundamental Freedoms (ECHR), these require freedom of expression (Article 10 ECHR) and freedom of assembly and association (Article 11 ECHR).

To ensure that the essential contributions of NGOs are enshrined in the political decision-making process without discrimination, an enabling en-

vironment is required. Conditions of an enabling environment include the rule of law, adherence to fundamental democratic principles, political will, favourable legislation, clear procedures, long-term support and resources for a sustainable civil society and shared spaces for dialogue and cooperation. These conditions allow for a constructive relationship between NGOs and public authorities built on reciprocal trust and mutual understanding for *participatory democracy*.

III. How to Engage

To meet the principal policy objective of the Code of Good Practice for Civil Participation as well as to ensure its relevance and practical applicability for NGOs in their involvement in the political decision-making process, this section outlines how civil society may participate.

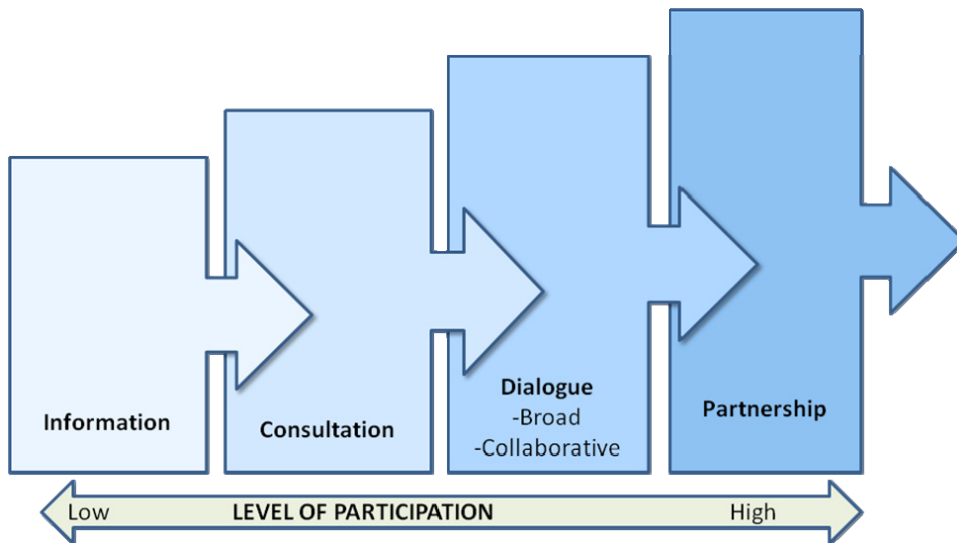
There are two interconnected dimensions to this process. Firstly levels of participation are described in section III.i, sorted in the order of increasing intensity, from simple provision of information to consultation, dialogue and finally partnership between NGOs and public authorities. Secondly the steps in the political decision-making process are outlined in section III.ii, namely the six steps taken by public authorities from agenda setting through implementation to monitoring and reformulation.

A separate section (III.iii) offers tools that may apply at any stage and that provide cross-cutting support to the process of participation.

These elements are then combined to form a matrix of civil participation (IV) that provides a visual presentation of the inter-related nature of the process.

III.i The different levels of participation

The involvement of NGOs in the different steps of the political decision-making process varies based on the intensity of participation. There are four gradual levels of participation, from least to most participative. These are: information; consultation; dialogue; and partnership. They may be applied at any step in the decision-making process but they are often particularly relevant at certain points in the process.



1. Information

Access to information is the basis for all subsequent steps in the involvement of NGOs in the political decision-making process. This is a relatively low level of participation which usually consists of a one-way provision of information from the public authorities and no interaction or involvement with NGOs is required or expected.

Information is relevant for all steps in the decision-making process.

2. Consultation

This is a form of initiative where the public authorities ask NGOs for their opinion on a specific policy topic or development. Consultation usually includes the authorities informing NGOs of current policy developments and asking for comments, views and feed-back. The initiative and themes originate with the public authorities, not with the NGOs.

Consultation is relevant for all steps of the decision-making process, especially for drafting, monitoring and reformulation.

3. Dialogue

The initiative for dialogue can be taken by either party and can be either **broad** or **collaborative**.

A broad dialogue is a two-way communication built on mutual interests and potentially shared objectives to ensure a regular exchange of views. It ranges from open public hearings to specialised meetings between NGOs and public authorities. The discussion remains wide ranging and is not explicitly linked to a current policy development process.

A collaborative dialogue is built on mutual interests for a specific policy development. The collaborative dialogue usually leads to a joint recommendation, strategy or legislation. Collaborative dialogue is more empowered than the broad dialogue as it consists of joint, often frequent and regular, meetings to develop core policy strategies and often leads to agreed outcomes.

Dialogue is highly valued at all steps in the political decision-making cycle, but is crucial for agenda setting, drafting and reformulation.

4. Partnership

A partnership implies shared responsibilities in each step of the political decision-making process from agenda setting, drafting, decision and implementation of policy initiatives. It is the highest form of participation.

At this level NGOs and the public authorities come together for a close cooperation while ensuring that the NGOs continue to be independent and have the right to campaign and act irrespective of a partnership situation. Partnership can include activities such as delegation of a specific task to an NGO, for example delivery of services, as well as participatory forums and the establishment of co-decision-making bodies, including for resource allocation.

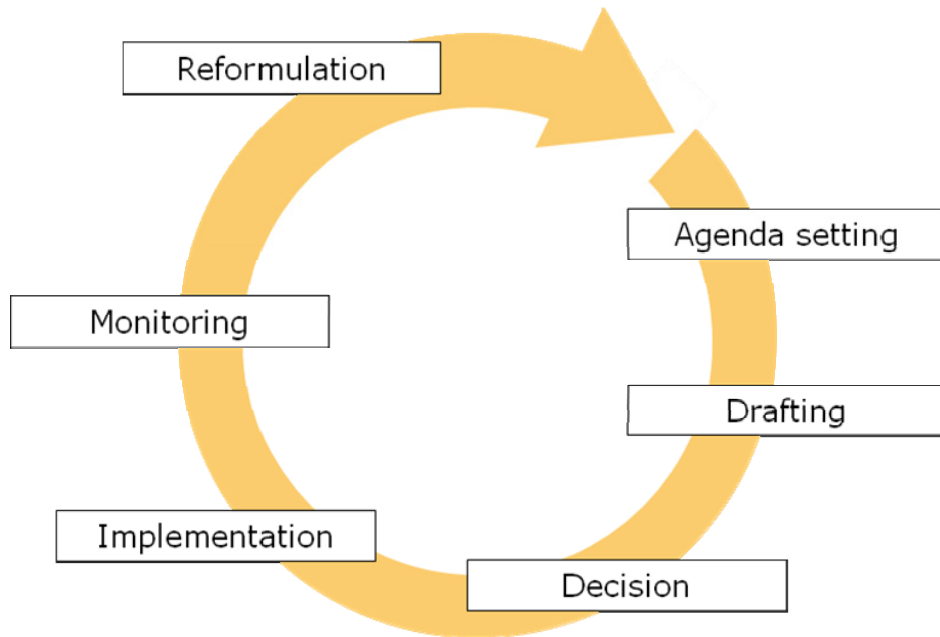
Partnership may take place at all steps of the political decision-making process and is particularly relevant at the agenda setting or implementation steps.

III.ii Steps in the political decision-making process

The cycle below defines the six different steps of the political decision-making process agenda setting, drafting of policy, decision-making, implementation of policy, monitoring and reformulation of policy. Each step offers opportunities for NGOs and public authorities to interact.

1. Agenda setting

The political agenda is agreed by the parliament and government but can be shaped by NGOs, or groups of NGOs, through campaigns and lobbying for issues, needs and concerns. New policy initiatives are often the result of influence of the campaigns of NGOs. During this step NGOs aim to influence decision-makers on behalf of a collective interest and act in a way that is complementary to political debate.



Contributions of NGOs:

Advocating: raise issues, concerns and needs for a specific user group, point of view or a general public interest that is not yet covered by legislation or other policy documents, instruments or measures.

Information and awareness building: share NGO findings with the public authorities, involve and represent members, users and key citizen groups and act as channels to reach citizens; to listen, react and inform

Expertise and advice: experts with knowledge on a specific topic play a key role in setting the political agenda. Their analysis and research identify current and future needs in society and provide crucial perspectives

Innovation: development of new solutions and approaches; demonstrating how these may be brought onto the political agenda

Service provision: key actor in forming policy and creating alternative or non-existing services for a specific user group

Responsibilities of public authorities:

Information sharing: Provision of up-to-date accurate and timely information in an accessible format for all interested parties

Procedures: Develop and adhere to a transparent decision-making process. Provide clear, open and accessible procedures for participation

Resource provision: Enable the active participation of civil society through for example, budgetary provision, in-kind support or administrative services

Responsiveness: Ensure active involvement of relevant public authority representatives; listen, react and give feedback

Useful tools and mechanisms:

Information:

Easy and open access to relevant, accurate and timely **information** on policy process, documents and political decision-makers, e.g. online databases

Research to understand an issue of concern and develop suggested solutions

Campaigning and **lobbying** by NGOs based on awareness-raising such as policy papers, posters and leaflets, websites, media releases and public demonstrations

Website with comprehensive access to key documents and announcement of public events

Consultation:

Petitioning, can be through online tools, such as e-petition or web-forum

Consultation, online or other techniques, to collect interests and suggestions from stakeholders

Dialogue:

Hearings and public forums with interested stakeholders to identify and interpret the sensitivities and interests of the different groups

Citizens' forums and future councils to discuss with citizens and NGOs

Key government contact enabling civil society to access information on current policy initiatives

Partnership:

Work group or committee formed as a permanent or ad hoc expert group to advise on policy preferences

2. Drafting

Public authorities usually have well-established processes for policy drafting. Here NGOs are often involved in areas such as identifying problems, proposing solutions and providing evidence for their preferred proposal with, for example, interviews or research. Facilitating opportunities for consultation should be a key element in this step as well as various forms of dialogue to collect input from key stakeholders.

Contribution of NGOs:

Advocating: guaranteeing that consideration is given to the needs and interests of stakeholders affected by the draft policy.

Information and awareness building: NGOs inform members, users and key citizens' groups about the drafting process

Expertise and advice: provide analyses and research on issues under consideration or raise additional priorities to be included in the policy draft

Innovation: provide solutions through the introduction of new approaches, practical solutions and concrete models which bring benefits to specific user groups

Service provision: input to policy drafting to ensure consideration is given to their specific users' needs and that necessary conditions are met

Watchdog function: Follow the drafting process to make sure stakeholder concerns are considered and that the process is inclusive and transparent

Responsibilities of public authorities:

Information sharing: Provision of timely and comprehensive information on current consultation processes

Procedures: Develop and adhere to minimum consultation standards, such as clear objectives, rules for participation, timelines, contacts etc. Organise open consultation meetings, including invitation to all potential stakeholders

Resource provision: Provide adequate timelines and means for consultation to ensure participation of different levels of civil society

Responsiveness: Ensure active involvement of relevant public authority representatives; listen, react and give feedback to consultation responses

Useful tools and mechanisms:

Information:

Open and free access to policy documents, including single information point for policy drafting, with information available in different formats to reach the public

Website with comprehensive access to key documents and announcement of public events

Campaigns and lobbying to shape the draft policy through position documents, letters, manifestos

Web casts from hearings, meetings and debates allowing people to watch and listen in real time

Research to provide input to the policy drafting process

Consultation and dialogue:

Hearings and questions & answer panels with stakeholders to identify and interpret the sensitivities and concerns and collect proposals, face-to-face or online

Expert seminars and meetings involving experts in the development of specialised research or studies that can be used in the drafting

Multi-stakeholder committees and advisory bodies consisting of or including representatives from the NGO sector; could be permanent or ad-hoc

Partnership:

Co-drafting: active involvement in drafting parts of the legislative process

3. Decision

The forms of political decision-taking vary based on national context and legislation. Common characteristics are the establishment of a government policy directive by a ministry; or legislation, such as passing a law by parliamentary vote; or public referendum, which then requires enabling legislation. Draft laws and motions should be open to input and participation of NGOs. The public authorities should evaluate different views and opinions before the decision is taken. At this step consultation is central to informed decision. However the final power of choice lies with the public authorities, unless the decision is taken by a public vote, referendum or a co-decision mechanism.

Contribution of NGOs:

Advocating: influencing the decision makers before a vote

Information and awareness building: informing membership, users and key citizens' groups about the political decisions and their potential effect

Expertise and advice: provision of detailed analysis to inform and influence decision makers

Watchdog function: following the decision-making process, making sure it is democratic, transparent and optimally effective

Responsibilities of public authorities:

Information sharing: Provide information on policies currently in the decision-making process

Procedures: Offer and follow procedures for co-decision mechanisms where applicable

Resource provision: Enable and support the active participation of civil society by associating NGOs in the decision step

Responsiveness: Listen, take into consideration and respond to civil society input

Useful tools and mechanisms:

Information:

Campaigning and lobbying to influence the decision makers, for example using leaflets, websites, media releases and public demonstrations

Consultation and dialogue:

Open plenary or committee sessions to ensure open access to debates during the decision-making

Partnership:

Joint decision-making through forums, consensus conferences and other participatory meetings

Co-decision making such as participative budgeting

4. Implementation

This is the step at which many NGOs are most active, for example in service delivery and project execution. Much of the work done by NGOs in the previous steps includes attempts to influence the implementation of policy. This phase is especially important to ensure that the intended outcome will be fulfilled. Access to clear and transparent information on

expectations and opportunities is important at this step, as well as active partnerships.

Contribution of NGOs:

Information and awareness building: primarily focused on public awareness raising, explanation of benefits or disadvantages and impact of policy

Service provision: one key actor in implementing policy initiatives, often carrying the main responsibility for delivery

Watchdog function: to assess and ensure that the policy is implemented as intended without harmful side-effects

Responsibilities of public authorities:

Information sharing: Provide information on implementation strategies, public tendering procedures and project guidelines

Procedures: Follow established rules and regulations for policy implementation

Resource provision: Enable the active participation of civil society in the implementation step through for example, budgetary provision, in-kind support or administrative services

Responsiveness: Be available and react to specific needs arising from circumstances around policy implementation

Useful tools and mechanisms:

Information:

Open and free access to public sector documents relating to projects and implementation decisions

Website with comprehensive access to key documents and announcement of public events

E-mail alerts announcing upcoming project and funding opportunities

FAQs online or other channels to offer information presented as questions and answers, targeted towards providing practical help and guidance

Publicly advertised tender procedure to provide an open transparent process for service provision

Consultation:

Events, conferences, forums and seminars to inform and discuss the implementation of policy with NGOs and the public

Dialogue:

Capacity building seminars to increase knowledge and capacity relevant to the implementation

Training seminars for NGOs and public authorities in specific topics relevant to implementation, such as procurement, project and funding applications

Partnership:

Strategic partnership where NGOs and public authorities form a partnership to implement policy; this may range from a small pilot scheme to a full implementation responsibility

5. Monitoring

At this point the role of NGOs is to monitor and assess the outcomes of the implemented policy. It is important to have in place an effective

and transparent monitoring system that ensures the policy/programme achieves the intended purpose.

Contribution of NGOs:

Advocating: monitor and voice whether the policy initiative reached the intended beneficiaries and had the intended outcome for society

Expertise and advice: gather evidence or research on the policy's impact; includes think-tanks and research institutes

Service provision: responsibility to monitor the effects of the programme in terms of quality, sustainability, effectiveness and real case examples

Watchdog function: a priority role in monitoring effects of the policy, to ensure that the intended objectives are achieved

Responsibilities of public authorities:

Information sharing: Provide information on current policy status

Responsiveness: Listen, and react to specific points raised by NGOs and civil society

Useful tools and mechanisms:

Information:

Open and free access to information on policy progress

Evidence gathering to collect cases and statistics on project delivery

Evaluation of policy and its impact through conferences and reporting

Independent **research studies** to draw out key lessons

Consultation:

Feedback mechanisms to follow progress such as polls, web surveys or questionnaires

Dialogue:

Work group or committee consisting of NGOs (both users and providers) in charge of the monitoring and evaluation of the policy initiative

Partnership:

Work group or committee consisting of the NGO and public authorities coming together in a strategic partnership to monitor and evaluate the policy initiative

6. Reformulation

The knowledge gained from assessing the policy implementation, coupled with evolving needs in society, often require a reformulation of policy. This must be based on access to information and opportunities for dialogue to identify needs and initiatives. This reformulation allows for the initiation of a new cycle of decision-making.

Contributions of NGOs:

Advocating: lobby for renewal of policy by expressing limitations in or side-effects of the current policy, to meet the needs of users or citizens

Expertise and advice: conduct research and analysis to identify gaps in the current policy initiative and provide rationale for reformulation

Innovation: develop new approaches to tackle the relevant policy issue; this can be a key element in policy renewal

Service provision: identify obstacles and gather evidence to illustrate evolving needs that require a reformulation of policy

Responsibilities of public authorities:

Information sharing: provision of information on possible review of a policy and their perception of changes needed in policy

Procedures: provide clear, open and accessible processes for participation

Resource provision: enable and support the active participation of civil society

Responsiveness: listen and act on input from NGOs

Useful tools and mechanisms:

Information:

Open and free access to information providing evaluations, study results and other evidence about the existing policy

Consultation:

Conference or meeting to set out next steps planned by public authority

Online consultation to gather civil society views on how to follow-up policy/project

Dialogue:

Seminars and deliberative forums to involve interested stakeholders in developing new directions in policy field e.g. World café, open space, other brainstorming methods

Partnership:

Work group or committee where NGOs form an expert group jointly with other stakeholders and public authorities with the purpose of recommending a revised policy

III.iii Cross-cutting tools and mechanisms for civil participation

There are certain tools or mechanisms gathered from across Europe during the consultation for the Code of Good Practice for Civil Participation that provide cross-cutting support to participation throughout the whole decision-making process:

1. Capacity-building for participation

It is essential to develop the capacity and skills of local, regional and national NGOs so that they may be actively involved in policy formulation, project development and service provision. Capacity-building can also include training seminars to improve the understanding of the reciprocal roles of NGOs and public authorities in this engagement, as well as exchange programmes to facilitate the understanding of each other's realities.

2. Structures for cooperation between NGOs and public authorities

In order to facilitate the relationship between public authorities and NGOs, a number of countries have developed coordinating bodies. These include: government bodies such as a contact person for civil society in each ministry or a central coordination body as a single interlocutor; joint structures such as multi-stakeholder committees, work groups, expert councils and other advisory bodies (permanent or ad-hoc); or NGO alliances/coalitions which pool resources and develop joint positions.

3. Framework documents on cooperation between NGOs and public authorities

In many European countries framework agreements have been developed to outline undertakings, roles and responsibilities and procedures for cooperation. These documents lay out a clear basis for the relationship and thereby facilitate ongoing dialogue and mutual understanding between NGOs and public authorities. They include bilateral agreements with parliament or government, strategy documents for cooperation and official programmes for cooperation, adopted by public authorities.

IV. Matrix of Civil Participation

In order to illustrate and clarify the relationship, the matrix below visualizes the steps of the political decision-making process and their connection with levels of participation. It is based on good practices and examples from civil society across Europe and is intended to offer inspiration for action and strengthen interaction between NGOs and public authorities.

At each stage in the decision-making process (from left to right) there are different levels of NGO participation (from bottom to top). It is envisaged that the steps in the political decision-making process can be applied to any context in Europe, local to national. As has been explained, the levels of participation at each point in the decision-making process may vary from low to high and it is intended that the suggested tools are used as ways to implement each type of participation.

This matrix may be used in a wide variety of ways, such as mapping the levels of engagement of civil society in any given policy process; assessing NGO participation at any particular point of a process; or as a practical resource for NGO planning of policy activities. This is not intended as an exhaustive list and it may be adapted to many more uses.

The matrix illustrates the inter-related elements of participation in the decision-making process. This example shows how the useful tools mentioned above may achieve the intended level of participation at each step in the decision-making process.

Partnership	Work group or committee	Co-drafting	Joint decision-making Co-decision making	Strategic partnerships	Work groups or committee	Work groups or committee
Dialogue	Hearings and public forums Citizens' forums and future councils Key government contact	Hearings and Q&A panels Expert seminars Multi-stakeholder committees and advisory bodies	Open plenary or committee sessions	Capacity building seminars Training seminars	Work groups or committee	Seminars and deliberative forums
Consultation	Petitioning Consultation online or other techniques	Hearings and Q&A panels Expert seminars Multi-stakeholder committees and advisory bodies	Open plenary or committee sessions	Events, conferences, forums, seminars	Feedback mechanisms	Conferences or meetings Online consultation
Information	Easy and open information access Research Campaigning and lobbying Website for key documents	Open and free access to policy documents Website for key documents Campaigns and lobbying Web casts Research input	Campaigning and lobbying	Open access to information Website for information access E-mail alerts FAQ Public tendering procedures	Open access to information Evidence gathering Evaluations Research studies	Open access to information
Levels of participation Steps in the political decision making process	Agenda setting	Drafting	Decision	Implementation	Monitoring	Reformulation

Publisher:
Civic Initiatives, Belgrade

For Publisher:
Miljenko Dereta

Proofreading:
Mara Biljetina

Design:
Ivan Valenčak

DTP and printing:
Yu TOP Agency, Novi Sad

UNDP is the UN's global development network, advocating for change and connecting countries to knowledge, experience and resources to help people build a better life.

Published in Belgrade, June 2009

UNDP Country Office

P.O. Box no. 3
Internacionalnih brigada 69
11000 Belgrade, Serbia
Phone: +381 11 20 40 400
Fax: +381 11 3 44 43 00
www.undp.org.rs

Civic Initiatives

Simina 9a
11 000 Belgrade, Serbia
Phone/fax: +381 11 2 63 26 31
www.gradjanske.org