Fostering institutionalisation? The impact of the EU accession process on state-civil society relations in Serbia

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Abstract

In the framework of its enlargement policy, the EU has placed considerable emphasis on supporting civil society organisations (CSOs) both as domestic drivers of change and as a means to foster new, more participatory modes of governance. Our research examines the impact of the EU accession process on state-civil society relations in the Western Balkans and assesses the extent to which new forms of interaction are becoming institutionalised. Comparing minority rights and environmental regulation in Serbia, we find that enlargement negotiations lead to increased dialogue and more formalized interactions between government and CSOs. However, the institutionalisation of state-CSO cooperation remains partial and is hampered by a lack of political will. We conclude that the emerging governance model is nothing like the 'double weakness' or agency capture found in earlier studies, but instead consists of strong hierarchy and a narrow group of highly professional CSOs engaged at the margins.

Keywords: civil society organisation, environment, institutionalisation, minority rights, Serbia

Introduction

Throughout its enlargement towards Eastern Europe, the European Union (EU) has placed considerable emphasis on supporting civil society organisations (CSOs) as domestic drivers of change, but also as a means to implement new modes of governance and to ensure compliance with EU norms and standards (Börzel, 2010; Sudbery, 2010). Following criticism regarding the sustainability of improvements in state-CSO relations in Central and Eastern Europe (CEE), the EU revised its assistance strategy to incorporate lessons learnt in its dealings with the candidate countries of the Western Balkans, increasing the funding provided to organisations operating in the region and refining its instruments for assistance. International support, especially through the EU, has undoubtedly contributed to a professionalisation of the civil society sector in candidate countries and developed organisations' ability to compensate partially for state weakness in certain policy areas (Carmin, 2010; Fagan, 2010). At the same time, CSOs themselves have become increasingly strategic in using the new opportunities resulting from the EU accession framework, among others by sharing effective mobilisation strategies through transnational exchanges between organisations from different countries (Wunsch, 2018).

It is less clear, however, whether EU assistance and the accession process more generally ultimately lead to a sustainable transformation of state-CSO relations (Buzogany, 2009; Guttenbrunner, 2009). Critics have expressed considerable scepticism that EU aid (or indeed any international civil society assistance) could alter the quality of interactions between state officials and CSOs (Warleigh, 2001; Fagan, 2006; Sanchez Salgado, 2014). The suspicion voiced by many is that where such improvements occur, these are simply window dressing and unlikely to become widespread and endure post-accession (Schimmelfennig, 2014; O'Brennan, 2013). Still, a systematic effort to assess the impact of the EU accession process on patterns of interaction between state actors and CSOs in specific policy areas is lacking. Our research fills this gap by examining whether, beyond strengthening the internal capacities of individual

organisations, changes triggered by the EU accession process are enabling CSOs to play a regular, effective role in domestic policy-making. The key tools to achieve this goal have consisted of reform pressure and the provision of assistance. The article's focus therefore lies in assessing whether these two mechanisms are proving transformative and sustainable. Our over-arching research question is: to what extent is the EU accession process fostering the institutionalisation of state-CSO relations?

Our definition of institutionalisation follows Douglass North's understanding of institutions as 'humanly devised (informal and formal) constraints that structure political, economic and social interaction' (North, 1990: 3). Institutionalisation is the process via which such constraints become routinised. Relating this to the relationship between CSOs and the state, we view institutionalisation as *regularised patterns of interaction that are accepted by both state and civil society actors.* Our aim is not to determine CSO impact on particular EU-inspired policy reforms, but instead to discuss shifts in the frequency, scope, and quality of interactions between state actors and CSOs. Institutionalisation therefore forms a distinct outcome from the mere professionalisation of the civil society sector, and one that we might expect to have a more lasting impact on the governance practices in EU accession countries.

We investigate the degree of institutionalisation of state-civil society relations through a comparative study of two policy fields – minority rights and environmental regulation – in Serbia. This country offers a very interesting and somewhat unique case for studying the impact of enlargement. It is now considered a frontrunner amongst the current enlargement candidates, and has considerably greater administrative capacities than any of the other candidate states (Vachudova, 2014). Yet, the timetable for accession remains vague. The pre-enlargement momentum that played a large part in generating transformation in the CEE countries in the run-up to their accession (see Grabbe 2006) is therefore not yet present in Serbia. Instead, the

relationship between Brussels and Belgrade has been a drawn-out, non-linear process, including significant periods without any progress whatsoever. That negotiations have recently gained pace provides an opportunity to compare state-civil society interactions in a policy area that has only recently entered the agenda (environment) with one that has been the focus of dialogue and contestation for a considerable time (minority rights).

To be sure, the EU accession process is not the only factor shaping state-civil society relations in enlargement countries. On the contrary, scholars of South East Europe and the Western Balkans have recently adopted a much more critical stance regarding the impact of Europeanisation and made the case for 'bring[ing] domestic factors back in' (Elbasani, 2013: 5). Whereas the earlier literature implicitly (if not explicitly) assumed that all positive change occurred as a direct consequence of the enlargement process, contemporary analysis largely starts from the domestic level to explain divergence, non-compliance, or indeed progressive and effective reforms (Keil and Arkan, 2014; Parau, 2009). By examining shifts in the institutionalisation of state-CSO interactions in two different policy fields within the same country, we seek to move beyond general assertions in a way that allows us to incorporate specific domestic features into the explanation of observed outcomes.

Our empirical analysis shows a trend towards improved formal participation of CSOs, but also highlights a number of remaining obstacles to successful institutionalisation. On the positive side, we find that the EU accession framework facilitates progress towards *formal* civil society inclusion through the adoption of legal provisions and targeted institutional mechanisms that enable the regular involvement of CSOs in policy-making processes. Such developments are more noticeable in the area of minority rights, which have been the focus of accession negotiations with Serbia for some time and have seen pressure both from the EU and from CSOs to improve the access of civil society actors to policy discussions. In the case of the

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environment, where negotiations have begun only recently and the corresponding *acquis* chapter has yet to be opened, we observe less formal interaction and comparatively underdeveloped mechanisms for deliberation. Even so, environmental CSOs report increasingly regular interactions with government officials. Despite these structural changes however, progress towards a routinisation of state-CSO relations encounters a number of difficulties. First, civil society actors note a gap in responsiveness between civil servants, who are generally open to collaboration, and political appointees who remain reluctant to opening up the hierarchical model of policy-making to outside actors. Second, positive developments largely remain confined to the EU accession framework and closely related to external pressure, resulting in a questionable sustainability of progress achieved once membership negotiations have been completed. Finally, positive developments are generally limited to a small number of CSOs who are brought in at the later stages of policy development, with civil society actors typically excluded from the policy planning stages and smaller organisations marginalised throughout the process.

Our findings challenge several core assertions in the existing literature. On the one hand, they call into question that a 'double weakness' consisting of weak capacities amongst both state and civil society actors is the key obstacle to fruitful cooperation in the Western Balkans (Börzel and Buzogany, 2010). Earlier studies portrayed an uneasy and reluctant relationship based on mutual dependency in the face of mounting EU pressure for complex and expensive reforms (Börzel, 2009). Our findings suggest that whilst Serbian CSOs have strengthened their capacities due in large part to EU assistance, the Serbian government also has capacity for hierarchical steering, which it uses to control the degree to which policy processes are opened up to civil society participation. On the other hand, whereas existing studies of the Western Balkans identify the risk of agency capture by civil society actors faced with weak bureaucracies incapable of drafting and enforcing new EU-compliant laws (Bojičić-Dželilović

et al., 2013), our analysis suggests that this risk is less relevant in Serbia. Instead, state bureaucracies appear to have sufficient capacities to act as gate-keepers for civil society access, often resulting in the rejection of CSO input rather than the outsourcing of state responsibilities.

The article begins by outlining our theoretical expectations with regards to changes in state-CSO relations and places them within the broader literature on changes in governance structures in the context of EU accession. The following section discusses the case selection, provides some background information on the chosen policy fields, and sets out the research design. The empirical analysis addresses the overall changes in the shape of state-civil society relations in Serbia, and compares the specific dynamics within the chosen areas of minority rights and the environment. The conclusion discusses the broader significance of our findings for the literature on Europeanisation and its impact on domestic interactions.

Institutionalising new modes of state-CSO relations

The relationship between Europeanisation and civil society participation has become a growing field of study as the EU's competences expand and an increasing number of organised interests make use of the new opportunities to engage at the EU level. Scholarly interest has focused on three dimensions in particular. First, a number of studies have critically analysed the ability of civil society involvement to improve the democratic legitimacy of the EU (Greenwood, 2007; Kohler-Koch, 2010), pointing to possible trade-offs between participation as a means to enhance democratic accountability or a tool to improve the quality of outputs produced by intergovernmental organisations (Steffek and Ferretti, 2009). A second strand of the literature has engaged with the question of how opportunity structures and financial support provided by the EU have shaped organised interests and their strategies at both the EU and the national levels (Princen and Kerremans, 2008; Sanchez Salgado, 2014; Berkhout et al., 2017). Finally, a growing body of work has tackled the specific dynamics of civil society mobilisation in the

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new member states, with somewhat divided findings when it comes to the prospect of an effective strengthening of civil society. A sceptical perspective suggests that civil society mobilisation is limited to areas where the EU has strong competences (Sudbery, 2010) or occurs in response to a societal backlash against progress introduced over the course of the membership negotiations (O'Dwyer, 2012). In a similar vein, scholars have expressed critical views of CSOs in the Balkans, deploring their alienation from ordinary citizens (Ker-Lindsay, 2013) and the self-interested behaviour of large organisations (Mikuš, 2015). More optimistic accounts point to the enabling role of transnational networks (Bomberg, 2007; Andonova and Tuta, 2014; Parau, 2010) or the strategic use of EU rules by civil society actors as a tool for empowerment (Dimitrova and Buzogany, 2014; Noutcheva, 2016; Wunsch, 2016).

Our research feeds into the debate on governance changes resulting from the EU accession process. The tacit assumption within the Europeanisation literature is that EU-driven reforms will deliver the empowerment of both state and non-state actors and new modes of less-hierarchical, network governance will emerge (Börzel, 2009: 8; Sissenich, 2010: 11). It is assumed that government actors will engage CSOs either because they are pressured to do so by the EU, or because CSOs possess specific knowledge and expertise that make them useful partners for policy reform. Whilst in contrast to the earlier governance literature (Rosenau, 1995), there is no suggestion that CSOs will or should reach a parity in terms of power within the policy process; the implicit suggestion is that Europeanisation will, through the provision of assistance, tutelage and the emphasis placed on 'good governance,' empower both state and non-state actors.

It is important to emphasize that insofar as our research seeks evidence of institutionalised forms of cooperation, we contest the assertion – often voiced by CSOs and echoed in the social movement literature – that institutionalisation represents the co-optation of civil society actors

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(McAdam et al., 2009: 274; Della Porta and Diani, 2006: 235). Instead, we view institutionalisation as a mechanism enabling the effective and transparent integration of a diverse range of civil society actors into processes of policy development. We presume that the more fragile political environment prevalent in EU candidate countries requires such formalised procedures at least in the intermediary period in order to provide a recognised framework regulating interactions between state and civil society actors. As both sides become accustomed to such forms of cooperation, the importance of institutionalised interactions may recede to give way to more informal, routine-based forms of cooperation, albeit with official procedures still providing the necessary backdrop to ensure the long-term persistence of consultative practices.

In operational terms, we treat institutionalisation as a two-step process whereby new forms of interaction between state actors and CSOs need first to be implemented and then to become firmly embedded in institutional routines. In practice, this implies that rules and procedures governing how CSOs and the state should interact may be implemented without necessarily having become institutionalised. Institutionalisation occurs once the new mode of interaction becomes characteristic of decision-making and policy development, which implies inclusive policy consultations through a transparent and open process becoming 'the rules in use' (Ostrom 1999). Still, the transition from implementation to institutionalisation is by no means straightforward, much less automatic. Dimitrova refers to the emergence of new processes occurring as a consequence of EU recommendations as 'imported rules' and points to the risk of them remaining 'empty shells' (Dimitrova, 2010). In a similar vein, earlier research on candidate countries suggests that the more strongly rules deviate from previously established practices, the more likely we are to observe 'fake' or 'partial compliance' (Noutcheva, 2009). A further concern is that rules adopted under pressure may be reverted at a later point in time, commonly referred to as 'backsliding' (Sedelmeier, 2012). Finally, research on the countries comprised in the European Neighbourhood Policy (ENP) has found that under certain

circumstances, rules promoted by the EU can actually be subverted and used to strengthen authoritarian regimes and old practices (Börzel and Pamuk, 2011; Langbein, 2015). Such outcomes are referred to as 'illiberal regime reinforcement' (Börzel, 2015). In sum, to evaluate the extent to which the EU accession process is fostering the institutionalisation of new forms of state-CSO interactions, we identify four possible outcomes:

1) newly adopted rules or processes for civil society participation are fully implemented and then institutionalised (*institutionalisation*);

2) new processes are only partially implemented and remain insufficiently institutionalised (*incomplete implementation*);

3) new processes are only formally implemented with no intention of actual and sustainable institutionalisation (*façade implementation*; disconnect between formal and informal rules);

4) new practices are neither implemented nor institutionalised, with formal changes either never actively pursued (*simulation*) or openly reversed at a later stage (*reversal*).

Concretely, we expect the EU accession process to affect state-civil society relations in two key ways: on the one hand, capacity-building and the provision of targeted assistance should favour the creation of dedicated channels for civil society involvement which, over time, can become routinized at the domestic level. On the other hand, EU pressure for inclusive policy-making raises the stakes of non-compliance, acting as an incentive for officials to open up policy-making processes and build constructive relations with CSOs specialised in their field of work. Such pressure should be higher in policy areas where negotiations are already under way and which enjoy high salience in the accession process (minority rights), compared to areas of a more technical nature in which formal negotiations are still in their initial phase (environment). We therefore expect to see a higher degree of institutionalised interactions between state and civil society actors with regards to minority rights than we should observe around

environmental issues. At the same time, such increased pressure in the sensitive area of minority rights is more likely to result in façade institutionalisation, with state actors eager to demonstrate minimal compliance with EU requirements to avoid further scrutiny.

Studying the role of CSOs in EU accession

In terms of research design, we opted for a within-case comparison that allows us to maintain the empirical setting constant while assessing shifts in state-civil society relations across two policy areas that vary regarding their status and their salience in the accession talks. Serbia represents a most-likely case for the institutionalisation of CSO inclusion. It is one of the frontrunners in the current group of enlargement countries and has repeatedly received praise for its high level of administrative capacities (European Commission, 2016: 7), which act as a safeguard against agency capture by CSOs. At the same time, the Serbian civil society sector has strong capacities and is known to have developed various initiatives to facilitate the involvement of CSOs in the membership negotiations (Elek et al., 2015; Bobić and Božić, 2012). These characteristics make Serbia a potentially promising environment for the formalisation of state-civil society relations, but limit the generalisability of any positive findings to other enlargement countries. In reverse, an absence of improvements would likely extend to other accession candidates with less developed state bureaucracies and a weaker civil society sector.

Minority rights protection has been a longstanding priority in the membership negotiations with Serbia and a consistently prominent area for CSO mobilisation. This is due to the history of inter-ethnic violence in former Yugoslavia and the ongoing exclusion of non-ethnic minorities, in particular LGBT people (Bilić, 2016). Screening for the related negotiation chapter on rule of law and fundamental rights (Chapter 23) took place in late 2013 with considerable CSO involvement, and formal negotiations on the chapter opened in July 2016 after several delays

for political reasons. Environmental regulation, in turn, is traditionally considered a more technical area of negotiations. It has only of late become a focus of membership negotiations, and the non-state sector comprises comparatively few specialised CSOs. Although the EU has provided significant assistance for environmental organisations as part of the Instrument for Pre-accession Assistance (IPA) and screening for the corresponding chapter of the acquis (Chapter 27) was completed, formal negotiations on environmental issues have yet to be opened. Through the comparative analysis of state-CSO relations in these two policy areas, we seek to assess whether and how civil society engagement is moving towards institutionalised practices, and how the EU accession process has favoured such a development.

Data sources consisted of semi-structured interviews with CSO members and state representatives as well as recent qualitative and quantitative evaluations of state-CSO relations in Serbia. The authors conducted 24 semi-structured interviews with civil society and state actors either in person or by phone/Skype between April and September 2017. Our focus was on assessing the existence and performance of specific mechanisms and procedures for civil society involvement in policy-making as well as on any particular dynamics and initiatives regarding the two selected policy areas. Interviewees were asked about the frequency and level of interaction with state bodies/CSOs and the main channels through which these occurred. In addition, they were prompted to evaluate existing mechanisms for their involvement as well as assess the broader relevance of the EU accession framework for their work and the nature of state-CSO relations. The information obtained was matched with available written reports on cooperation between state actors and CSOs published by national and international bodies or by local organisations. Previous fieldwork experience in Serbia by both authors allowed us to contextualize the knowledge obtained and to gauge shifts in the degree and quality of interactions over time.

State-CSO relations in Serbia: between inclusion and hierarchical policy-making

In comparison to similarly developed countries in the Western Balkans region, notably Croatia and Montenegro, Serbia has tended to lag behind when it comes to the legal and institutional environment in which civil society actors operate. A key factor in the gradual emergence of more legal certainty and formal procedures for civil society involvement has been the EU's growing emphasis on participatory policy-making (Bobić and Božić, 2012: 4). Eager to extend its involvement beyond the mere capacity-building of individual organisations, the European Commission's guidelines for civil society support declare improved state-CSO relations a key objective (European Commission, 2013). Following EU support for longstanding advocacy efforts by local organisations (Velat 2013), a Government Office for Cooperation with Civic Society (hereafter 'Civil Society Office') was created in 2011 as an institutional mechanism for cooperation between state and civil society actors. The Office's mission consists in strengthening the capacities of both state actors and CSOs for cooperation and facilitating contacts for both sides. It has initiated a number of fruitful sectoral collaborations between government bodies and CSOs, most notably when it comes to the involvement of CSOs in the preparation of accession-related documents.[1] The Office benefited from extensive assistance through the EU's Civil Society Facility (CSF), which provided close to €1.2 million for a project to strengthen the dialogue between the Serbian government and civil society (Anđelković and Gojgić, 2014) that eventually resulted in the adoption of a set of formal guidelines for civil society consultations at the national level (Government of Serbia, 2014). Yet, despite the involvement of CSOs in developing the guidelines, their implementation has fallen short of CSO expectations.[2] First , the frequent use of the urgent procedure in Parliament denies the effective use of consultation and thereby restricts the number of legal acts to which

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[1] Interview with Government Office for Civil Society, 28 April 2017.
[2] Interview with Belgrade Centre for Security Policy (BCSP), 24 April 2017.

the guidelines could even theoretically apply.[3] In addition, their non-binding nature has limited the extent to which state officials feel compelled by the guidelines' provisions. The latest official evaluation of state-civil society relations in Serbia – a baseline study published in June 2015 by the Civil Society Office and funded by the EU – shows that only around one third of new laws adopted benefited from some form of CSO involvement (Government Office for Cooperation with Civil Society, 2015). Public hearings were organised in 10.5 per cent of cases, while other forms of cooperation were implemented for a further 20 per cent of legal acts, ranging from the publication of information on the state body's website to more active CSO participation in the drafting process (ibid.).

A recent report from the Balkan Civil Society Development Network, a region-wide consortium of CSOs funded through the CSF, echoes the problematic absence of binding provisions for CSO inclusion in different phases of the policy-making process (Balkan Civil Society Development Network, 2016: 33–38). In practice, CSO participation is often dependent on the goodwill of civil servants and on pre-existing, informal contacts between CSOs and state actors, which often results in the exclusion of smaller, less prominent organisations.[4] This problem is enhanced by the non-transparent selection criteria for CSOs invited to participate in formal working groups that bring together civil servants and representatives of third parties to discuss legal initiatives. According to the most recent evaluation, over half of the working groups established in 2016 proceeded through direct invitations to selected organisations rather than an open call for input.[5]

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[3] For discussions of this issue in previous accession countires, see Vidačak and Škrabalo (2014) on Croatia and Raik (2006) on Estonia.
[4] Interview with Belgrade Fund for Political Excellence (BFPE), 27 April 2017.
[5] Interview with Civic Initiatives (CI), 22 May 2017.

Finally, the National Convention for the European Union (NCEU) is a bottom-up initiative that represents the most successful instance of institutionalised state-civil society interactions to date. Launched and coordinated by the European Movement in Serbia, the NCEU brings together over 700 CSOs in 21 different sectoral working groups covering the 35 negotiation chapters. Its members discuss and adopt recommendations on all documents relating to the membership talks and closely cooperate with the National Assembly's EU Committee. The European Commission has commended the NCEU's work in its annual reports (European Commission, 2014, 2015), praising in particular the Serbian government's commitment to have its negotiation team consult with NCEU representatives in all phases of the accession process. Still, given the internal organisation of the NCEU to match different negotiation chapters and its emergence in a context of increasing EU pressure for more routine involvement of civil society actors, it is difficult to imagine how this format may translate into a more regular mechanism for state-CSO cooperation in the aftermath of Serbia's EU accession.

Minority rights protection

Given the history of interethnic tensions and the violent break-up of Yugoslavia, minority rights are a particularly sensitive topic both for the membership negotiations and when it comes to the inclusion of CSOs into domestic policy-making processes in Serbia. In terms of numbers, the EU accession context has given a boost to what was already a significant area of civil society mobilisation during the early years of Serbia's democratic transition. The NCEU working group on Chapter 23 counts 57 members, while the sectoral CSO group on the rule of law associated with the Serbian Office for European Integration (SEIO) includes 48 organisations.[6] When assessing the degree of state-CSO cooperation and the institutionalisation of such interactions,

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[6] While not all of these organisations work narrowly on minority rights protection, their portfolios generally do include at least some activities dealing explicitly with this dimension, not least due to the increased availability of EU funding to support projects in this area.

it is useful to distinguish between the protection of ethnically defined national minorities and the situation of other minorities. In the former case, most interactions with state actors are channelled through the National Councils of National Minorities, which are composed of representatives elected by members of the respective minority and tend to act as gatekeepers for issues relating to their constituencies.[7] While this format is highly institutionalised, the ability of the different minorities to use it effectively diverges (Belgrade Centre for Human Rights, 2016). Moreover, the segregation along ethnic lines leaves comparatively little space for the involvement of more broadly positioned CSOs.[8]

In contrast, a large number of both professional and grassroots CSOs are active in the area of non-ethnic minorities, which include women, LGBT persons, and disabled persons.[9] These issues have gained prominence over the course of the EU accession process, but remain highly contested at the national level, resulting in low levels of institutionalisation. LGBT rights in particular emerged on the political agenda only during the past decade following considerable EU pressure and backing of the issue (Slootmaeckers et al., 2016). The issue of gender equality is similarly new to the Serbian public debate, with CSOs reporting a high level of reluctance on the part of state actors to engage on these two topics.[10] One interviewee described a hierarchy of minorities: whereas policy-makers are generally open to the concerns of disabled people, their openness diminishes regarding the concerns of women's groups, and turns into outright hostility when it comes to LGBT rights.[11]

One of the main institutional partners for minority rights organisations at the state level is the Office for Human and Minority Rights, which initiated a memorandum of understanding with

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[7] Interview with Forum for Ethnic Relations (Forum), 9 May 2017.
[8] Interview with Belgrade Centre for Human Rights (BCHR), 15 May 2017.
[9] Interview with BCSP, 24 April 2017.
[10] Ibid.
[11] Interview with Women's Platform, 27 April 2017.

CSOs in 2009.[12] Many of the Office's collaborators themselves have a background in the nongovernmental sector and have traditionally maintained good cooperation with CSOs, involving them both in consultations on legal acts and as partners in EU-funded projects.[13] For instance, these close working relations facilitated a very inclusive process for both the new law on anti-discrimination in 2013 as well as the Strategy for Prevention and Protection against Discrimination (2013-2018) and its corresponding Action Plan.[14] CSO representatives were invited to contribute not only at the drafting stage, but also by writing reports about the implementation of measures, with cooperation thus extending throughout the entire policy-making process. More generally, CSO members noted that a change in attitude is beginning to emerge amongst civil servants, with officials working at the lower ranks of Ministries generally more interested in CSO expertise on new and politically sensitive topics and overall more open to closer cooperation with CSOs.[15] In contrast, political actors in government and higher-ranking civil servants in Ministries remain more reluctant to accept CSO input and frequently "don't understand their substantial work and also don't understand the role of civil society in this process."[16] Regarding the upper echelons of state bodies, a representative of the Roma community spoke of "façade cooperation"[17] undertaken to please external actors, but with no real intention to produce change.[18]

Despite this partial opening up towards external input, several CSO members emphasized that interactions with state bodies occur as a consequence of pre-established informal contacts rather than via official procedures. In the majority of cases, organisations reach out to pre-existing contacts at the state level to obtain information on legal initiatives and then provide their input

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[12] Interview with Government Office for Human and Minority Rights ('HR Office), 11 May 2017.
[13] Interview with BCSP, 24 April 2017.
[14] Interview with HR Office, 11 May 2017.
[15] Interview with BCSP, 24 April 2017; BFPE, 27 April 2017.
[16] Interview with Belgrade Open School (BOS), 27 April 2017.
[17] Interview with Roma League, 27 April 2017.
[18] Interview with Bibija, 10 May 2017.

in a non-formal manner.[19] These informal channels obviously privilege larger organisations that have already built a solid reputation and are able to maintain regular exchanges with state actors. In addition, some CSOs attempt to deliberately create a need for consultations by putting forward proposals or raising new issues, using agenda-setting as an opportunity to seek participation in the ensuing debates and in order to overcome the government's reactive approach. One example of this strategy was the initiative on domestic violence triggered by the women's organisation Autonomous Women's Centre, which triggered a broader debate on necessary government responses to this phenomenon.[20]

On the whole, state-civil society relations in the area of minority rights is one of slow and often inconsistent progress towards more institutionalised patterns of cooperation with state actors. While formal and regular consultations are certainly more common, they occur usually during the later stages of the policy-making process, leaving little space for CSO input during formative discussions and policy development. Furthermore, many formal processes include only a limited number of prominent organisations that have gained a reputation for their expertise, excluding more locally-enmeshed or regional CSOs from institutionalised interactions.[21] In line with the typology developed above, the current state of institutionalised cooperation with CSOs in the area of minority rights can therefore be qualified as one of incomplete and, at the higher levels of government, façade implementation, where formal channels are being created, but are not consistently used to ensure effective civil society inclusion at the domestic level.

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[19] Interview with BOS, 27 April 2017; BFPE, 27 April 2017.
[20] Interview with BCSP, 24 April 2017.
[21] Interview with Serbian activist, 20 September 2017.

Environmental regulation

Compared to CEE, environmental politics and activism in the successor states of the former Yugoslavia has been significantly less salient (Fagan 2010). This can be explained by lower levels of industrialisation during Communism, but is also a reflection of the nature of Yugoslavia's collapse and the specific priorities of post-conflict reconstruction. The ubiquitous green organisations in the Czech Republic, Poland and Hungary came to prominence in the late 1980s as part of the broader liberal dissident movements that engulfed Soviet-style communism in these states. In contrast, the end of Yugoslavia was about nationalism, ethnic cleansing and violence, while post-materialist and identity politics played a relatively minor role in the opposition movements.

The environmental CSOs registered and active in Serbia today are mostly the product of international donor funding, invariably but not exclusively from the EU. They emerged as part of the wide-ranging *Otpor!* coalition of the late 1990s against the Milosevic regime that culminated in the 5th October revolution. In terms of numbers, there are currently about a thousand CSOs working broadly on environmental issues across Serbia.[22] However, the vast majority of these are very small organisations with low capacities, operating exclusively at the local level and with little or no contact with government.[23] Still, the expertise and professionalism of a small group of organisations are growing.[24] This core group of CSOs has the capacity to engage local communities from across the country, largely as a consequence of having undertaken donor-funded projects that involve multi-CSO partnerships over the past decade.[25] Yet despite their increased professionalism and organisational development, even the

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[22] Interview with Regionalni centar za životnu sredinu (REC) Serbia, 23 May 2017.
[23] Ibid.
[24] Interview with CEP, 19 May 2017.
[25] Interview with Center for Ecology and Sustainable Development (CEKOR), 19 May 2017.

most prominent among them are still locked into undertaking discrete short-term projects and therefore lack financial stability.[26]

Environmental CSOs depict their relationship with the government in broadly negative terms. They point to an increasing centralization of decision-making, particularly with regard to energy policy, and highlight that despite formal access following pressure from the EU, the reality is one of limited engagement at the final stages of policy development.[27] The overriding view is that the government 'might seem to be meeting EU expectations by involving civil society in decision-making on paper, but in practice this is not the case'.[28] The concern expressed by many within the sector is that beyond informal co-operation with one or two 'favoured' organisations over a specific policy issue, there is still no established mechanism for the government to engage openly with a wider group of environmental organisations. Contact is limited to 'a small number of groups' engaged on a very informal basis and 'on the government's terms'.[29]

Respondents generally judged the EU accession process to be empowering for their organisations and for the CSO sector as a whole.[30] Positive change is expected from the imminent opening of Chapter 27 in terms of raising the profile of environmental issues and sensitizing government officials to the complexity and cross-cutting nature of environmental reform and compliance. Since CSOs were closely involved in preparing the screening report on Chapter 27 published by SEIO in February 2017[31], interviewees expected the formal opening

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[26] Ibid.

[27] This is a view articulated by all CSOs interviewed when asked to summarise their relationship. It was not disputed by the two officials from the Ministry of Agriculture, Forestry and Water Economy and the Ministry of Environmental Protection, 23 May 2017.

[28] Interview with CEKOR, 19 May 2017.

[29] Interview with Mladi istraživači Srbije/Young Researchers Serbia (MIS), 19 May 2017.

[30] This is a widely held view, but was expressed most strongly by CEP, CEKOR, MIS, and REC Serbia.

[31] This was a view echoed by CEKOR and MIS, but also by an interviewee from the Serbian European Integration Office (SEIO), 23 May 2017.

of the chapter to allow them to become involved in the ensuing negotiations based on the government's draft.

However, according to CEKOR, one of the leading environmental organisations in Serbia and a participant in the development of the screening report, co-operation with government officials even in the direct context of membership negotiations remains poor. The government apparently aims to close Chapter 27 relatively swiftly, which in practice will imply very little access for CSOs and hardly any time for proper consultation to take place.[32] The reality is that 'usually, drafts of legislation are shown to CSOs once they have already been prepared by the bureaucracy and after discussion with business; CSO comments are then ignored.'[33] Several interviewees moreover noted that the degree of CSO involvement in accession-related topics and the quality of the discussion depends on particular civil servants, with 'some bureaucrats more prepared to co-operate with CSOs than others'.[34] A further constraint on civil society access identified by CSOs and by officials within the Ministry of Environmental Protection is that decision-making in Serbia 'is very centralised', with close co-operation occurring 'at the top between the government and private corporations in the energy sector'.[35]

Despite these pessimistic assessments by CSOs themselves, there is nevertheless some evidence of an emerging and on-going dialogue between the government and environmental organisations, albeit limited in substance to discussions relating to solid waste and water management, two of the most contentious and complex aspects of Chapter 27.[36] A particular landmark in relations between the state and citizens regarding the environment occurred in May

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[32] This was a view expressed both by CSOs (including CEKOR, MIS and REC), but also by the SEIO and by the two officials from the ministries.
[33] Interview with CEKOR, 19 May 2017.
[34] Interview with CEP, 19 May 2017, with a similar view from MIS, 19 May 2017.
[35] Interview with MIS, 19 May 2017.
[36] Ibid.

2015 when three public discussions were held on new laws on waste and nature protection. Interviewees concurred that government-initiated meetings in the chamber of commerce between CSOs, citizens, civil servants and politicians marked a turning point in environmental governance in Serbia. Moreover, the working group on environmental issues within the NCEU has offered CSOs engaged in this field a formal channel of access to the negotiation process.[37]

On the whole, despite the likely complexity involved in Serbia complying with Chapter 27, and the recent increase in formal interaction between the sectors, the environment is widely felt not to be seen as a political priority.[38] While retaining a capacity for hierarchical steering, the newly-established Ministry of Environmental Protection is currently still relatively under-staffed and poorly resourced for the work it now has to undertake.[39] One respondent claimed that there had been no substantial change in the importance granted to the environment by government officials since he began working in the CSO sector in 2012. What has changed, however, is a shared perspective and understanding among civil servants and CSOs regarding both the challenges ahead in terms of Chapter 27, but also the resistance from certain politicians.[40] Mirroring the situation in the field of minority rights, the current state of institutionalised cooperation with CSOs in the area of environmental regulation can equally be characterised as one of incomplete implementation at civil servant level, with tendendies towards façade implementation to satify EU pressures by political appointees. Formal channels are emerging and have enabled some interaction between CSOs and officials, but this interaction involves only a very small number of organisations and has yet to be routinised and extended beyond a narrow range of issues.

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[37] Interview with CEP, 19 May 2017.
[38] Interview with REC Serbia, 17 May 2017.
[39] Interview with MIS, 15 May 2017, with view echoed by an official currently working at a high level within the Ministry.
[40] Personal communication with CEP.

Conclusion

What does the case of Serbia suggest about the EU's ability to improve inclusive policy-making in candidate countries? This article set out to examine the extent to which EU assistance and pressure for greater inclusiveness of domestic policy-making during the EU accession process is fostering the institutionalisation of state-civil society relations. From the perspective of both minority rights and the environment, a picture emerges of a gradual shift towards more regular state-CSO interactions. The focus of EU support has extended beyond simply strengthening individual organisations to a strategy that seeks to actually build institutional processes for greater CSO involvement. Formal frameworks for CSO participation are emerging due to longstanding advocacy efforts of local civil society actors as well as pressures and financial incentives coming from the EU. Yet the empirical findings also show that such developments are not significantly more advanced when it comes to minority rights than with regards to environmental issues, despite the significantly longer timeframe during which minority rights have enjoyed high salience as part of the membership negotiations. In both areas, we observe only partial implementation of new rules for civil society inclusion and detect signs of façade cooperation among high-ranking state officials responding to increased EU pressures without any real intention to improve civil society involvement in policy-making.

Whereas the start of *acquis* negotiations clearly prompts a greater inclusion of CSOs, this is no guarantee of a wider and sustainable institutionalisation. Instead, considerable obstacles remain regarding the implementation of existing procedures and in terms of the political capacity and willingness of policy making elites to systematically improve civil society participation. Where they occur, formal interactions are generally restricted to a small group of prominent organisations that are recognized by state actors for their capacities and expertise. Official consultations mostly take place only during the later stages of the policy process, thereby reducing the space for meaningful participation. Finally, informal exchanges prevail in light of

the perceived discrepancy between the growing openness of low-level civil servants and the persistent reluctance of high-ranking officials to open up policy-making processes to outside actors, indicating a limited trust in formal procedures on both sides. These remaining obstacles are particularly significant in light of a perceived deterioration in the political climate and the growing hostility towards CSOs that has resulted in the partial reversal of initial improvements.

Our empirical evidence thus points to an incomplete and often only façade implementation of participatory policy-making mechanisms fostered by the EU accession process and offers little evidence of institutionalisation. Unlike previous findings that attribute such limited results to the double weakness of state and civil society actors (Börzel and Buzogany, 2010) however, we claim that it is not a lack of capacities that hampers the involvement of CSOs in Serbia. What reduces their ability to participate in the policy process is the government's unwillingness to engage them beyond the level of superficial compliance with EU demands for inclusiveness. These limitations concern both the late stage of the policy process at which CSOs are involved and the limited pool of organisations with whom the government engages. No amount of capacity-building is likely to change this dynamic, particularly in a country such as Serbia where the bureaucracy has the necessary administrative capacities to implement acquis requirements without having to rely on CSO assistance. Instead, our findings suggest that the EU's ability to trigger changes in the governance structures prevalent in candidate countries is closely circumscribed in cases where domestic governments have the capacity to hierarchically steer policy processes. Any durable shift in domestic interactions and the inclusiveness of policy-making will therefore require the informed consent of those currently opposing a greater openness of the policy process. Such an attitudinal change depends less on targeted assistance and pressures, and more on the use of soft mechanisms such as learning and the gradual socialisation of high-ranking officials from the enlargement region into practices of participatory policy-making.

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