



PREPARING FOR ACCESSION NEGOTIATIONS IN THE REPUBLIC OF MACEDONIA: WHAT CAN WE LEARN FROM THE WeBER MONITORING?

DECEMBER 2018



This project is financed by
the European Union



Kingdom of the Netherlands

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INTRODUCTION AND BACKGROUND

Following the 2018 June European Council conclusions, the Republic of Macedonia is awaiting the start of the accession negotiations for the end of 2019. In these conditions, the government is currently preparing the institutional framework for EU accession negotiations. In August 2018, the Government adopted the institutional platform for this purpose, which formed the basis for the start of the explanatory screening process. The country is faced with the challenge of coordinating its policies for the purposes of EU accession in an inclusive, yet effective and efficient manner.

The setting up of an effective framework for managing membership negotiations is of primary importance for a candidate country, as it encompasses the specific institutions for policy coordination, but also the relationship between them. The performance of these elements in practice conditions the speed and success of the accession process. The complexity of the negotiations requires exceptional coordination within the state to ensure that all activities contribute to the achievement of a defined objective of becoming an EU member. In order to be successful in this complex process, it is necessary to establish a clear institutional structure as well as horizontal and vertical coordination.¹

The managing of negotiations for membership and the successful preparation of negotiating positions requires the streamlining of various societal and institutional interests. This process often necessitates time consuming reconciliation of conflicting attitudes and opinions and their translation into policy formulation. On the other hand, negotiations and accession timetables create strong pressure to meet the criteria (conditions) for accession and are, therefore, the strongest conditionality instrument of the EU. Hence, the domestic institutional structure and mechanism instituted for managing the membership negotiations is of crucial importance for the effective, but yet efficient articulation of the candidates' interests at the level of the EU.

This policy brief reflects on the significance of the findings of the WeBER project² for the preparation of the institutional structures and procedures for managing the EU accession negotiations in the Republic of Macedonia. The WeBER project monitored a selected number of principles through its own indicators in all areas of the Principles of Public Administration and its findings are presented in a **National Report** and a **Regional Comparative Report**. These principles, offer a common denominator of public administration reform of all EU-aspiring countries, setting its course towards EU membership.³

¹ Milena Lazarevic, Andrej Engelman, Malinka Ristevska Jordanova, Jovana Marovic, 2014. Coordination Requirements and Institutional Set-up in the EU Accession Process and Negotiations. More information is available at: http://cep.org.rs/images/background_paper_coordination_requirements_in_eu_accession.pdf

² The WeBER project provided for a structured monitoring by civil society organisations (CSOs) of the Principles of Public Administration prepared and monitored by OECD/SIGMA as a framework for guiding and monitoring administrative reforms in the Western Balkan countries and Turkey. For background on the WeBER project see <http://www.par-monitor.org/pages/about-weber>. SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the OECD and the European Union. Its key objective is to strengthen the foundations for improved public governance, and hence support socio-economic development through building the capacities of the public sector, enhancing horizontal governance and improving the design and implementation of public administration reforms, including proper prioritisation, sequencing and budgeting. More information is available at: <http://www.sigmaweb.org/>.

³ Based on the Principles, SIGMA conducts regular assessments of the progress made by the WB countries' governments in fulfilling them. Cross-the-board assessments (for all the six key areas) are conducted once every two years, whereas in-between smaller scale assessments are conducted for specific chapters that are evaluated as critical by SIGMA. For more information on SIGMA assessments, visit www.sigmaweb.org.

This policy brief reflects specifically on the findings with respect to the strategic framework for public administration reform (PAR), policy development and coordination as well as accountability as key areas for identifying the potential challenges in the management of the EU accession negotiations. At the same time, the brief studies the findings of the project for inclusive policy and decision making in the EU accession negotiations in light of the declared will and intention of the government to include CSOs in the negotiations structures. As a starting point, regardless of the model of stakeholder involvement during the negotiation process, the brief considers the following to be the minimum standards of transparency and inclusive decision-making in the accession negotiations:

- Developed legislative and institutional framework for cooperation between state authorities and civil society, as well as for the active participation of civil society in public policy making;
- Intensive communication and consultations between all stakeholders;
- Free access to information: relevant documents within the negotiation process should be public, in order to allow interested parties to submit suggestions, comments and recommendations and to monitor the process;
- Interested parties should be regularly informed about the activities and dynamics of the process.⁴



⁴ Coordination Requirements and Institutional Set-up in the EU Accession Process and Negotiations. More information is available at: http://cep.org.rs/images/background_paper_coordination_requirements_in_eu_accession.pdf

2. KEY FINDINGS

2.1 Strategic framework for Public Administration Reform

The strategic framework for PAR in this brief is used as an example of the practice of the state institutions to coordinate an inclusive consultative process in view of EU accession. Focusing on the participation of civil society in the development of key strategic documents as well as their monitoring, the findings on this indicator are significant for the prospective overall engagement of CSOs in the EU accession structures.

SIGMA principle 1: The government has developed and enacted an effective public administration reform agenda that addresses key challenges;

WeBER indicator: Use of participatory approaches in the development of key strategic PAR documents

The findings of the WEBER project indicate that consultation with CSOs was relatively satisfactory for the Public Administration Reform (PAR) Strategy of 2018-2022 with a consultation period of more than 15 days and invitations to civil society that included the draft document of the strategy. Nevertheless, one should keep in mind that the procedure of consultations regarding strategic documents is not regulated in Macedonia. The by-laws prescribe only the length of consultations for draft laws,⁵ whereas the procedure and length for consultations regarding strategic documents is only elaborated in guidelines developed by the Ministry of information society and administration (MISA).⁶ During the early phase of development of the document, there was substantial CSO engagement with the PAR strategy. CSOs were provided with adequate information in preparation for the consultation process. Draft documents and supporting documentation were provided, and information on the deadlines for comment and channels of submission was clear. However, there are no documents available to provide evidence on how the consultations were conducted, what was discussed and how decisions were made. Therefore, it is unclear which contributions from the civil society were taken into consideration and the rationale for accepting or denying certain proposals was not provided.

SIGMA Principle 4: Public administration reform has robust and functioning management co-ordination structures at both the political and administrative levels to steer the reform design and implementation process.

WeBER indicator: Civil society involvement in the PAR monitoring and coordination structures

The findings of the WEBER project indicate that although some level of consultation is foreseen with regards to administrative structures for PAR coordination and monitoring, CSOs generally are rarely involved. The PAR Strategy of 2018-2022 foresees inviting stakeholders on public debates related to PAR implementation twice a year and that reports have to be made public. In terms of general monitoring and reporting on PAR, the MISA produces a report every six months on PAR implementation to the Council for PAR and once a year to the government. Consultation with stakeholders is foreseen after the publishing of the reports on the websites and prior to the discussions within the Council on PAR. In the PAR Action Plan 2018-2022, the civil sector is mentioned once in terms of consultation for prioritization of services that need to be delivered.⁷

The PAR strategy 2018 - 2022 strategy does not foresee inviting CSOs to be part of the coordinating bodies. On the political level, the strategy stipulates a Council for PAR be established to monitor and coordinate the overall process of PAR, but such Council is not comprised of any CSO members.⁸ No monitoring or coordination system was operational in the short period while the new strategy was brought in February 2018. Similarly, under the previous strategy 2010-2015, CSOs were not involved in monitoring or evaluation. In terms of administrative structures, there also is no format of involvement. In the

5 Methodology for Regulatory Impact Assessment, Government of the Republic of Macedonia. Available at: http://www.mio.gov.mk/sites/default/files/pbl_files/documents/pvr/Metodologija%20za%20PVR%20107-13.pdf

6 Stakeholders Handbook - Consultations in the Process creating policies in the Government Republic of Macedonia., February 2014. Available at: http://mioa.gov.mk/sites/default/files/pbl_files/documents/Priracnik%20za%20zasegnati%20strani_3.pdf

7 Government of the Republic of Macedonia, Public Administration Reform Strategy 2018-2022. Available at: http://mioa.gov.mk/sites/default/files/pbl_files/documents/strategies/srja_2018-2022_20022018_mk.pdf p. 36

8 Official gazette of the Republic of Macedonia. Available at: <http://www.slvesnik.com.mk/Issues/300aa13482774c7095e852d883592864.pdf>.

relevant documents, only 'consultations are mentioned' but their implementation and format is not elaborated. Although 9 sectorial groups have been established with the strategy, including one for PAR reform⁹, with a statement that consultations with CSOs will be made, it is not mentioned how these consultations will be scheduled and how the CSOs will be invited.

2.2 Policy development and coordination

The assessments on policy development and coordination are analysed in this brief due to their primary importance for the candidate country to speak with one voice at the accession negotiations. This one voice, yet needs to be based on the sound analysis of the "what the economic, financial, political, legal and social impacts of adopting EU policy and regulation will be and what the different ways of implementing specific policy decisions will imply for the country. Without this knowledge, imprecise as it may be, the government will not be able to negotiate efficiently nor to provide the necessary information to groups in society that will allow them to prepare for accession".¹⁰ For this purpose, in our research we analysed the use of evidence by government institutions in policy documents as well as the perception of civil society of the openness of the policy making system.

SIGMA Principle 10: The policy-making and legal-drafting process is evidence-based, and impact assessment is consistently used across ministries;

WeBER indicator: Use of evidence created by think tanks, independent institutes and other CSOs in policy development

The findings of the WEBER project indicate that the use of evidence created by think tanks, independent institutes and other CSOs in policy development is low based on WeBER expert analysis of relevant government documents and an on-line perception survey of a representative sample of CSOs working at the policy level. Out of the 14 sampled documents implemented within three policy areas - environment, social welfare and anti-discrimination policy - none of them included evidence-based findings produced by CSOs. No ex-post analysis was received through Freedom of Information (FOI) request. FOI's were also sent to assess the availability of ex ante regulatory impact assessments (RIAs). An expert review of publicly available RIAs has shown that none of them include any referencing, whilst the information in most is very scarce.

According to our CSOs survey, 42% of respondent CSOs consider that representatives of relevant ministries participate in policy dialogue often or always, pertaining to specific policy research products. However, CSOs have roughly similar opinions for and against with regards to the level of engagement governmental organization has with them. 40% of respondent CSOs either "agree" or "strongly agree" that government institutions invited their organization to prepare or submit policy papers, studies or impact assessment while the percent of those who disagree with this statement is 36% indicating a sharp divide. On the warning end, CSOs opinions on government actually considering their policy proposals or providing feedback to their inputs are low. 10% of respondent CSOs are provided with feedback explaining the acceptance or rejection of their proposals whereas 54% consider this practice happens rarely or never. 18% of respondent CSOs think that the relevant ministries generally consider their policy proposals whereas 42% consider this practice rarely or never.

SIGMA Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination of different perspectives within the government;

WeBER indicator: Civil society perception of inclusiveness and openness of policymaking

The findings of the WEBER project indicate that 36% of CSO respondents support (agree or strongly agree) that formal consultation procedures create preconditions for effective inclusion of the public in the policy-making process. This percentage drops sharply to 19% when asked whether formal consultation procedures are applied consistently, and to even less (10%) when asked whether they are consulted at early phases of the policy process.

⁹ Public Administration Reform Strategy 2018-2022. Available at: http://mioa.gov.mk/files/pdf/dokumenti/SRJA_2018-2022_20022018_mk.pdf p. 17

¹⁰ Alan Mayhew, 2005. The Preparation of Countries in South East Europe for Integration into the European Union. Available at: <http://www.sigmaxweb.org/publications-documents/37211600.pdf>

2.3 Accountability

As mentioned in the introduction, proactive information and transparency of the negotiations process are a minimum standard for the effective inclusion of stakeholders, including CSOs in the accession negotiations. In the WeBER project, for this purpose, we monitored the proactive public informing by administration bodies in its focus, particularly by monitoring comprehensiveness, timeliness and clarity of information disseminated through official websites.

SIGMA Principle: The right to access public information is enacted in legislation and consistently applied in practice

WeBER indicator: Proactive informing of the public by public authorities¹¹

The findings of the WEBER project at the time of measurement¹² indicate that the monitored institutions publish relevant laws and regularly update any changes in this respect, while at the same time they do not provide sufficient information on their scope of work. Policy documents, policy papers or analyses; even those rare publications that are available, are very difficult to access, being often produced as part of donor-funded projects. At the time of measurement, most of the institutions did not have published annual reports on their work nor were budgets publicly available.

Since the new government took office on the 1st of June 2017, it has committed to advance the transparency and accountability of the public administration. On the 27th of November 2017 the government issued a statement presenting a list of documents that the ministries should publish according to the law. As a result, while there have not been significant changes in the information pertaining to the scope of work, the presentation of relevant documents and availability of policy paper and analyses; now most of the institutions have published annual reports; budgets and organigrams. The contacts relevant for cooperation with CSOs, yet, are still not visible and sections of the web pages on public consultation processes are an exception rather than a practice.



¹¹ This indicator has proactive public informing by administration bodies in its focus, particularly by monitoring comprehensiveness, timeliness and clarity of information disseminated through official websites. In total, 18 pieces of information are selected and assessed against two groups of criteria: 1) basic criteria, including completeness, and if information is updated, and 2) advanced criteria, on accessibility and citizen-friendliness. Search of information is conducted through the official websites of the sample of seven administration bodies consisting of three line ministries - a large, a medium, and a small ministry in terms of thematic scope, a ministry with general planning and coordination function, a government office with centre-of-government function, a subordinate body to a minister/ministry, and a government office in charge of delivering services.

¹² September-November 2017

WHAT DO OUR FINDINGS MEAN FOR THE ACCESSION NEGOTIATIONS?

The findings of the WeBER project paint a mixed picture as a basis in which the structures for the accession negotiations will need to gain ground having in mind the declarative commitment of the government for inclusion of various stakeholders, including CSOs in this process. First, in terms of the PAR strategic framework, used as an example, it is clear that although CSOs were consulted, the process by which their inputs were considered and its outcome is not clear, as there is no feedback mechanism established for this purpose. This practice, if transposed to the accession negotiations can frustrate the relationship between CSOs and government stakeholders. This example stresses the need for clear rules as to the role of CSOs and their input in the policy making overall.

Second, in terms of inclusion of CSOs in the monitoring structures, the Strategy does not provide a clear example from which lessons can be drawn as CSOs are not included in the respective bodies.

Third, in terms of policy development and coordination, the WEBER results on availability of information on government performance highlight the general problem of regular reporting across all monitored sectors, beyond press releases. The accession negotiations with their extended timeframe according to the new approach of the European Commission for the accession process create a demand for continuous monitoring of government performance, including for the purposes of transparency and creating substantive preconditions for participation and inclusion of different stakeholders in the process.

Fourth, the use of evidence by think tanks, and other CSOs is quite low, indicating the lack of a practice across the administration to use various sources of information and data available. Such an approach carries the risk of incomplete information in the EU accession negotiations, but also does not contribute to building of rapport between the various stakeholders. On a similar note, the findings on the last indicator highlight that CSOs consider that they are consulted at the end of the policy cycle and in short time frames, creating rather unfavourable conditions for the inclusion of various stakeholders in the EU accession negotiations.

Fifth, the monitoring of the proactive informing of the ministries, although improved during the monitoring period of the project, highlights divergent practices and ad hoc responses. The findings of this indicator highlight the need for a systemic approach with respect to the transparency in the accession negotiations, including through timely and organised web resource dedicated for this purpose.



RECOMMENDATIONS:

- The procedures for CSOs participation in the policy making process, including the accession negotiations, should ensure the timely and meaningful involvement with a strong emphasis on feedback mechanisms.
- The state institutions should keep detailed documentation consultations and adequately publish them on their website to inform the public on what has been debated, proposed and accepted.
- Open dialogues about contested topics and questions should be fostered with the CSOs in order to come to common conclusion and solutions accepted and owned by all of the stakeholders included in the process.
- The state institutions should attempt to adequately and systematically reference evidence-based findings in all of their adopted government policy documents, policy papers and ex ante impact assessments, ex post policy analyses and assessments of government institutions. This is especially important in terms of the ongoing screening process and prior to opening of the accession negotiations.
- The government ministries should maintain the practice of publishing the key documents on their web pages and keep these documents up to date.
- The institutions should ensure that announcements regarding public consultations are visible on their websites and properly disseminated.
- In order to be able to efficiently articulate different interests during the negotiation process, the Government should significantly strengthen its capacities for policy coordination.

This document was produced with the financial support of the European Union and the Kingdom of the Netherlands. Its contents are the sole responsibility of the European Policy Centre (CEP) and the Think for Europe Network (TEN) and do not necessarily reflect the views of the European Union or the Kingdom of the Netherlands.

