

Initiative for developing a document that would comprehensively regulate the participation of civil society organisations in the creation and implementation of public policy in the Republic of Serbia

Belgrade, 2012

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**The Government of the Republic of Serbia
Office for Cooperation with Civil Society**

To Office Director, Ms Ivana Cirkovic

Belgrade, October 11, 2012

Subject: Initiative for developing a document that would comprehensively regulate the participation of civil society organisations in the creation and implementation of public policy in the Republic of Serbia

Dear Ms Cirkovic,

Bearing in mind the role and activities of the Office for Cooperation with Civil Society in coordinating cooperation between the government and civil society organisations (CSOs), the Autonomous Women's Centre is addressing you with a **proposal** for developing a document that would comprehensively regulate establishing and maintaining regular communication between the government representatives at all levels and CSOs in Serbia.

The document should be based on the recommendations of the Council of Europe (*Code of Good Practice for Civil Participation in the Decision-Making Process*, the Conference of INGOs, 2009), on the existing positive experiences and difficulties of CSOs in Serbia in the establishment and development of cooperation with the government and government officials at various levels, on the existing initiatives for the improvement of the public consultation process, as well as on the experiences of countries in the region and the European Union in cooperation between public authorities and CSOs.

Therefore, this strategic and comprehensive document should establish standards and procedures, and define a set of *principles, guidelines, tools and mechanisms for different levels of CSO participation in all stages of decision-making on public policy*, according to their interests and resources. Since it is necessary for such a document to be drafted in a participatory manner, with the full contribution of the government and CSOs, the process of its creation, as well as the final result should reflect the commitment of both parties to create a stimulating environment that ensures dialogue, political will and responsibility, clear procedures and adherence to basic democratic principles.

We believe that the Office for Cooperation with Civil Society is in the best position to initiate and lead this process and, therefore, we suggest that you support our initiative and, in line with your existing activities, **participate in the creation of this document.**

For Autonomous Women's Centre

Slobodanka Macanovic, AWC Director

PROPOSAL EXPLANATION

Since it was established, Autonomous Women's Centre (AWC)¹ has been dedicated to the development of a democratic society and the inclusion of citizens and civil society organisations (CSOs) in democratic processes. The organisation has been continuously and, since the democratic changes in 2000 intensively engaged in advocacy for change and improvement of public policy, not only in the prevention of violence against women, but also in all the key areas of social life. As such it has been recognised by representatives of the legislative and executive government authorities, at all levels, but also by representatives of the independent bodies for the protection of citizens' rights. At the same time, AWC is active in coordinating the network of women's organisations in Serbia² and is a member of a number of international networks and forums³. For that reason, in 2007 the Deputy Prime Minister Team for Poverty Reduction Strategy Implementation appointed AWC as the Contact Civil Society Organisation - targeting women. Furthermore, AWC participates in numerous working groups and discussions on all important policy-making processes, and is also active in monitoring and evaluating public policy effects, as evidenced by numerous reports.

All the above mentioned confirm the credibility of AWC to **launch the initiative** with the Office for Cooperation with Civil Society for the development of a strategic and comprehensive document on the participation of citizens and CSOs in creating, implementing and monitoring public policies.

The AWC's proposal is **in line** with the *Regulation of the Office for Cooperation with Civil Society*⁴, which defines the scope of work of the Office (Article 2), which among other things includes "supporting cooperation between the public authorities with associations and other civil society organisations, including the initiation of dialogue with civil society on issues of common concern". Moreover, the proposal is **in line** with the *Strategic Framework for the Office for Cooperation with Civil Society for the period 2011-2014*, which states that the Office was established "for the purpose of institutional and systemic involvement of civil society organisations in a systematic dialogue with the government, which should be based on a transparent and structured communication and regular exchange of experience, information and opinions". The document states that the establishment of the Office has the purpose of achieving several goals, including: "1) *the establishment of a permanent dialogue* between the state and civil society organisations on issues of general and common interest, 2) *strengthening intersectoral cooperation* in areas where civil society organisations are important actors in the public policy formulation and implementation" (underlined by AWC). Furthermore, the mission of the Office is defined as "*building a permanent civil dialogue and partnership* between the Serbian government and civil society, based on a transparent and structured communication and regular exchange of experiences and information" (underlined by AWC). One strategic goal relates to the participation of civil sector (Goal 5): Ensuring effective CSO participation in policy-making and the planned activities relate to the participation of CSOs in the consultative process at the national level and the promotion of good practice examples of cooperation mechanisms at the local level. We believe

¹ Autonomous Women's Centre (AWC) is a specialised nongovernmental organisation which since 1993 has been addressing the issues of violence against women in intimate relationships and domestic violence, as well as sexual violence against women.

² *Women Against Violence Network*, *Women-Poverty-Development Network*, *Network for European Women's Lobby - Serbia*;

³ Such as the *European Women's Lobby (EWL)*, *European Network Against Male Violence (WAVE - Women Against Violence Europe)*, *Observatory on Violence against Women European Women's Lobby*, *Anti Poverty Network Serbia*, *UN Economic and Social Council (ECOSOC)*.

⁴ 05 Number: 110-2785/2010, in Belgrade, April 15, 2010.

that the expected result in this field (Supporting communication and cooperation of CSOs and government bodies and vice versa) is **imprecise and inadequate** regarding the importance given to the issue/goal of communication, constant dialogue and cooperation between the government and CSOs, as institutional and systemic CSO involvement in the formulation and implementation of public policy.

For these reasons we believe that it is reasonable that the Office **initiates** the development of the strategic and comprehensive document on the participation of citizens and CSOs in the processes of creating, implementing and monitoring public policy.

These documents exist in many European countries as **framework agreements** that outline the roles and responsibilities, as well as the procedures for cooperation between government authorities and civil sector⁵. Documents of this type are the basis for cooperation and they facilitate and enhance mutual understanding of civil society and government authorities. These documents are of different types⁶, and our proposal suggests a **strategic, comprehensive document** on the participation of citizens and CSOs in the public policy processes, which would be a significant contribution to the development of inclusive and participatory democracy in Serbia.

Taking into account the existing initiatives in this area, AWC provides full support to the **action for improving public debate in Serbia**⁷ and all recommendations for amendments to the Law on State Administration and the Government Rules of Procedure, as well as proposals for the adoption of new by-laws governing ePublic Debate. We believe it is particularly important that these recommendations include the proposal for amendments and adoption of new regulations that would allow the ePublic Debate to be conducted with regard to legislations of *proponents outside the executive branch*⁸, since it contributes to decentralisation and democratisation of government authorities, a principle which AWC advocates for. Moreover, we consider it important that in addition to public debate on draft laws the recommendations also contain recommendations on transparency of passing *general by-laws* (which essentially determine the implementation of laws, and for now mainly stay out of citizens' impact, except in rare cases), as well as on transparency of creating *strategies and action plans*.

By referring to the **conclusions and recommendations** of the Regional Conference "Partnership for Change: Civil Society and the Governments in the Western Balkans and Turkey"⁹ (third working group: Minimum Standards for Public Consultations: Mechanisms for Participation in the Process of Creating and Implementing Public Policies), **we suggest that:**

⁵ For example, Croatia has adopted the *Code of Practice on Consultations with the Interested Public in Procedures of Adopting Laws, other Regulations and Acts* (2009), and the *Code of Good Practice, Standards and Criteria for Providing Financial Assistance to Programmes and Projects of Associations* (2007)

⁶ For example, bilateral agreements with the parliament or government, strategy documents for cooperation and official cooperation programmes adopted by public authorities;

⁷ Analysis of public debate in the United States, Macedonia and Slovenia, Recommendation for improving the public debate in Serbia - Law is Ours, ePublic Debate, Educational Centre, Centre for Comparative Studies, Digital Agenda and the Bureau of Social Research, September 2012

⁸ Such as Members of Parliament, the Ombudsperson, National Bank of Serbia and bodies of territorial autonomy and local self-government, as proponents of regulations under their jurisdiction;

⁹ The conference, organised by the Office for Cooperation with Civil Sector and the Balkan Civil Society Development Network, held on March 15, 2012 in Belgrade.

1. Office for Cooperation with Civil Society (in further text the Office) **initiates the process** of developing a comprehensive strategic document on the participation of citizens and civil society in the creation and implementation of public policies at all levels of government authorities. The Office should use the policy of the European Union and the Council of Europe, as well as all the positive knowledge and experience of member states to regulate the process and procedure of participation of citizens and CSOs in the creation and implementation of public policy, as well as the fact that the pre-accession period is suitable for defining these rules. This process should *include* representatives from various levels of government authorities, institutions outside the executive authorities that have a role in proposing public policy, as well as civil society organisations. The process of creating this document could serve as a *model* for setting rules and also for their practical implementation and evaluation.
2. The first stage of the process should define (harmonise) opinions regarding the **scope of the document** (the *levels of authorities* it relates to - national level and level of autonomous province and local self-government; the *acts* it relates to - laws, general by-laws, decisions of municipalities and towns, strategies and action plans at all levels of authorities; how precise it elaborates *phases, levels and methods* of participation). This phase should define the **extent** to which the rules in the document are **binding** (in line with current laws, but also with draft amendments to the existing laws governing this area, as well as with draft new by-laws that should improve the participation of citizens and CSOs).
3. Prior to formulating concrete solutions it is necessary to **agree upon the basic values** underpinning the entire process of participation of citizens and CSOs in the creation and implementation of public policy. It is important even in democracies with long history, and in the context of Serbia it is the central issue. When we talk about “cooperation” between the state and civil society, very often and quite uncritically it involves only mutual agreement and the existence of “close” (almost private) relationships. Moreover, the key principle of civil society is often forgotten: *independence*. CSOs must be recognised as free and independent, not only in terms of their objectives, decisions and activities, but also when they represent opinions different from those of government authorities. It implies active acceptance of *diversity* and respect for the *equality of all*. Cooperation (which will not always indicate agreement) must be based on the principles of *transparency, accessibility and accountability*, which entails *responsibility, respect for rules, clarity*.
4. The document should include a description of the basic **levels of participation** and link them with the participation of relating processes (at the national or local level, with regard to the law or by-law, in connection with the creation, implementation and monitoring and evaluating of public policy results). Determining the level of participation should be also aligned with the legal solutions (current and future ones). The document should define the *information provision* (the lowest level of participation) as a *duty* for all public authority representatives. The Office for Cooperation with Civil Society (the same as the European Integration Office) could play an active role in the implementation of this level of participation when it comes to national authorities. The document should also offer different modalities for organising *consultations* at all stages of decision-making, implementation and monitoring public policy, which would also have to be a mandatory process, available to all. Proponents of laws/decisions, by-laws, strategies and action plans should be responsible for this process, but the information on the process, methods, duration/deadlines and outcomes should be found on the portal of the Office for Cooperation with Civil Society (and Office for European Integration). The document should also offer rules (sufficiently clear and transparent) for organising

dialogue and *partnership* (as the highest level of participation), which include mutual action and reciprocity. Although at this level CSOs and representatives of public authorities meet in order to establish close cooperation, it is important that CSOs remain independent in their activities. It is also important to avoid any kind of privileging, favouritism or exclusion of CSOs that are not “close to” or not “favoured by” authorities. The existence of partnership between representatives of CSOs and public authorities does not exclude the obligation of authorities to organise other forms of participation: information provision, consultation and dialogue. Authorities (at all levels and in all its parts) would have to refrain from influencing relationships and organising within the civil sector. All invitations for partnerships should be made public, with clear procedures for the selection of partners.

5. The Office and authority representatives would have to make efforts to improve the **accessibility** of the participation process. Having in mind that most citizens, as well as some CSOs, at this point do not have access to electronic information, participation at all levels would have to be implemented through other appropriate media.
6. The strategic comprehensive document should offer methods and tools to achieve the interaction between citizens and CSOs with authorities in the **entire process** of political decision making. *Responsibilities of public authorities* should be clearly defined (at each level and in relation to each process) in **each step of decision making**, and also *how and through what mechanisms and tools* citizens and CSOs are included in individual steps. *Code of Good Practice for Civil Participation in Decision Making Process* lists six steps in political decision-making, including: determining the agenda, drafting laws and other acts, decision-making, policy implementation, monitoring the implementation of policies/programmes (and independent assessment – added by AWC) and reformulating policies/programmes.
7. In line with the fundamental values, at all levels of participation in the entire process and each part of the process, there would have to be **feedback** of the proponents for participants and general public, as a *minimum liability*. The document should include proposals for various forms of feedback (individual and collective). In this way, it would be ensured that the contributions of citizens and CSOs are really taken into account, even if the proposals were not accepted (since stating the rejection reasons might indicate the direction of further activities).
8. The document should clearly indicate in what situations it is possible to **deviate from the rules** for the participation of citizens and CSOs in the process of creating and implementing public policies. In this sense, the document may, in accordance with the existing and future laws and regulations, define what constitutes minimum standards and requirements for all authority representatives.
9. The document should also include proposals for **monitoring and periodic evaluation** of the processes and effects of participation of citizens and CSOs in the creation, implementation and evaluation of public policies, by both actors, representatives of public authorities and representatives of citizens and CSOs. This should enable not only the improvement of these processes, but also the awareness of their importance and availability of authorities.