



# CIVIL SOCIETY IN THE CONTEXT OF THE EU ACCESSION: THE CASE OF MONTENEGRO\*

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## Introduction

■ The discourse at EU level shows the commitment of the European Union to EU membership perspectives of the Western Balkans, so all Western Balkans partners have Stabilization and Association Agreements with the EU, agreements that provide the overall framework for the relations of the EU with the Western Balkans. Since 2018, regular summits with the participation of EU and Western Balkans representatives were held, and proposals were sent by the European Commission, with the main aim of making the whole process of accession more credible and predictable. It has been constantly emphasized that reforms in these countries are key for the European path and accession negotiations can happen only if there is progress on reforms and on their implementation. Up till now, data shows that the countries differ widely in their development course, their willingness and capacity, so accession talks are underway with Montenegro and Serbia, the accession negotiations are agreed by the Council to be opened with North Macedonia and Albania, while the other two, Bosnia and Herzegovina and Kosovo, have the status of potential candidates (European Union External Action 2022).

In this endeavor, among the areas of strategic and joint interest for both parts are the justice and home affairs, the economy, the single market, transport, energy, digital policy, social policy, civil protection, research, innovation, education, as well as foreign affairs, security, and defense. In case of Montenegro, at this very moment, all chapters are open for negotiations, three of them being provisionally closed.

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One main concern, expressed lately by the European Commission, is “the work to meet the rule of law interim benchmarks which remains the next milestone necessary to advance in the accession negotiations” (European Commission 2022a). This is also stipulated by various specialists in the field of EU enlargement, who, in turn, indicate that the field of justice, judicial cooperation and the fight against organized crime, are, among other things, “the most important litmus tests for the proper operation of public administration” (Jesień, 2011). Corruption is perceived as one of the biggest wounds in society, which exists also in the sphere of public administration, being linked to the state and functioning of the judiciary system and to the failure to impose rule of law. Furthermore, “a highly politicized climate in Albania, North Macedonia, and Montenegro also paralyzed the involvement of CSOs in important policy processes and no improvement in the environment for civil society were noted” (Balkan Civil Society Development Network 2023).

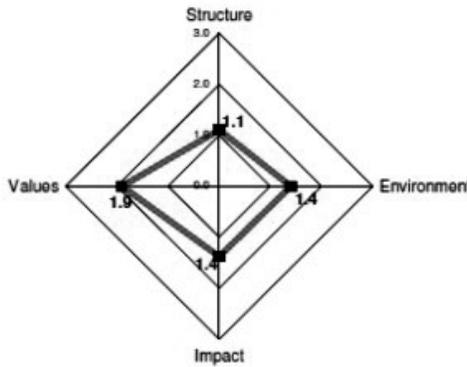
Considering all the above, and the fact that decisive for meeting the requirements of EU membership remain the achievements and progress in the rule of law, the economy, the functioning of democratic institutions, and public administration reform, proper attention should be given to civil society and the cooperation between these countries’ government and civil society organizations. As mentioned by the European Commission, “an empowered civil society is a crucial component of any democratic system and should be recognized and treated as such by state institutions” (European Commission 2022b). Cooperation remains an important condition under the political criteria, so our effort has focused on gaining more knowledge about the role, involvement, and power of civil society organizations in achieving reforms for European integration and their relationship with state institutions. Thus, this article attempts to fill the gap, combining data from official documents with data provided by people working in the civic sector. We have chosen to concentrate on one country, Montenegro, as a case study, even though Montenegro is a small state (having a population of 619,211 inhabitants, according to City Population), being a state at the intersection of major geopolitical clashes that attained its independence after a referendum conducted under EU supervision on 21 May 2006. Montenegro applied for EU membership on 15 December 2008, and in 2010 the European Commission issued a favorable opinion (European Commission 2010), identifying some key priorities that would need to be addressed for negotiations to begin. The accession negotiations started on 29 June 2012, and since then, the state is trying to achieve the criteria for becoming a member of the Union.

## State of play

A comprehensive assessment of the Montenegrin civil society was done through the project Civil Society Index Shortened Assessment Toll (CSI–SAT), part of an international project coordinated by CIVICUS: World Alliance for Citizen Participation, implemented from October 2005 to October 2006.

At that time, the results reflected a relatively underdeveloped Montenegrin civil society, with a weak structure, a limited impact on society, operating in a slightly disabling environment (Muk et al., 2006). Also, citizens and private entities were participating in a low measure in the activities of civil society, and the civil society organizations were connected poorly among them, their alliances being mostly unsuccessful. The organizations struggled with financial and technical issues, the most important source of revenue being foreign donations, and a lack of trust characterized the relationship between civil society organizations and the state.

Figure 1. Civil society index Diamond for Montenegro



Source: Muk S. et al., 2006

Regarding the legislative framework, since 2003, under the Law on State Administration, Article 80, the cooperation between the state authorities and NGOs has been mentioned as an obligation. Accordingly, ministries and other administrative authorities shall ensure the cooperation with non-governmental organizations, through consultations on developing strategies, laws, and decrees, enabling participation in working groups, organizing joint public discussions, round tables, seminars or other forms of joint activities, and informing about the content of their programs and reports (Parliament of the Republic of Montenegro 2003a). Based on this law and in compliance with the Strategy of Cooperation between the Government of Montenegro and NGOs, in April 2010, the Government of Montenegro adopted the Decision on Establishing the Council for Cooperation between the Government of Montenegro and NGOs and, on 22 December 2011, the Regulation on the manner and procedure of establishing cooperation between public administration bodies and non-governmental organizations. Meanwhile, the parliament adopted the Law on Non-Governmental Organizations (NGO Law) on 22 July 2011, which replaced the 1999 NGO Law. Moreover, at the beginning of 2012, the Government adopted the Regulation on the manner of conducting public discussion in the process of drafting laws, providing the manner of organizing public discussions.



In 2010, the European Commission delivered its opinion on Montenegro's readiness for EU membership and mentioned that the dialogue and relations with civil society were not fully satisfactory and "in some cases, the most critical NGOs have been exposed to political and administrative pressures" (European Commission 2010). Thus, strengthening cooperation between civil society and state authorities was mentioned as a key priority.

In 2014, the report edited by Tomasz Żornaczuk demonstrated that "a number of challenges with good governance and cooperation between government and civil society are present throughout the Western Balkans, regardless of the stages of advancement in integration with the EU" (Żornaczuk 2014). As mentioned in the report, "joint inter-sectoral activities occur mostly on an ad hoc basis and are usually not well institutionalised. Although adequate legislative and policy frameworks that encourage partnerships between governments and NGOs are in place in all the countries of the region, they largely fail to establish sustainable mechanisms of cooperation and consultation." (Żornaczuk 2014)

The last report of the European Commission on Montenegro, issued in 2022, mentioned that "the current legal and institutional framework needs to be further improved to strengthen the consultation and cooperation mechanisms between state institutions and civil society in the context of the EU accession process" (European Commission 2022b). The practices of public institutions restrict access of CSOs and the public to key policy decisions, while public information is classified and withheld from the public. This is also mentioned in the Regional Report, as "availability of information in Montenegro still remains a huge problem which hinders the work and reach of CSOs" (Balkan Civil Society Development Network 2023). Furthermore, the European Commission's report stated that, despite the existence of overall legal and institutional framework on freedom of expression, of association and assembly, lack of a law on volunteering is a weakness. Even though the Law on public administration mentions as an obligation the appointment of representatives of CSOs to working groups, "not all ministries conducted public consultations when draft laws and strategies were prepared" and "a significant number of laws were adopted without prior consultation of civil society" (European Commission, 2022b). Even though the Law on NGOs provides rules for public funding of CSOs and requires all ministries to award grants through a selection process involving external evaluators, not all ministries proceeded in that way. In addition, in accordance with the Law on local self-government, Article 116, the local authorities shall provide information on all issues that are important for the NGO sector and consultation of the sector with respect to development of local programs (Parliament of the Republic of Montenegro 2003b). The law also stipulates that CSOs have the legal right to access funds at local level, but, unfortunately, in practice, most of the local authorities either did not launch calls or did not ensure transparency of the whole process (European Commission 2022b).



## Methodology and results

Taking into consideration the current situation in Montenegro, this study aims to provide evidence on the role of the civil society in the EU integration and the involvement of the civil society in the policy-making process, combining data presented by EU official documents with views from inside the sector. Even though Montenegro is a small state, it is at the intersection of major geopolitical clashes, and we consider that a study on the relationship between civil society organizations and state institutions, the cooperation and consultation mechanisms that exist between them, will provide more insightful data for monitoring the implementation of the existing legislative framework.

The empirical research methodology adopts mainly a qualitative approach, being based on official documents, information materials from Montenegro and foreign media, statistical data, but also data collected through a structured interview addressed online to civil society organizations from Montenegro. The research was conducted by correspondence in March-May 2023, the questions being addressed online to different non-governmental organizations in Montenegro, with the aim of learning about the role and involvement of civic society, the relationship between NGOs and state institutions, and cooperation among civil society organizations. We tried to answer the following research questions: How do civil society organizations get involved in the policy-making process?; What worked and did not work in this endeavor and why?; What obstacles were present in the relationship between CSOs and state institutions?; To what extent are CSOs financially supported by the state?; How well do CSOs cooperate with other civic organizations in Montenegro and abroad?; What is needed to be done for the sustainability of the CSOs and the civic sector?.

The limits of this research are related to the small number of answers received, as out of more than eighty NGOs (identified through the contact information available in the country database and through snowball sampling) invited to participate in the research, only eight of them responded. The respondents are mainly active in the fields of EU citizenship and democracy, fight against corruption, youth activities, social inclusion, civic education, economic prosperity, and non-governmental sector development. The low response rate indicates poor civic engagement on the part of NGOs in general, even though their main role in society should be active involvement in areas related to development, research, decision-making and civic responsibility. Despite the small number of responses, the answers received were a valuable additional source of information provided by the directors/presidents of these organizations, persons that are deeply involved in the decision-making and executive area, who have a clear insight into the legal framework and the functioning of the non-governmental sector, and, at the same time, have practical experience in the field.



## Role, mission, and activities of the non-governmental sector

The role of the NGOs is stated on the website of the Ministry of Public Administration as “NGOs strengthen the democratic development of society by: making it easier for citizens to obtain information on how the state and taxpayers’ money are managed, helping the interested public to communicate with state administration, ensuring that governments do not abuse their powers, actively participating in public policy making; in monitoring of their implementation and advocating for their change, they inform citizens about the EU integration processes, monitor state administration reform and contribute to successful reform with their ideas and proposals, advocate for better conditions for their activities and expansion of civic space” (Government of Montenegro, 2023). Additionally, the government declares that the role of these organizations, their experience and expertise are extremely important, “therefore they play an active role in policy making through mandatory consultations in the preparation of laws and strategies, as well as active participation in working bodies formed by the Government of Montenegro, ministries and administrations” (Government of Montenegro 2023).

Taking these statements into account, we tried, first, to identify the ways in which non-governmental organizations were involved in the policy-making process at the local or national level, in recent years, and what were the main obstacles in the relationship between these organizations and state institutions.

Regarding the mission of the organizations that responded to our research study, they are mainly active in the following areas: fight against corruption and increase overall transparency and accountability of Montenegro state institutions; developing citizens’ awareness and their inclusion in the social, economic, ecological, and cultural development of society, the quality of life of citizens and the local community; the development of social entrepreneurship and the promotion of sustainable economic development; professional development in the educational field; the development of local democratic processes and the capacity of civil society for cooperation and dialogue within the EU accession process; and development of civil society and participation of citizens in policy shaping and decision-making through education in the field of democracy, human rights, youth, regional development and European integration. We consider it as a positive aspect that the answers provided come from organizations that carry out activities in different fields, from the social, to the professional, educational, or civic one. This fact helped us to have a better overview of the problems faced by non-governmental organizations, regardless of their sphere of action or field of activity.

Concerning their activities, the respondents affirmed that they were mostly involved in investigating concrete cases of corruption and organized crime, monitoring the implementation of legislation and public policy, advocacy for changes in policies and regulations in their field of action, such as social entrepreneurship and growth of social enterprises, tax incentives or simplified registration procedures, the adoption of laws on social entrepreneurship and social economy, strategic



plan of action for youth at local level, providing free legal aid to citizens etc. Public hearings, public dialogue, legal aid, educational programs and events, participation in working groups for negotiation chapters, participation in working groups for drafting legislation and strategic documents, participation in various local and national councils, and public support were mentioned among the ways of carrying out these activities. Not surprisingly, all responses related to the governmental support included specific complaints about the work of local authorities, certain ministries, and the government. Among them, governmental support for CSOs was mainly perceived by these organizations as political support rather than tangible support for real change and improvement. In addition, the process was mentioned as formally well-defined but not well implemented, because in practice the suggestions of the organizations “are not adequately heard as there seems to be always a predefined concept” (respondent 6) or “they [local and national councils] don’t listen to us” (respondent 7). Another respondent emphasized that “political will is one of the main obstacles” in the whole process (respondent 8). Hence, efforts are needed to improve transparency in policymaking and the inclusiveness of consultation processes.

To have an overall picture, it should not be ignored the fact that the Covid–19 pandemic has had a huge impact on the entire process of governmental support and collaboration, causing significant disruptions in the economy and the governmental system. Thus, promoting social initiatives and sustainable economic development has been more difficult than before, “as many businesses struggled to stay afloat and may not have had the resources or capacity to invest in new ventures of initiatives” (respondent 3). On a positive note, we consider that the pandemic pointed out the crucial role civil society plays, as the link between citizens and state institutions. In addition to Covid–19 pandemic, the political crises that have taken place in Montenegro since 2020 created a challenging environment. As mentioned by one respondent, “the fall of two governments and the resulting instability have created uncertainty for businesses and investors” (respondent 3). The same respondent emphasized that “in a context where governments are constantly changing, it is challenging to build long-term relationships and secure commitments from policymakers” (respondent 3). Thus, “political instability is seen as a major problem affecting the ability of civil society organizations to engage in policymaking and advocate for policies and regulation that support institutional change” (respondent 3).

These facts are also revealed in official EU documents. In the 2022 Communication on EU Enlargement Policy was specified that “in Montenegro, polarization, the absence of constructive engagement between political parties and the failure to build consensus on key matters of national interest continued and caused two fractious governments to fall on votes of no-confidence” (European Commission, 2022a). Moreover, “Montenegro continued to suffer from political instability in 2022, with a minority government led by the pro-Western United Reform Action collapsing in August, just four months after it was formed. Adding to the difficulties



of improving democratic practices in Montenegro, the DPS [Democratic Party of Socialists] continues to exercise significant influence in state institutions.” (Economist Intelligence Unit 2023)

Therefore, once again, it is proven that political volatility, government instability and tensions affect the proper functioning of institutions, decision-making processes, and reform implementation.

### Relationship between CSOs and state institutions

Regarding the involvement of civil society and the relationship between CSOs and state institutions, specific problems were emphasized by our respondents, such as: citizens acting predominantly when individual interest is at stake, low capacity for coordination and complex actions, misuse of tools for funding and inclusion of NGOs in the decision-making process, working groups and commissions were not representative and were composed in a clientelist manner, lack of confidence among CSOs, between CSOs and government, and within the triangle of CSOs-citizens-government (respondent 4); lack of interest of the government (respondent 3); selective approach of institutions (respondent 5); selfish agenda of politicians (respondent 2); lack of political will (respondent 8). A specific situation underlined by one respondent was that if CSOs do not take a critical stance towards the decisions of state institutions, the relationship between CSOs and state institutions works well, but if their work is subject to monitoring and criticism, CSOs that do this will not be treated the same as others, plus they will be targeted by pro-government media (respondent 6). Another respondent somehow completes this image by mentioning that “they [state institutions] don’t see us as partners; they see us as enemies” (respondent 7). The results confirm somehow the findings from other studies, which notes that “in Montenegro, a large number of legal changes were carried out in a procedure that disabled the participation of NGO representatives. Early consultations, initial public meetings, or alternative forms of public consultation happen rarely, while consultation reports often times do not provide quality feedback, are published late, or are not published at all.” (Balkan Civil Society Development Network, 2023) Moreover, “since the inception of the policy, public consultation is not conducted properly”, while “implementation is characterized by informal practices, nepotism and corruption” (Reianu 2021).

Among the perceived problems in the way CSOs work in Montenegro, most respondents mentioned poor implementation of the law. Along with this, poor monitoring of implementation, lack of evaluation of results, or the use of CSOs by donors as lobbying organizations to implement their agenda locally were also mentioned.

In terms of financial support, there are legal provisions that stipulate the ministries to have open competition for projects of the CSOs published in the first quarter of the year, but “very few respect the legislation and the decisions on support



through these calls are often disputable” (respondent 6). Other respondents mentioned, in the same manner, that there are regular calls for CSOs funding from the state budget and calls for the participation of CSOs representatives in various state bodies, but the calls are usually very formal as “there is almost always a lack of broader consultation between the state and the civil society” (respondent 3) and “the procedures are not transparent and competitive” (respondent 4). The answers provided by the respondents are in line with the studies conducted, as “state financial support [...] is largely unavailable for CSOs dealing with issues like democracy, human rights, monitoring etc.” and “limited progress in the implementation of the measures has been noted [...] as a result of low commitment by the governments and lack of resources available” (Balkan Civil Society Development Network 2023). For the most part, organizations apply for funding at EU level, embassies, and other international organizations, being dependent on external sources of financing. This makes them vulnerable to defamations, most of the respondents agreeing with the remark that civil society organizations are implementing a donor driven agenda.

### **Collaboration among civil society organizations**

The picture would not be complete without outlining trends in cooperation between civic associations. On this topic, most respondents agreed that there is no coordinated and unified way from NGOs in approaching the government, while state representatives do not invite NGOs to discussions on a regular basis, and NGO representatives are not included in the development and monitoring of relevant policy documents. Therefore, the role and involvement of civil society is very low in the entire policymaking process, with large disparities perceived between standards and implementation. An interesting and important aspect highlighted by one respondent is that the lack of a long-term agenda may explain the low support and engagement of CSOs. This attitude of project-based support instead of program-based support hinders progress in funding, collaboration, and commitment (respondent 3). Among the consultation channels that NGOs could use in communicating with the government, respondents mentioned the media, which means that the media still plays an important role in reaching citizens and other stakeholders.

### **Lessons learned and future sustainability of the civic sector**

When questioned about ways that could improve the relationship between CSOs and state, the respondents mentioned the following: better legislation and institutional framework, better strategies and action plans, regular communication, sharing responsibilities, depoliticization, bringing decision making capacities



to the level of local communities (respondent 4), constant funding for CSOs (respondent 2), broader involvement of the civil society sector in the consultation processes (respondent 3), and law implementation (respondent 7). The answers are consistent with the findings of the Regional Report, which notes that “in Montenegro, a new document covering the next strategic period was prepared, in a fairly inclusive process, using the well-mapped challenges in the cooperation of the state and the CSO sector from the previous period as a starting point. Still, none of the Activities foreseen in the Action Plan for 2022 were implemented.” (Balkan Civil Society Development Network 2023) Another crucial thing considered by one respondent “is that the authorities to understand the autonomy of the work of CSOs” (respondent 6).

In terms of lessons learned from experience, the respondents seem quite pessimistic in the way that “little can be done in terms of impact on society and institutions when activities are project-based and when there is no long-term commitment” (respondent 3). Apparently, organizations can only rely on international support and “even this support is seen as biased towards the civil society sector” (respondent 1). An interesting view expressed by one respondent was that “interest groups in various fields are ‘moving targets’; static mechanisms cannot work across a wide range of subjects, groups, and in a constantly changing environment” (respondent 4). Another answer, worth to be mentioned, is that “perseverance is the key to success” (respondent 8). Therefore, as one respondent noted, “it is never ending work in Montenegrin environment, but necessary” (respondent 6).

As recommendations for the sustainability of the CSO or the civic sector in general, long-term programs based on national and EU priorities, coordination of activities based on common objectives, state financial instruments and tax exemptions were among those mentioned. In addition, “it is important to introduce core funding, but also to work on creating a better environment for CSOs, where they will not be the target of smear campaigns or hate speech” (respondent 6). It seems obvious that there should be actions taken by both sides, the state and NGOs, while “the state should create an environment that will be more supportive for the development of civil society, NGOs should work on capacity building, networking and diversification of financing sources” (respondent 8). Therefore, sustainable mechanisms of funding, cooperation and consultation are needed to be put in place, instead of those ad hoc and non-institutionalized ones, as well as a shift from the current project-based support to “a long-term agenda that will provide support for CSOs and help their engagement based on milestone achievement (program-based support)” (respondent 3).



## Conclusions

In 2020, a research report, published by Hummel et. al, presented the civil society characteristics in different parts of Europe and concluded that “there is no uniform understanding of CS in Europe”, due to “the differences in their histories, cultural traditions, focus of work, funding scope, and self-perception” (Hummel et al. 2020). According to the authors, if the focus in Eastern Europe “continues to be mainly on efforts to achieve freedom, the rule of law, human and civil rights, democracy, and other socio-political objectives” (Hummel et al. 2020), in Western Europe tend to dominate services in the social, educational, and cultural sectors. This explains, somehow, the difficulty in describing the civil sector, in delineating the characteristics of these organizations, and prescribing assistance or priorities.

In this endeavor, to add more to the priorities of the civic sector in the Western Balkans in the context of the UE accession, we undertook this research on Montenegro. From a legal point of view, as steps taken by this country in the process of involving civil society in public policy-making process, improved legal framework for cooperation with civil society, through the adoption of Law on NGOs (2011) and two significant regulations (2011, 2012), should be mentioned. Also, the adoption of Strategy for Development of Non-Governmental Organizations in Montenegro 2014–2016 (Government of Montenegro, 2014) and the involvement of NGO representatives in working groups dealing with public policies in their respective areas should be seen as great achievements.

Beyond the legislative framework, “even when the legal framework in place is considered progressive [...], its implementation has been weak” (Balkan Civil Society Development Network, 2023). In line with this, our study shows that civil society has limited influence on public policies, its efforts being limited, on one hand, by the fact that law is not well implemented, while civil society organizations are still implementing a donor-driven agenda and have limited resources. The organizations complain that the relationship between them and the government is dysfunctional, with the government asking them to participate only to fulfill formal requirements, but without the proper intention of including them in the decision-making process. These statements invoke, from our point of view, the imperative need to educate all civil servants and state employees on the mechanisms of involvement and cooperation with NGOs, along with the will of political decision-makers to make this partnership a real asset. Political instability is often mentioned as a major threat, “in a context where the government is constantly changing, it is a challenge to build long-term relationships and secure commitments from policymakers” (respondent 3). Therefore, currently, the dialogue between the state and civil society is perceived to be limited, as is the financial support from the government.

On the other hand, in addition to the low commitment from the state, the low response rate from NGOs to this research shows us a low civic involvement on the part of these organizations.





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