Civil society, advocacy and participation in policy-making: a case study of child-welfare NGOs in Bulgaria and Serbia

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Abstract

The democratic transitions in Central Eastern European countries in the early 1990s revitalized scholarly interest in civil society and in the role of its organizations in the democratization process. Twenty-five years on, however, the ability of such organizations to perform one of their main functions, namely, to act as transmission belts between state and society, creating additional channels for interest articulation, remains largely under-examined. This thesis explores the participation of child-welfare non-governmental organizations in the policy-making process in Bulgaria and Serbia. It analyzes the role of these NGOs in the policy process, focusing on the mechanisms for interaction between the state and such civil society organizations, the channels for their inclusion in policy deliberations, and their actual involvement in consultations on draft legislation and policies.

The thesis begins by examining the legal and institutional frameworks regulating the activities and policy involvement of NGOs in Bulgaria and Serbia. It discusses the relevance of European Union requirements and recommendations for the development of consultation practices in these two new democracies, and analyzes existing legislation regarding public participation in policy processes and the strategies being used to make it more open and inclusive. The main forums for consultation with child-welfare NGOs in policy-making in Bulgaria and Serbia are found to be the working groups convened by different institutions as part of the legislative process.

The second part of the dissertation analyzes the role of the NGOs and the interaction between them and their governments in these working groups, based on interviews with NGO representatives and state officials. This analysis indicates that consultation processes in both countries are controlled by government and that existing legislation and practices provide child-welfare NGOs with a restricted role in decision-making. Further research is suggested to establish whether these restrictions exist in other sectors and other CEE countries, but if they do, the implications are that understandings of working groups as a form of high level participation need to change.

Declaration

I certify that the work in this thesis entitled *Civil society, advocacy and participation in policy-making: a case study of child-welfare NGOs in Bulgaria and Serbia* has not previously been submitted for a degree nor has it been submitted as part of the requirements for a degree to any other university or institution other than Macquarie University.

I also certify that the thesis is an original piece of research and that it has been written by me. Any help or assistance that I have received in my research work and in the preparation of this thesis itself has been appropriately acknowledged. Professional editing of the thesis has been according to ASEP guidelines.

In addition, I certify that all information sources and literature used are indicated and acknowledged in the thesis.

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List of Acronyms

APR	The Serbian Business Registry
ASTRA	Anti-trafficking Action
BCNL	Bulgarian Center for Non-Profit Law
BCSDN	Balkan Civil Society Development Network
BFHI	Baby-Friendly Hospital Initiative
BSP	Bulgarian Socialist Party
CAS	Country Assistance Strategy
CEE	Central and Eastern Europe
CIVICUS	CIVICUS World Alliance for Citizen Participation
CMV	Mechanism for Cooperation and Verification
CPD	Child Rights Centre (Serbia)
CPDs	Child Protection Departments
CRC	Committee on the Rights of the Child
CSD	Center for the Study of Democracy
CSO	Civil society organizations
CSF	Civil Society Facility
CSF	Common Strategic Framework
DFID	Department of International Development (UK)
DST	Family Type Centers (Bulgaria)
EC	European Commission
EBP	Evidence based policy-making
EIDHR	European Instrument for Democracy and Human Rights
EIO	European Integration Office
ERDF	European Regional Development Fund

ESF	European Social Fund
ESIF	European Structural and Investment Fund
EU	European Union
GERB	A centre right party in Bulgaria
GIZ	German Federal Enterprise for International Cooperation
GRO	Grassroots organizations
HRC	Human Rights Council (UN)
ICNL	International Center for Not-For-Profit Law
INCNPO	International Classification of Non-profit Organizations
INGO	International Non-government Organization
IPA	Instrument for Pre-Accession Assistance
KNOWTS	National Program for Knowledge Triangle (Serbia)
MDRI	Mental Disability Rights Initiative
MDRI-Serbia	Mental Disability Rights Initiative of Serbia
MODS	Network of Civil Society Organizations for Children (Serbia)
NCCP	National Council for Child Protection
NGO	Non-governmental organization
NMD	National Network for the Children (Bulgaria)
NPAA	National Plan for Adoption of the Acquis
NPI	National Program for Integration
NSRF	National Strategic Reference Framework
OAK	OAK Foundation
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
OP	Operational Program

OPG	Open Government Partnership
OSCE	Office for Cooperation with Civil Society (Serbia)
PHARE	Poland and Hungary: Assistance for Restructuring their Economies
SACP	State Agency for Child Protection (Bulgaria)
SAPI	The Institute for Social Activities and Practices (Bulgaria)
SEIO	European Integration Office (Serbia)
SIF	Social Innovations Fund
SIPRU	Social Inclusion and Poverty Reduction Unit (Serbia)
SIPU	The Swedish Institute for Public Administration
SWDS	Social Welfare Development Strategy
TEU	Treaty on the European Union (Lisbon Treaty)
TFEU	Treaty on the Functioning of the European Union (Lisbon Treaty)
UN CRC	United Nations Convention on the Rights of the Child
UNCT	United Nations Country Team
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Program
UNHCR	United Nations Human Rights Council
UNICEF	United Nations Children's Fund
UNCT	UN Country Team
UPR	Universal Periodic Review (UN)
USAID	United States Agency for International Development
WB	World Bank
WHO	World Health Organization

Chapter 1

Introduction

In the past two decades, the concept of civil society has been revitalized with a particular focus on its relationship to democracy. This rise in academic interest was to some extent sparked by the fall of communist regimes in Central and Eastern Europe (CEE) in the early 1990s (Seligman, 1992, p. 2). As the democratic transitions in the region were initiated or supported by social movements, hopes were high that these countries would go on to develop strong civil societies which would participate actively in the democratization process (Kutter and Trappman, 2010; Ekiert and Foa, 2011). Foreign donors have been actively supporting the establishment of different civil society organizations, mostly in the form of professional non-governmental organizations (NGOs), in post-communist countries which to assist with reforms and human rights issues. Furthermore, the Europeanization of the CEE countries set the expectations that good governance practices would be incorporated in their policy processes and that civil society organizations would be provided with opportunities to participate in policy-making. However, civil society organizations in these countries still face significant challenges in terms of access to the policy process and influence in policy-making (Fioramonti and Heinrich, 2007). The aim of this thesis is to provide some explanation for the continuous difficulties NGOs experience in establishing themselves as a strong player in the policy-making process by shedding light on the actual interaction between NGOs and the state in the policy process, and by clarifying the current role of NGOs in policy-making and the factors that affect their policy involvement in the context of two CEE countries, Bulgaria and Serbia. The following chapter presents the research questions of the thesis and provides an overview of the literature on civil society organizations and their role in the policy process in order to position NGOs' engagement in policy- making within the existing theoretical framework and expectations in terms of democratization and Europeanization of post-communist countries.

Identifying Research Questions

The research questions addressed in this thesis were determined by the general agreement in the literature that civil society organizations such as NGOs were salient transmission belts between the government and the citizens. This function of NGOs makes them particularly important in the context of post-communist transition countries where these organizations are expected to contribute to the democratization process through the pluralization of the decision-making process. NGOs are expected to act as channels for articulating and representing the interests and needs of different groups of citizens to the government.

However, the actual process of interaction between NGOs and the government in the policy-making process is largely unexplored, especially in the context of CEE countries (Dimitrova and Buzogany, 2014). The aim of this thesis is to help fill the gap in the literature by providing a detailed account of the role of NGOs in the policy-making process in Bulgaria and Serbia. This involves an analysis of the institutional mechanisms available to NGOs in those countries for accessing the national decision-making process and an examination of the process of interaction between the NGOs and the state in policy-making.

The influence of NGOs in the policy-making process is also an important issue and the initial aim of this research was to measure the political leverage of NGOs in Bulgaria and Serbia. However, the impact of non-profit organizations is not only one of the most fundamental questions regarding the sector but also one of the most difficult ones to answer (Salamon, Hems and Chinnock, 2000). Evaluation study, or impact analysis, is also one of the most difficult forms of social inquiry to conduct because it is characterized by severe measurement problems and intervening factors between cause and purported effect (Salamon et al., 2000). Existing studies of the non-profit sector do not provide generalizability or systematic evidence to support claims about impact, and generally focus on organizational scope and structure.

Thus, evaluating the influence of NGOs in the decision-making process within the limited timeframe and resources of this research is hardly possible. There is no generally accepted methodology for measuring an interest group's influence or a human rights organization's effectiveness and the task is often denoted as impossible, especially if assessed in quantitative terms (Berry and Arons, 2005, p. 130; Calnan, 2008, p. 229). A practical problem associated with the attempts to measure political influence and effectiveness is the tendency among both government officials and NGO leadership to present policy changes as their own achievement, especially when these raise political dividends (Welch, 2001 as cited in Calnan, 2008, p. 232).

However, while the overall impact of NGOs on policy-making is considered impossible to measure by the vast majority of scholars, some authors argue that one can at least examine the preconditions for impact, such as access to policy-making (Scoble and Wiseberg, 1976 as cited in Calnan, 2008, p. 230). Furthermore, "interpretive modes of de-centered analysis stress the inter-subjective, interactive, relational aspects of power as a frame for the designs of the parties present in policy disputes" (Calnan, 2008, p. 234). These dispute-centered approaches emphasize that policy decisions work mainly through the reception and transmission of information, and not through forceful control exercised by authorities. Applying such an approach to NGO effectiveness implies that impact is not a question of linear causation but one of dialogic interaction of information between NGOs and the government (Calnan, 2008, p. 235).

Following this proposition, this thesis focuses on two main issues in order to evaluate the role of NGOs working with children in policy-making in Bulgaria and Serbia. First, it explores the institutional mechanisms available to NGOs for participation in the policy process as pre-determinants for access, and second, it examines the interaction between the state and NGOs in terms of deliberative procedures and dialogue. In view of this, the research questions may be formulated as follows, NGOs here meaning NGOs working with children, not generalizing to all NGOs across sectors.

The Main Research Question

What is the role of NGOs in the policy-making process in Bulgaria and Serbia?

In order to find a valid answer and deal with the research problem comprehensively, the main research question is further specified and transformed into four more focused and mutually connected research sub-questions. The sub-questions are the following:

1. Is there institutional access for NGOs to the policy process?
2. If so, are the specific mechanisms for consultation with NGOs?
3. How are domestic structures for public participation in policy-making related to EU accession?
4. How do the current participatory framework and NGOs' advocacy strategies affect their role in policy-making?

The literature on the role of civil society organizations in policy-making in post-communist countries does not provide detailed insight on the involvement of NGOs in the policy process. Therefore, this research is largely exploratory and does not aim at testing hypothesis. The aim of this thesis is to shed light on the micro mechanisms of the policy process in Bulgaria and Serbia, and the role of NGOs in policy-making. It does not aim to cover a wider range of topics such as Europeanisation per se or the transformation of politics in post-communist countries from a historical perspective. The thesis explores the influence of European Union requirements on the establishment of mechanisms for public participation in policy-making only to provide context for the development of the policy process (not politics) in these countries. The significance of the EU for the establishment of a more participatory policy process is evident in the EU statements continuously emphasizing the need for inclusion of civil society in policy-making. It is important to note that this thesis is not aimed at providing recommendations for improving the current mechanisms for interaction between NGOs and the government. Its aim is to explore the current policy process in Bulgaria and Serbia, and to clarify the role of NGOs in policy-making, discussing the concerns and expectations of both NGOs and the state in regard to the policy process. The literature review that follows provides context to these questions by explaining the importance of

civil society organizations for democratization and EU accession of post-communist countries, and the position of NGOs in the third sector of these countries.

Civil society and democratization

The vitality of civil society is central to any discussion of democratization since it raises important questions about the role of social forces in defining, controlling and legitimating state power (White, 1994). Furthermore, civil society has an essential, political role not only in opposing authoritarian regimes and contributing to the establishment of a democratic polity, but also in improving the quality of governance within that polity. This importance of civil society for the durability and effectiveness of democratic institutions beyond electoral representation is emphasized by a substantial number of scholars (Green, 2002; Diamond, 1999, p. 239).

Civil society is made up of more or less spontaneously created associations, organizations and movements that find, take up, condense and amplify the resonance of social problems in private life, and pass these on to the political realm via the public sphere[1] (Habermas, 1992 as cited in Anheier, 2004; Habermas, 1996, p.367). These groups are autonomous from the state and are often referred to in the literature as the non-profit, voluntary or third sector due to their position between the market and the state (Salamon and Anheier, 1996). They can take up a variety of organizational forms such as trade unions, professional associations, grassroots or community organizations, social movements and NGOs (Matveeva, 2008; Salamon, Hems and Chinnock, 2000). Civil society organizations can also be described as interest groups when they speak for, or act for, or look after the interests of their constituents in their interaction with the government (Berry and Arons, 2005, p. 43). Civil society also includes groups such as religious organizations, sports clubs and cultural associations which, although not having a direct relevance for the political process, contribute to generating trust and solidarity among citizens (Raik, 2006).

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[1] The public sphere is a "communication structure rooted in the lifeworld through the associational network of civil society" (Habermas, 1996, p. 359).

Civil society is related to good governance and democratization in a variety of ways (White, 1994; Diamond, 1994). First, if strong enough, it can alter the balance of power between the state and its citizens in favor of the latter and function as a balancing opposition, checking and limiting state power. Civil society organizations (CSOs) can help enforce public performance standards and accountability, and also act as watchdogs by closely monitoring state decisions.

Second, civil society organizations can act as a two-way transmission belt between the state and society, creating additional channels for the articulation and representation of interests through the pluralism of interest groups, and enriching the flow of information to citizens. In this way, civil society organizations present a forum for public opinion formulation which consequently exerts pressure on government actions (Howard, 2003). They also provide authorities with valuable information and expertise on social problems, the expectations of citizens, and ways to address their needs.

Third, civil society has the capacity to stimulate political participation and develop a democratic culture of tolerance, redefining the decision-making processes (White, 1994). Membership in civil society organizations enhances democracy through education at the individual level which "instills habits of cooperation and public spiritedness, as well as practical skills necessary to partake in public life" (Putnam, 2000, p. 338). The norms of civic engagement and cooperation then help improve the performance of democratic institutions via higher levels of interpersonal trust and lower levels of collective action problems (Putnam, Leonardi and Nanetti, 1993, p.89). The ability of civil society to perform these numerous roles depends on the characteristics of its organizations, the institutional context and environmental factors (Chalmers, 2001).

This thesis focuses, in particular, on the political role non-government organizations or NGOs play in CEE post-communist states. NGOs are the subgroup of civil society organizations that are most prevalent in these countries. They are so prevalent that some scholars have referred to the large number of NGOs in CEE and development countries as the "NGO-ization of civil society" (Howell and Pearce, 2002

as cited in Pishchikova, 2006, p. 44), or to civil society as "mushrooming NGOs" (Bunea, 2007). Given their proliferation and professionalization, the question arises as to what extent these organizations perform the functions attributed to civil society and whether they are able to advocate for the needs of their constituents in the policy-making arena. Some scholars see NGOs in post-communist countries as too detached from the grassroots and prefer to evaluate the vitality of civil society through the activities of social movements (Fagan and Sircar, 2010; Jacobsson and Saxonberg, 2013; Cisar, 2013). However, this literature albeit very interesting is outside the framework of the thesis because this thesis does not explore the nature of civil society which is part of a larger question in political science. Most importantly, this thesis is focused on the policy process and not contentious politics and mobilization. For these reasons, NGOs are most suited to the purpose of this research, namely clarification of the role of civil society organizations in formal policy-making.

Civil society in post-communist transition countries

The number of civil society organizations in post-communist states, in particular NGOs, has risen considerably since the early 1990s because of the assistance supplied by international donors supporting the democratic transitions in Central and Eastern Europe (Gotchev, 1998). However, the third sector in these countries is still weak and faces numerous problems ranging from financial unsustainability, weak connection to the grassroots and marginal popular support, to limited political leverage and institutionalization (Howard, 2003, p. 29). These problems are evident also in the NGO Sustainability Index studies for Central and Eastern Europe and Eurasia, prepared by USAID from 1998 which discusses characteristics of the third sector in each country of the region such as CSO sustainability, legal environment, advocacy, service provision etc. In both Bulgaria and Serbia, there has been continuous improvement in the Sustainability Index, with rankings slightly higher for Bulgaria than Serbia, and both countries scoring best on advocacy, legal environment and infrastructure, and worst on financial sustainability (USAID, 2014).

NGOs in post-communist countries have received significant funds from international organizations to act as agents of change or influence, and to facilitate EU accession. They have also been preferred as implementers of development projects to state institutions which often lack capacity and accountability in transition countries. The views on the effects of international aid on civil society, however, are contradictory and some scholars claim that foreign assistance creates subversive incentives for groups to distance themselves from their civil functions, thereby undermining their capacity to encourage a civil sector. Carmin and Jehlicka (2005), for example, argue that Czech environmental groups show a tendency to turn away from mass activities and engage predominantly in professionally managed projects in order to gain financial support from the West. Another study conducted by Evans-Kent and Bleiker (2003) in Bosnia and Herzegovina shows that the NGO sector there is very unstable because organizations lack identity and change their mission to follow the shifting funding priorities of international donors. The reliance of NGOs on foreign funds does not motivate them to build their own base of popular support, and their accountability to external donors provokes skepticism among the local communities (Grodeland, 2010).

However, it needs to be acknowledged that building a base of supporters in post-communist countries is not an easy task. There is widespread political apathy among the general public and a common attitude that elections make no difference and that individuals have a similar level of influence as they had under the communist regime (Green, 1999). Individual interest in politics is expressed through episodic acts of voting and confrontation rather than associational membership, which in post-communist countries is extremely low (Howard, 2003, p. 18; Matveeva, 2008). These attitudes can be attributed in part to the lack of a democratic tradition, longstanding mistrust, disillusionment with the transition process, and the absence of a well-functioning state and relevant social fabric (Howard, 2003). Another factor in generating passivity is likely to come from the model of top-down elite reform that has generally been adopted, and the elitism that has become embedded in political and civil society during the democratic consolidation period (Korkut, 2005). Furthermore, the transition to a market economy has not been without social and economic consequences of varying degrees among the individual post-communist states. These directly affect the ability of citizens to make contributions to voluntary organizations.

Still, some studies show that despite the low individual participation in membership organisations, other forms of activisim such as "transactional activism" are more robust than the data on individual level suggests (Petrova and Tarrow, 2006). Petrova and Tarrow propose a differentiated model of civil society consisting of a) internal potential for citizen action, or individual participation and b) relational aspects of social activism. They argue that the development of civil society in Central Eastern Europe is stronger in the development of lateral ties among civil society groups and vertical ties between these groups and public officials than it is in the potential for broad citizen activism. This dimension of participation is called by Petrova and Tarrow "transactional activism," and their findings encourage the investigation of the interaction between actors in the policy process, and the role of non-state actors in policy deliberations, which is the focus of this thesis. Petrova and Tarrow state that "third sector organizations have won official and societal acceptance as legitimate social actors that have sought to establish new democratic channels with political elites for input and the articulation of interests and have also learned to take advantage of transnational civil-society networks".

Petrova and Tarrow (2006) look at the relational aspects of activism through the ways voluntary associations and advocacy groups interact with one another, with political parties, and with power-holders, whether they coalesce around interests of common concern, form loose networks that communicate regularly and share information and combine for joint pressure on policy-makers. They also distinguish between two types of relational activism: participatory activism and transactional activism, which can be related to the concepts of public advocacy and institutional advocacy, and are important aspects of the advocacy engagement of civil society organisations such as NGOs. Participatory activism is defined as the potential and actual magnitude of individual and group participation in civic life, interest group activities, voting and elections while transactional activism is the ties among organized non-state actors and between them and political parties, power holders, and other institutions.

An important finding of Petrova and Tarrow is that despite the negative consequences from the low levels of citizen participation in CEE, there is societal capacity for building relations among civil society groups, and between them and political parties and the state through transactions such as coalition formation around single issues, network formation, and negotiation with elites. Petrova and Tarrow acknowledge that a "high level of inter-group transactions in the presence of low levels of mass participation may be creating political systems of a decidedly elitist cast" but emphasize that the pressure on power holders by organizational elites even with weak popular support would still help make the state more responsive than power holders faced by inert citizenries. They suggest that the relations among civil society organizations with political parties and policy-makers may be laying the foundation for more active civil societies in the future. On the other hand, the lack of participatory activism potential in CEE can mean that NGOs, interest groups, and social movements that claim a popular mandate lack the legitimacy to convince officials to take them seriously (Petrova and Tarrow, 2006).

One of the implications of NGOs' donor dependency and limited ties with the grassroots is exactly the way that impacts the role of NGOs in the policy process. Matveeva (2008) argues that civil society organizations are unable to exert pressure on politicians without a substantial calling within the wider public and that the lack of a supporter base weakens not only their financial sustainability but their political leverage as well. This limits their access to the decision-making process and increases the difficulties involved in making use of the general right to information from the government (Green, 1999; Steel et al., 2007). A study of the non-profit sector in the Czech Republic has shown that the policy-making process is rather closed there, and consultations with experts or outside interested parties occur only at the discretion of the state. The opportunity for external input is therefore limited and un-institutionalized, and the legislative process offers little additional access to the policy-making (Green, 1999). A similar situation can be seen in relation to NGOs working with children in Bulgaria and Serbia, where consultation mechanisms are not well institutionalized and are largely ad hoc and controlled by the government.

Therefore, the lack of adequate legal and institutional frameworks for consultation with social actors is one of the main obstacles to the inclusion of civil groups in the policy-making process (Korkut, 2005). The new political elites in CEE have not been ready to accept civil society organizations as partners, and the state has either attempted to weaken and exclude them from policy-making or to co-opt them into their own political movements (Korkut, 2005). Green (1999) argues that non-profits must not only become more involved in policy-making on important issues in post-communist countries but they should also seek the institutionalization of policy-making access.

The level of institutionalization of the consultation process and the specifics of domestic opportunity structures are therefore expected to have significant impact on the access of NGOs to decision-making. As the focus of this thesis is on the role of NGOs in policy-making and their interaction with the state, the conditions affecting their access and participation need to be explored in detail. The legislative framework concerning non-profits in Bulgaria and Serbia, and the institutional mechanisms for the involvement of NGOs in policy-making in these countries are examined in Chapter 5.

Non-governmental organizations: definition and functions

In order to better understand the role of NGOs in policy-making as part of civil society in Bulgaria and Serbia, one needs to be familiar with their organizational specifics and mode of operation. Non-governmental organizations or NGOs are formal, functionally differentiated and frequently professional non-profit organizations that interact with the state and market actors (Richter, 1998 as cited in Tarrow and Petrova, 2007). In CEE countries, the term NGO is used interchangeably with the terms third sector or non-profits as NGOs are the most visible and numerous type of civil society organization in these countries (Gotchev, 1998). For the purpose of this thesis, the terms third sector and non-profits are also used interchangeably with NGOs and refer to NGOs only and not civil society as a whole, unless indicated otherwise. Many scholars see NGOs in post-communist countries as recognizable entities which function as concrete measurable markers of civil society due to their prevalence among civil society

organisations (Steel, Henderson and Warner, 2007). It can be argued that to some extent the equation of civil society with NGOs serves the latter and is actively co-produced by them in the need for legitimacy, which might not do justice to the complex relationship between the two entities (Lang, 2013, p. 61). In reality, NGOs and civil society can exhibit an oppositional relationship at times: "many NGOs have become part of a neoliberal service sector of state-devoluted activity and can be seen as part of an extended state" (Feldman, 1997 as cited in Lang, 2013, p. 61). This can be particularly true in the post-communist sector where NGOs are often seen as subcontractors to the state or foreign donors.

Some scholars argue that civil society development through Western democracy assistance funding builds a sector of professional NGOs that are simply adjuncts to the state and very far from the concept of civil society (Fagan and Ostojic, 2008; Fagan, 2006). They consider spontaneous civil activism in the form of social movements a more authentic expression of civil society beyond "NGO-ization" and argue that there is a surge of activism and grass-root mobilization across CEE (Jacobsson and Saxonberg, 2013; Císař, 2013). However, the interviews conducted for this thesis and the reports and publications reviewed in the course of writing indicate that these forms of civil society engagement with the policy process are still more of an exception than the norm, rather ad hoc and limited to specific sectors such as environmental protection. Furthermore, even the environmental organizations, for example in Bulgaria, that are most active in organizing grass-root mobilization for political purposes, are not spontaneous movements: they are registered NGOs, sometimes working together as coalitions, and engage in formal policy-making forums organized by the government[2].

This shows that the civil society groups which employ social movement tactics and engage in contentious politics in post-communist Europe "can find other ways of influencing society than through mass mobilization and they can try to combine

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[2] For example, the coalition "For the Nature" which includes major Bulgarian associations active in the organization of protests and public advocacy, has a large project called "Participation for the Nature" sponsored by foreign donors which aims at encouraging the inclusion of NGOs in the process of policy formulation and decision-making in cooperation with institutions at local and national level. More information is available on the project webpage: http://forthenature.org/uchastie-za-prirodata

occasional mass mobilization with other types of contentions action" such as "transactional activism": strategic networking and engagement in problem-solving activities with policy-makers or authorities (Jacobsson and Saxonberg, 2013, p.3-4). Jacobsson and Saxonberg acknowledge that limiting the activities of social movements to classical confrontational tactics of protests and mass mobilization is not applicable to the post-communist context. They recognize that social movement organizations are often both engaging in contentious politics and in other activities such as becoming service providers, combining occasional mass mobilization with advocacy and service provision. This dual involvement of these social movement organizations with both the grassroots and policy-makers does not seem much different to the NGOs' engagement in both public and institutional advocacy, as discussed in Chapter 3. Therefore, even scholars that emphasize the importance of grassroots mobilization for civil activism in post-communist countries do not systematically distinguish these ideational types of movements or organizations from the professionalized NGOs, not only in terms of activities and advocacy strategies but sometimes also in terms of terminology (e.g. Fagan and Sircar, 2010). To what extent NGOs as organizations with professional staff and institutional advocacy orientation are the desired agents for democratization and civil society revival in post-communist countries is not the topic of this thesis; there is ample research on that topic. Instead this thesis explores the role of NGOs as transmission belts of the interests and needs of disadvantaged, marginalized or underrepresented groups within the policy process, investigating the extent to which policy development in Bulgaria and Serbia has become more open to the participation of such organizations.

The thesis rejects the view that the NGOs examined in the thesis are "mere pseudo-governmental agencies or firms in an altruistic disguise" (Lang, 2013, p.62) and regards them not as the "sole torch bearer of civil society", but as functionally varied organizations of civil society whose involvement in policy-making in post-communist countries is well worth exploring. It should be noted that this thesis does not explore the development of civil society as such in post-communist countries, which is a very broad topic, nor does it evaluate the potential for social movements' grass-root mobilization in contentious politics in CEE. The focus of this thesis is on the inclusion and role of

NGOs as a civil society organization in the formal policy-making process of these countries.

In any case, the term NGO is generally understood to refer to those organizations that are formally established, run by employed staff (often urban professionals or expatriates), well-supported by domestic or, as is more often the case, international funding, and often relatively large and well-resourced (Mercer, 2002). Thus, NGOs are different from grassroots organizations (GRO) which are smaller, often local-level and membership-based organizations, operating without paid staff, reliant upon donor or NGO support, and working in a network with larger or professionalized groups. These definitions are valid for the context of post-communist countries as well since the majority of these organizations have been established following Western models.

From a structural/operational perspective, NGOs are perceived as private, self-governing, formal and non-profit organizations (Gordenker and Weiss, 1995 as cited in Vakil, 1997). The omission of the descriptor 'voluntary' in definitions of NGOs acknowledges the increasing professionalism of these groups, especially when compared to civil society in general (Vakil, 1997). The establishment and success of NGOs is influenced by a variety of factors such as political constraints and opportunities, and the framing of issues (Tarrow, as cited in McAdam, McCarthy and Zald, 1996, p. 54; Tarrow, 1998, p.32). These characteristics of NGOs are important for understanding their structure and functions in the Bulgarian and Serbian context which in turn affect their activities, financial sustainability and advocacy strategies.

From a functional perspective, the sector in both developed and developing countries is composed of organizations whose purpose is to serve under-served or neglected populations, to expand the freedom of or to empower people, to engage in advocacy for social change, and to provide services (McCarthy, Hodgkinson and Sumariwalla, 1992, as cited in Salamon and Anheier, 1997, p. 32). They also pluralize the institutional arena, acting as intermediary organizations between the citizens and the decision-makers, and checking state power (Mercer, 2002; Salamon et al., 2000). Furthermore, the state-society meditating position of NGOs in post-communist

countries may be assessed through the strategies they use to influence the policy process, since these depend on their perceived effectiveness, the resources available, the governmental structure and the organization's relationship with the public (Steel et al., 2007).

The way NGOs actually transmit the needs of their target groups to the decision-making arena is central to understanding their role as intermediaries between citizens and the state in the policy process and is an important aspect of this thesis. After all, NGOs cannot significantly improve the situation of neglected populations and achieve social change without engaging actively in advocacy and participating in the policy-making process. The strategies NGOs use to influence policy and the characteristics of their interaction with the state are important descriptors of the role of NGOs in the policy-making process. However, the actual process of NGOs' involvement in policy-making in post-communist countries is a relatively neglected field of study and this thesis aims to contribute to a better understanding of its specifics.

As NGOs engage with neglected populations, providing services is the most common role among non-profits, especially in developing countries, due to the higher quality and lower cost offered by CSOs as compared to the state (Salamon and Anheier, 1992). However, the organizations primarily involved in service provision do not necessarily limit their activities only to that functional area. An important finding by Salamon, Hems and Chinnock (2000) is that the advocacy role is equally common among organizations active in human services; it is often combined with other roles and is not typical only of organizations working in the field of human rights. They argue that non-profits combine service delivery and advocacy to a greater extent than expected, giving as an example associations in France reported to be a strong lobbying force and the state's principal advisor in writing public regulations and in planning policy while managing service establishments.

However, not all governments support the advocacy engagement of non-profits and attempt to limit it by restricting the type of activities eligible for state funding. In Australia, for example, local associates of Salamon et al. have reported that the

government funds only the service provision activities of the third sector, and sometimes uses the funding contracts to prohibit public advocacy in particular fields. This substantial state influence on the activities of non-profits limits advocacy initiatives to the encouragement of citizen involvement in policy issues at the expense of the promotion of significant social change (Salamon et al., 2000). This claim is further exemplified by Salamon et al. through the case of Israel, where the political culture and the nature of the relationship between the state and civil society prevent non-profits from influencing legislation. Thus the legal framework regulating the activities of non-profits is expected to have a significant effect on the ability of an NGO to participate in policy-making and on its involvement in service provision and advocacy, something that will be explored in detail in relation to Bulgaria and Serbia in Chapter 5. The agenda and functional orientation of NGOs in these countries in terms of service provision and/or advocacy is also determined to a great extent by the funding priorities not so much of the state but international donors such as USAID and the EU.

NGOs and Europeanization[3]

The eastern enlargement of the European Union (EU) has been identified in the literature as a factor of significant importance in regard to the domestic structures of CEE accession countries and the involvement of civil society organizations in the policy process. EU integration can empower civil society actors in a variety of ways such as offering new opportunities for civil society to access domestic policy-making, promoting the inclusion of civil society organizations in the accession process, strengthening the capacity of the third sector through training and funding, and providing opportunities for civil groups to participate in transnational networks and policy discussions at EU-level (Börzel, 2010; Pleines, 2005; Raik, 2002; Sudbery, 2010). On the other hand, EU enlargement may strengthen the state rather than civil society through the adoption of legislation under strict conditionality and time pressure

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[3]Europeanization is defined in this thesis as "a process involving, a) construction, b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies" (Radaelli, 2003, p. 30).

which does not allow time for broad societal debates (Börzel, 2010; Raik, 2004; Sissenich, 2010). Another negative effect of the EU's top-down approach to civil society development in CEE accession states is the dependency of civil society organizations in these states on external funding and donor agendas, and their detachment from the grassroots (Fagan, 2005; 2006; Henderson, 2002; Kutter and Trappmann, 2010).

These issues are, of course, essential to any debate on democratization and civil society development. In this thesis, Europeanization is explored in terms of its relevance to the involvement of civil society organizations in domestic policy-making. Europeanization is identified as an external factor, relevant to the introduction of mechanisms for public participation, through the institutionalization of EU recommendations in domestic structures. The EU has the capacity to shape national frameworks for civil society participation, and this has implications for the involvement of civil society organizations such as NGOs in policy-making. The EU shapes the democratic process in CEE countries via support for certain institutions and practices, which affects the political context in which civil society organizations operate (Hicks, 2004). It encourages participatory policy processes in individual countries, and its provisions for public participation and access to policy processes in areas such as environmental policy assist in shaping the policy involvement of civil society organizations (Hicks, 2004).[4] The EU also explicitly requires the involvement of non-state actors in the implementation of EU policies (Börzel and Buzogany, 2010). The implementation of the *acquis communautaire*, the body of rights and obligations that binds all the member states together within the European Union, is an incentive for state and non-state actors to cooperate, as the capacities of state actors are already stretched thin by managing the transition process, and they need information, expertise and support from civil society and the business (Börzel and Buzogany, 2010).

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[4] 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

It is generally assumed that the EU improves the conditions for civil society organizations through political conditionality, the transfer of EU rules and modes of governance, and capacity-building measures (Kutter and Trappmann, 2010). EU conditionality can be described as a rule-based intervention which manipulates given preferences through the means of external incentives such as the threat of exclusion, the promise of aid and progress in procedure (Schimmelfenning and Sedelmeier, 2005 as cited in Kutter and Trappmann, 2010) as well as by encouraging changes in perceptions and preferences by means of instruction and persuasion (Bomberg, 2007 as cited in Kutter and Trappmann, 2010). Such interventions are considered successful when the targeted actors in the accession countries become committed to EU accession, accept the implied power asymmetry and draw on continuous popular support for EU accession (Kutter and Trappmann, 2010). However, the effectiveness of external incentives depends on the credibility of positive/negative sanctions, the precision of the prescriptions and the degree of social acceptance of the requirements (Schimmelfenning and Sedelmeier, 2005 as cited in Kutter and Trappmann, 2010). Acceptance is expected to be high "if rules are formal, member states are subject to them as well, the process of rule transfer fulfills basic standards of deliberation and EU rules are shared by other international organizations" (Schimmelfenning and Sedelmeier, 2005 as cited in Kutter and Trappmann, 2010). The outcome of effective interventions is EU-conforming behavior and legislative adaptation or EU-conforming implementation (Schimmelfenning and Sedelmeier, 2005 as cited in Kutter and Trappmann, 2010).

In regard to civil society, there is a general message from the EU that civil society organizations are expected to take a more active role in both the enlargement process through the harmonization of legislation and informing the public, and in the political process more generally.[5] However, civil society or NGOs are not mentioned in the membership criteria or in EU legislation, and the principle of conditionality does not apply directly to civil society apart from the requirement that basic individual rights and freedoms, including freedom of speech and association, need to be guaranteed (Raik, 2002). It is important to see then how the EU promotes the development of mechanisms

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[5]More detail on the relevant documents issued by the European Commission is provided in Chapter 4

for the inclusion of civil society in policy-making, and how the CEE governments incorporate EU recommendations. This is the particular focus of Chapter 4, which explores the requirements of the EU in the area of civil society in relation to Bulgaria and Serbia, and the measures that these countries have implemented domestically.

Despite the lack of binding conditionality, CEE governments are generally willing to react to EU recommendations in regards to civil society for a variety of reasons, but mostly to show that they are trying to make progress (Raik, 2002). With the growing attention by the EU towards domestic issues, governments are more exposed and vulnerable to the watchdog activities of CSOs. The latter can alert the European Commission to implementation problems (Börzel, 2010), and use EU policies as an affirmative reference point and political resource (Sudbery, 2010). The ability of non-state actors to use the EU and carry over procedural policy requirements from the acquis to other policy-making is essential for the development of more democratic policy process (Dimitrova and Buzogany, 2014). A study conducted by Dimitrova and Buzogany on the forestry sector in Bulgaria and Romania shows that NGOs able to use EU links and governments sensitive to naming and shaming can result in a positive influence of EU rules on the policy process even in non-acquis policy areas. They point out that accession to the EU was not only a policy goal for CEE governments, but also a source of legitimation for different policies and reforms, which however, increases the EU's leverage and makes governments vulnerable to 'naming and shaming' strategies.

In their view, the EU is potentially able to influence democracy at the policy-making level through two mechanisms: 1) using rules and sanctions directly and 2) exerting influence in coalition with domestic non-state actors and invoking formal rules in terms of substance or procedure (participation of stakeholders, public consultation mechanisms). The EU can also safeguard the rule of law by acting as a final instance of appeal when formal consultation procedures are neglected and as a resource for domestic actors seeking to participate in policy-making. However, Dimitrova and Buzogany point out that the existence of EU rules is a necessary, but insufficient condition for quality policy-making and that better policy-making can only occur if there are domestic actors, among state officials and civil society, that actively seek to

use the new rules. They argue that for the EU to make a difference to the policy process, it would need to work with local actors promoting meaningful consultation procedures and constrain other actors aiming to capture the policy-making process. They also emphasize that procedural rules even when consultation and participation are required as part of the EU's acquis, still do not ensure improvement in policy processes, "as these rules need to be used by domestic actors to become 'rules-in-use' in Ostrom's term" (Dimitrova and Buzogany, 2014). For these reasons, they identify proper procedure, application of existing formal rules and public consultation as indicators for the improved quality of policy-making; these indicators are also used in this thesis to evaluate the inclusion of NGOs in the policy process in Bulgaria and Serbia.

The EU also influences the construction of the civil societies in candidate countries through shaping the meanings given to that sphere, and suggesting certain roles and functions for it (Raik, 2002). The involvement of non-state actors in policy-making requires an administrative or state culture that considers cooperation with non-state actors essential for good governance (Börzel and Buzogany, 2010). Changes in discourse create pressures for policy change, and the new meaning given to civil society in the EU context requires new practices of involving civil society organizations in the policy process (Raik, 2002), something accession countries can struggle with. The EU's recommendations in the area of civil society often evoke only "dead-letter compliance," with poor and ineffective implementation (Kutter and Trappmann, 2010). This is because national governments adopt a gate-keeping position and resist the effective involvement of civil society organizations by providing poorly-drafted information on legislation or EU projects and informing civil society organizations very late, if at all (Kutter and Trappmann, 2010). Second, the implementation of more inclusive policy-making is hindered by the weakness of civil society organizations. Neither state nor non-state actors may have sufficient capacities and trust to engage with each other (Börzel and Buzogani, 2010).

Last but not least, the EU does not provide concrete incentives for effective civil society involvement, as it only monitors formal compliance with conditionality. It also undermines the conditions for multi-actor consultation by pressing for speedy law

adoption (Kutter and Trappmann, 2010). Kutter and Trappman argue that, in this way, the EU implies that new modes of governance are a secondary issue in the accession process. This not only confirms the understanding of CEE state actors that effectiveness is bound to centralism and tight procedures, but also perpetuates the gap between rhetoric and implementation characteristic of the use of new governance tools in established EU member states. The enlargement policy thus reproduces the style of legal-bureaucratic government that, despite 'good' and 'new governance' approaches, is still prevalent in EU policy-making (Lenschow, 2002, p. 20 as cited in Kutter and Trappmann, 2010) and favors expertise-driven and powerful rather than popular or grassroots civil society organizations (Hallstrom, 2004, p. 183 as cited in Kutter and Trappmann, 2010). According to Petrova and Tarrow (2006), the EU itself is hardly the paradigm of participatory politics as the possession of expertise and the development of the skills of negotiation and lobbying may be far more important than the mobilization of opinion in policy-making at EU level.

Furthermore, following the EU emphasis on civil society's involvement in service provision, state representatives start to accept as partners only those civil society organizations funded by the EU and fitting the image of mutually beneficial interaction (Kroupa and Stogr, 2008, p. 11 as cited in Kutter and Trappman, 2010). The EU's strategies and programs are therefore seen to reflect a rather functional understanding of civil society, an understanding that is shared by other international donors (Börzel, 2010). According to Börzel, the EU has an instrumental view towards civil society and sees its organizations as providers of information and expertise when these are needed in the regulatory process to improve governance performance.

A study of CEE environmental movements, for instance, shows that the movements have become more specialized and professionalized, and have increased their emphasis on institutional procedures such as lobbying, consulting on draft legislation, researching and writing reports, and attending public meetings in the process of EU integration (Hicks, 2004). Hicks argues that the concentration on participation in legislative and regulatory processes promotes the institutionalization of NGOs, as well as their professionalization and specialization at the expense of

campaign-oriented activities. However, she notes that the EU has encouraged increased participation in policy-making and more open policy processes through its influence on CEE governments.

The EU accession process influences domestic structures and the involvement of civil society organizations in policy-making through the emphasis the EU puts on participatory mechanisms, and the diffusion of norms of good governance. Despite the lack of strict conditionality in the area, CEE governments are expected to incorporate EU recommendations on the cooperation with civil society in domestic policy-making, and to comply with the requirement to include non-state actors in the implementation of the *acquis communautaire*. The actual development of institutional mechanisms for the inclusion of civil society organizations in policy-making, however, can be vastly different to these expectations.

The parallel, or rather the lack of parallel, between EU recommendations and established practice is evident in the studies of the NGOs involved in working with children in Bulgaria and Serbia that underpin this thesis. Even though consultation mechanisms for the inclusion of civil society organizations in policy-making formally exist as recommended by the EU, consultation practices do not meet the established standards for effective consultation. The specifics of the consultation process in Bulgaria and Serbia do not allow NGOs to influence the agenda or the outcome of policy deliberation and limits their role to that of providers of information on demand. However, NGOs in Bulgaria and Serbia also recognize that their relationship with the state has improved in recent years and progress has been made towards a more inclusive policy-making process, partially as a result of EU requirements.

Thesis Outline

The aim of this thesis is to provide a detailed and comprehensive analysis of the role and level of participation of child-welfare NGOs in policy-making in Bulgaria and Serbia. Following the introductory discussion of the importance of civil society

organizations for the democratization and EU integration of CEE countries presented in **Chapter One,** the rest of the thesis unfolds as follows.

The research questions through which the inclusion of NGOs in the policy process is addressed, and the methodological approach of the thesis, are presented in **Chapter Two**. The chapter explains the selection of Bulgaria and Serbia, and the case study method for the purposes of the present research, the focus on the advocacy activities of child-welfare NGOs as focal points of the analysis, and the data collection process.

Chapter Three visits theories relevant to the examination of the participation of non-state actors in the policy-making process in order to build a theoretical framework that provides the basis for the analysis of the empirical data collected in the undertaken research. Habermas' account of deliberation in the public sphere and the political system with an emphasis on rationalization of political will formation and the role of civil associations and public interest groups in the policy process is used as the building block of the theoretical framework. The chapter then translates these theories into more operational concepts that can be used to evaluate the participation of NGOs in policy-making, such as the factors that affect the effectiveness of policy consultations as deliberative venues and the role of different actors in the policy process.

In order to better understand the developments in regard to public consultation in these two countries, **Chapter Four** delves deeper into the requirements and recommendations of the European Union on civil society development towards the new member states from CEE and candidate countries. It discusses the emphasis placed by the EU on civil society involvement in policy-making on one hand, and the lack of specific recommendations on consultation mechanisms in the EC Progress Reports and in the Enlargement Strategies on the other.

Chapter Five reviews the implementation of reforms on civil society legislation and public consultations have developed in the two countries through an examination of the relevant legal and institutional frameworks. It presents the requirements and

procedures for consulting non-state actors in the process of policy-making as defined in the national legislation and other documents of non-binding character. This chapter shows that the consultation mechanisms in Bulgaria and Serbia are not sufficiently regulated and institutionalized, and the consultation process is ad-hoc and controlled by the governments.

Chapter Six then discusses the international agreements and organizations which influence the ability and opportunities of child-welfare NGOs to participate in domestic policy-making. It indicates that the international conventions and bodies such as UNICEF and the EU are of high relevance to the work of child-welfare NGOs, and to the evolution of national reforms and strategies such as deinstitutionalization. The chapter argues that the interaction of NGOs with international organization is essential for their access to policy-making and their political leverage, especially given their limited connection to grassroots.

Chapter Seven is the first of three empirical chapters that capture the findings of the field research conducted for the thesis. It discusses the projects and activities of the child-welfare NGOs interviewed in Bulgaria and Serbia, establishing that they are largely involved in institutional advocacy and not in public advocacy. Additionally, the chapter shows that it is difficult for these organizations to develop a wide support base and that their main activities are project development and implementation, and service provision.

The advocacy activities of child-welfare NGOs and their participation in policy-making is further examined in **Chapter Eight** which evaluates the process of consultation in working groups, the most prevalent forum for policy deliberation with non-state actors in Bulgaria and Serbia. This chapter discusses the ambiguity in national regulations in regard to the procedures for convening and organizing working groups by line ministries. The existing practice in the two countries is analysed in accordance with Habermas' view of democratic procedures for policy deliberations, and is found to be a case of incomplete deliberation: working groups are not clearly regulated or

institutionalized, and the deliberation they provide for does not encompass decision-making.

The actual interaction taking place between the NGOs and state representatives in the working groups, and the NGO political access and leverage are discussed in **Chapter Nine**. This chapter shows that the communication between the governments and the NGOs participating in working groups is one-way: the NGOs submit policy proposals but do not receive feedback. It shows that the government perceives NGOs as providers of technical expertise while NGOs rely on working groups as a main channel for institutional advocacy. The chapter also discusses the degree of stakeholders' inclusion in policy-making that working groups allow for, using the different levels defined in the Code of Good Practice of the Council of Europe and the EC standards on effective consultation as guidelines.

Chapter Ten concludes the thesis by summarizing the theoretical observations and key empirical findings, arguing that working groups, the main consultation mechanism in Bulgaria and Serbia, despite providing NGOs with access to the policy process, have significant drawbacks in terms of transparency and effectiveness. They serve as venues for policy deliberation that, however, does not necessarily translate into policy influence or acknowledgement, and leaves for NGOs the role of providers of technical expertise, and not participants in the decision-making. This raises broader theoretical questions about the very nature of political participation, the meaning of civil society involvement in policy-making, and the deliberative aspects of the policy process.

Chapter 2

Research Design

In order to answer the research questions specified in the introduction, this thesis analyzed the mechanisms for participation in policy-making available to child-welfare NGOs in Bulgaria and Serbia, and the role of NGOs in these consultation venues. The method employed for this investigation, and the rationale for selecting these two particular countries, and the sector of child welfare for the purposes of the thesis are presented below. This chapter explains the approach undertaking in this thesis to identifying, collecting and analyzing the data necessary to address the research questions of the study and to provide an in-depth picture of the interaction between NGOs and the government in the policy process in the selected CEE countries.

The method considered most appropriate for such a detailed and context specific exploration of practices of communication and consultation was the case study method. A case study is "an empirical inquiry which investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident" (Yin, 2003, p. 13). The case study method is thus particularly suited to research where contextual conditions need to be covered because they are pertinent to the phenomenon of study. The present research employed the case study method to analyze the participation of NGOs in the policy process because that phenomenon could not be treated in isolation from nation-specific institutional and legislative contexts. These contexts were essential for the present research as the thesis explores the participation of NGOs in policy-making in relation to the specifics of the post-communist frameworks in which they operate.

In order to test for a common pattern in the process of institutionalized interaction between NGOs and the state in CEE transition countries, a comparative multiple-case study is adopted as the research method of the thesis. The main advantage of multiple-case designs is that they provide evidence which is considered more compelling and makes these studies more robust than single-case designs, especially

when every case serves a specific purpose in the overall scope of inquiry (Yin, 2003, p. 47). The most important and difficult stage in comparative case study research is the selection of cases which are comparable and the number of explanatory variables can be minimized (Kaarbo and Beasley, 1999). A major problem confronting any comparable case research design is the difficulty of identifying cases that are truly comparable—identical or different in all respects but one (Levy, 2008). Comparable case designs therefore face the problem of causal complexity where Mill' methods of difference/agreement may be suitable for bivariate hypotheses involving a single explanatory variable, but not for situations involving complex causation and interaction effects, with several different sets of conditions that may lead to the same outcome. Since this thesis is largely exploratory and of qualitative nature, and is not testing a hypothesis, it only aims at finding whether the selected cases are similar or different in terms of civil society participation in policy making, and not at establishing causal relationship between variables. Furthermore, at the time of the case selection the value of the independent variable (if we can call that the level and form of NGO participation in policy making) was not known but was to be explored.

Case selection

For this thesis, two cases were selected, Bulgaria and Serbia, based on the most different systems design. Bulgaria and Serbia were selected from the group of CEE countries for this research because they are very different in terms of the way their democratization process unfolded in the 1990s and their relationship with the EU as one of them is a member state and the other one is not. Bulgaria is a member state since 2007 and in Serbia is an official candidate country that had initiated a Stabilisation and Association Agreement with the EU in the same year. Both of these differences were identified in the literature as factors which had impact on civil society development and were therefore theoretically relevant for the present research: 1) the wars in ex-Yugoslavia and the authoritarian regime of Milosevic had driven Serbian NGOs in that period towards engagement in state opposition and human rights promotion which was not the case in Bulgaria where NGOs were working on state capacity building and service provision, and 2) it was expected (as discussed in the previous chapter) that EU

membership would provide civil society organizations with better access and more influence in policy making.

For these reasons, these two cases were selected as providing a good opportunity to see to what extent these factors had influenced the participation of NGOs in policy making by exploring whether and how the consultation mechanisms and the role of NGOs in the policy process in these two countries were similar or different. Furthermore, control for other factors that may influence the participation of NGOs in the policy process besides the institutional opportunity structure was met by the similarities of Bulgaria and Serbia in relation to their location in the same geographic region, their sharing of a common communist legacy, and because they are close in cultural, linguistic and socio-economic terms. Therefore, similarities in the level and type of participation of NGOs in policy making in the two countries would indicate that EU membership and early transition experiences do not have strong explanatory power of the phenomenon under consideration, and that another independent variable that was similar across the cases might be more relevant.

Unit of analysis

In this study, the phenomenon of interest was the participation of NGOs in the policy process in Bulgaria and Serbia, and this phenomenon was explored in relation to the institutional mechanisms for interaction with the state. This emphasis on the formal channels and procedures for participation was determined by the research aim of the thesis, which was to shed light on the actual interaction between NGOs and the state in the policy-making process. This interaction is largely determined by the institutional and legal set up which regulates the access of NGOs to the decision-making arena, their role in the process and the quality of the communication with the state. Thus, participation of NGOs in policy-making is operationalized here through the procedures and practices for involvement of non-state actors in the policy-making process in these countries.

The rationale behind focusing on institutional consultation mechanisms as a way to evaluate the participation of NGOs in policy-making was as follows: first, formal consultation forums were the main point of interaction between NGOs and the state in regard to policy-making in these countries, and second, consultation forums provided the opportunity to explore in depth the interaction between the state and NGOs in decision-making, as well as the role and engagement of NGOs in that process. The unit of analysis therefore was the involvement of NGOs in the policy-making process in Bulgaria and Serbia in a particular policy field, children's policies, as it is operationalized through the formal mechanisms for participation of NGOs in policy-making in that field. The focus on consultation mechanisms was determined by the specifics of the NGOs' participation in the policy process in these countries: NGOs are not included throughout the policy process and their access is limited to formal consultation on policy formulation.

This approach was underpinned by Habermas' theory on deliberation, accounts of policy development in micro discursive spheres, and standards for effective consultation. This is discussed in further detail in the next chapter. The stance taken in this thesis is that the forums for consultation with non-state actors in policy-making (such as working groups, advisory committees etc.) are in their essence supposed to functions as forums for discursive politics and deliberation between the state and other stakeholders. One of the main factors that affects the quality of the policy discussions in such forums, according to Habermas (1994), are the legally institutionalized procedures of deliberation. The data collected on the practices for consulting NGOs in Bulgaria and Serbia was therefore evaluated with a focus on the degree of institutionalization of consultation mechanisms.

In order to facilitate the cross-case analysis of the participation of NGOs in policy-making in Bulgaria and Serbia, the unit of analysis for research was defined as the involvement of NGOs in a particular policy area, children's policies, based on the following considerations. First of all, the NGOs whose participation in policy-making was to be examined needed to be engaged with state organs on a repeated or regular basis, using institutional frameworks. The NGOs working on children's rights and well-

being were very active and visible in both countries, and engaged in policy-making through participation in consultation forums. They were thus in a position to provide reliable and authentic information on the mechanisms for consultation in Bulgaria and Serbia, and on the role of NGOs in policy discussions.

Second, in order to be able to look at the aspects of NGO involvement in policy-making which were specific to NGOs as opposed to political parties or special interest groups, some extraneous factors needed to be excluded. The NGOs whose role in policy-making was to be explored in this research needed to define themselves as stakeholders in the policy process rather than purely as activists in the political arena, since the focus of the thesis was the NGO role in policy-making and the process of interaction with the state, not contentious politics. Although NGOs may pursue other avenues to influence policy-makers besides institutional advocacy, such as contentious politics and public mobilization, these were not central to a study of institutional interaction.

Third, the NGOs selected for this thesis needed to have high visibility and a general acceptability of their actions, and not have highly contested or ideological agendas because these could alter their access to decision-making for reasons that were external to the process' specifics. The NGOs working on children's rights and protection meet these criteria as they work in an area where there appears to be near universal agreement for promoting the well-being of children. Only two countries in the world, the United States of America and South Sudan, have not ratified the UN Convention on the Rights of the Child and NGOs working on children's well-being are generally expected to promote universal developments. This may not be the case with NGOs working on highly contested political issues such as minority rights or economic development where national governments may be more wary of conducting consultations, and where the NGOs may rely on confrontational tactics. This was an important consideration, especially in the case of Serbia where NGOs working on highly political issues in the 1990s acted as an opposition to the government and were perceived with mistrust due to their ties with international donors and foreign ideologies. Analyzing the participation of NGOs working on children's right and

protection in the policy process thus allowed focus to be put onto the relationship between domestic structures for consultation and the role of NGOs in decision-making, without the interference of factors that may have significantly impacted on their access to consultation.

Taking these criteria into consideration and following discussions with NGOs and think tanks in both countries during the preliminary fieldwork, NGOs working on children's rights and well-being were selected as best suited to meet the aims of this research. These criteria were then used as a basis for selecting the specific NGOs to be contacted for interview in the data collection phase of the research.

Data Collection

Due to the complex nature of the policy-making process, data on the specifics of the process in Bulgaria and Serbia, on the procedures for inclusion of non-state actors in policy-making and on the practices for interaction between these actors and the government was collected through a number of instruments. The two major sources of evidence used in the case study investigations were semi-structured interviews, and documentation. These were incorporated in order to obtain a more comprehensive and objective picture of the process of NGO involvement in policy-making. A data collection plan was devised to systematize the steps of the data collection, and list the NGOs and relevant government agencies to be contacted and the points of interest to be explored in the documents. Data was collected in three stages: document analysis and two phases of fieldwork.

The first step of the data collection comprised of a systematic investigation of the laws in the two countries relevant to non-profits in order to collect information on the legal framework which regulate the activities of NGOs. The administrative procedures of the governments in Bulgaria and Serbia were then reviewed to gain an insight into the rules and requirements for involving civil society organizations in the policy-making process, and the institutional opportunities for NGOs to access that process. These steps were complemented by an examination of the EU documentation

relevant to the involvement of civil society organizations in policy-making, such as the White Paper on European Governance and general consultation standards.

Other policy documents also used in the thesis include the Progress Reports issued by the European Commission on the fulfillment of accession criteria by Bulgaria and Serbia, and the National Action Plans developed by the nation states in response to the recommendations in the reports. These documents provided information on the recommendations of the EU in regard to consultation with civil society, and the incorporation of these recommendations into the domestic structures[6]. To avoid a proliferation of intext references, most primary source documents are referenced in footnotes in the respective chapters of the thesis.

The last category of documents used as a data source at the first stage of the data collection process included studies conducted by think tanks and international organizations evaluating the development, activities and policy involvement of the third sector in Bulgaria and Serbia. These documents provided important information about the general framework for involvement of NGOs in the policy process that was to be explored in detail through the use of interviews in the next stage of the data collection process. Again, because of the sheer number of these documents, which include both primary and secondary sources, footnoting is used to reference them in the respective chapters, except where a source could have been reasonably referenced using intext referencing. In cases where an entry was anomalous, that is, could be considered either a primary or a secondary source (for example, authored reports for an organization), both forms of referencing are used.

The second step of the data collection process involved fieldwork comprising of interviews with representatives from civil society organizations, local offices of international and inter-governmental organizations, and the state. These were conducted in two phases. In the first phase, twenty-two interviews were conducted with

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[6] Chapter 4 discusses the requirements of the European Union towards Bulgaria and Serbia in terms of civil society development and consultation; Chapter 5 discusses domestic legal and institutional frameworks.

representatives of major domestic think tanks and branches of international non-profit organizations such as Open Society,[7] as well as local representatives of the European Commission in Bulgaria and some administrative offices in both countries. The offices of the Representation/Delegation of the EC in Bulgaria and Serbia are important actors in preparing the pre-accession Progress Reports of the EC that contain information on the development of civil society in these countries and their inclusion in policy-making. As part of this work, they liaise with both the NGO sector and the state on different issues.

The aim of these interviews was to get a general overview of the characteristics of the third sector in Bulgaria and Serbia, the areas in which civil society organizations were active and the opportunities for involvement in the policy process. This orientation in the field was very helpful in focusing the research and identifying the NGOs working with children as suitable for the purposes of the thesis. Further evaluation studies were also provided by some of think-tanks approached in this phase of the fieldwork, and are referred to in the discussion. This phase of the fieldwork was also important for deciding the direction for data collection in the next phase; initially, focusing on two or three policy developments in each country, following closely the interaction between the state and NGOs on the particular draft law or strategy, and analyzing the submissions and discussions seemed like the best approach. However, it became clear that there were no consultations on particular laws or strategies of relevance to child welfare NGOs to follow at the time of the fieldwork, that these policy discussions used to span across a long period of time and sometimes were not completed, that they were not public and the line ministries did not provide records from these meetings for public access, and last but not least, they did not provide responses to contributions made in the discussions. Numerous attempts were made to obtain records from working groups such as harmonization tables which summarize the discussions in terms of proposals and potential responses but these were not provided by the state administration. The only documents provided, and only from the Serbian government, were presentations on the consultation process, calls for proposals and submissions made by NGOs on

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[7]A list of these organizations is provided in Appendix 1.

particular drafts. However, from these documents it was not possible to see how these proposals were considered in decision making as there was no response to them on behalf of the state and no document to explain why the line ministry has selected the particular measures present in the final policy draft. One could possible compare the proposals of NGOs to the final policy document to try evaluating their impact on policy development. However, this approach to data collection and analysis is not suitable for this thesis because 1) it does not provide sufficient evidence of impact since there are other intervening factors affecting decision making and 2) NGOs' impact is not the topic of this research. This thesis aims at evaluating the role of NGOs in the policy process and the type of interaction between them and the state in policy making, focusing on the degree to which consultation forums exhibit deliberative characteristics in terms of provision of argumentation. Therefore, it was more feasible to gather information on the role of NGOs in the policy process through interviews with NGOs representatives and state officials in which to discuss the characteristics of the consultations process in relation to their experiences in various forums.

In the second phase of the fieldwork, interviews were conducted with representatives from the NGOs working with children in Bulgaria and Serbia and with officials from the relevant ministries and state agencies for the purpose of illuminating the process of interaction between the NGOs and the state in the decision-making process. These qualitative interviews form the main source of evidence for the thesis because they provided information about how the procedures for involvement of NGOs in policy-making actually worked in practice. The data collected through these interviews presents the experience of participants in the consultation forums in Bulgaria and Serbia, and therefore provided valuable insight into the specifics of the interaction between the states and NGOs in policy-making.

The method for selecting the interviewees for this research combined elements of purposive sampling and cascading. In purposive sampling, respondents are selected on the basis of how they fit a particular profile that is relevant to the research. Although such non-random methods may cause selection bias, the use of random sampling in small-n research is not generally appropriate (King et al., 1994, p. 128). Cascading refers to a method where interviewees offer suggestions for further interviews, and help

with contacting such individuals. This was a useful approach for targeting key respondents. The interviewees from the NGO sector were purposely selected so that their organizations met the criteria pre-defined in the research design.

Therefore, the interviews in the second phase of the fieldwork were conducted with representatives of selected sixteen NGOs working on children's issues in Bulgaria and Serbia which were visible and active in advocacy. To identify the organizations which would meet the requirements of the research design, I conducted internet searches and checked the mission statements and the advocacy proposals available on the websites of the organizations that I found. I selected the NGOs which looked active, genuine and involved in real projects with children, and which had also participated in policy-making initiatives. I also had a list of child-welfare NGOs collected during the first phase of the fieldwork from interviews with state authorities and international organizations in the two countries.

The actual interviewees in the second phase of the fieldwork were either the directors of the child-welfare NGO or the persons responsible for the development of policy proposals in the organization. When first approaching the organization, explaining the topic and purpose of my research, I also inquired who would be the most suitable person to interview in regard to the NGO's advocacy activities and participation in policy-making. The interviews were of an open-ended nature and the interview questions were based on a guideline prepared beforehand, following the central line of inquiry of the thesis.[8] Respondents were asked to provide factual information on the consultation forums they had participated in, and give their opinion on the consultation process and on the role of NGOs in policy-making. The activities and projects of the NGOs interviewed for the thesis are presented in more detail in Appendix 3. These shed light on the mission and goals of the NGO, which in turn inform their advocacy. Data was also collected from policy proposals and submissions provided upon request by some of the NGOs interviewed for the thesis or found on their websites. However, the number of specific NGO policy proposals able to be retrieved

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[8]The guideline for the interviews is provided in Appendix 2.

was limited because most of these documents were not published online and the majority of the NGOs either claimed that they did not keep a record of the documents or did not respond to a request to provide them.

Additionally, two interviews were conducted with representatives from the local offices of UNICEF in Bulgaria and Serbia, and two interviews with external experts. A further nine interviews were conducted with officials in the ministries and state agencies responsible for the development and implementation of policies relevant to children who were familiar with the consultation process. These included the State Agency for Child Protection, the Ministry of Labour and Social Policy and the Ministry of Education in Bulgaria, and the Office for Cooperation with Civil Society, the Social Inclusion and Poverty Reduction Unit, the Ministry of Labour and Social Policy, the Ministry of Youth and Sports and the Ministry of Education in Serbia. Furthermore, four events organized by the national umbrella organizations of NGOs working with children in Bulgaria and Serbia were attended in order to observe the discussions between NGOs and government representatives on child-related policies and funding for NGOs.[9] Finally, during a short visit to Europe following the fieldwork, two more interviews were conducted with representatives of the peak bodies of the NGOs working with children who were most active in institutionalized policy deliberations in order to elaborate further on the specifics of the most common consultation practice identified in the previous interviews. Overall, thirty-one interviews were conducted during the second phase of the fieldwork.

In total, fifty-three interviews were conducted during the two phases of the fieldwork with representatives of the NGO sector (including NGOs working with children) and inter-governmental organizations as well as experts and officials from state agencies and ministries. Detailed notes were taken during the interviews and were typed as soon as possible after the interviews had taken place. The interviews with respondents in Serbia were conducted in English, and the interviews with respondents in Bulgaria were conducted in Bulgarian and then translated in English. The interviews

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[9]See Appendix 3 for details.

are kept anonymous as required by the Macquarie University Ethics Committee and the interviewees are not mentioned by name in this thesis. Quotations from these interviews used in the thesis are identified only by the country and the sector of the respondent.

Data analysis

The data collected in the interviews was organized into two separate country-specific Word files that were divided into categories relating to different features of the consultation process in order to facilitate the analysis of the information. This material is summarized in the appendices to the thesis, and referenced using footnoting in the relevant chapters. Due to the exploratory nature of the research, which was determined by the focus on the rather unclear issue of the NGO role in policy-making in post-communist countries, the findings of the thesis were not tested against a presumed set of causal links or propositions. Instead, the analytical strategy of the research aimed at identifying the specifics of the process of interaction between the state and NGOs working with children in Bulgaria and Serbia, and to suggest directions for further study of the factors that influence the role of NGOs in that process more generally.

The data collected for this thesis was analyzed for each case and then compared in the light of the research questions. First, the evidence obtained from different data sources (interviews and document analysis) was converged for each case in order to enhance the validity and comprehensiveness of the findings, combining data on the design of consultation frameworks from policy documents with data on the actual interaction between actors in consultation forums from personal accounts. Second, the data was compared across the two countries using a cross-case synthesis (Yin, 2003, p. 133) in order to check for a common pattern in the role and involvement of NGOs in policy-making in Bulgaria and Serbia. The purpose of this pattern identification was to provide a model of state-NGO interaction in policy-making that could be used to explore the political involvement of NGOs in other post-communist countries.

The research findings and their implications are discussed in each of the following chapters which also reflect the different stages of the data collection process.

The first stage, document analysis, provided the necessary information on EU requirements towards Bulgaria and Serbia in terms of civil society development and public consultations. The analysis of various regulations and other administrative documents also informed the evaluation of the current consultation mechanisms established in the two countries. The trends identified in this analysis allowed to focus the research and provided the basis to obtaining the necessary empirical data on the specifics of the consultation practices in Bulgaria and Serbia.

Chapter 3

Deliberation in the Policy Process: the Inclusion of Stakeholders in Decision-making

In order to evaluate the role of the NGOs working with children in Bulgaria and Serbia in the decision-making process in their relevant policy areas on the national level, this thesis elaborates on the specifics of the policy process and examines the role of non-state participants in policy development. The policy process is related to but distinct from what is generally called 'politics' and 'the political process' (Yeatman 1998, p. 21). It refers pre-eminently to the work of developing, formulating, implementing, delivering, monitoring and evaluating policy (Yeatman, 1998, p. 16). One way of viewing the policy process is through the so-called executive approach, which emphasizes that policy decisions are made by the executive government in a decisionistic model of policy (Majone 1991 as cited in Yeatman, 1998, p. 17). However, as this thesis explores the participation of NGOs in the policy process, the executive approach to policy-making was not suited to the purpose of this research because it does not elaborate on the role of nongovernmental actors.

Therefore, the approach adopted in this work is based on the view that policy is a complex, multi-layered process involving a host of different actors, in which policy activism of various kinds is pursued and which requires the state administration to be open to public accountability and to public participation (Yeatman, 1998, p. 17). For policy to be seen as a policy process it needs to entail mechanisms of using public participation in a valuable way which allows the different actors within the policy process to enter into dialogue with each other in different kinds of partnership and co-productive relationships (Yeatman, 1998, p. 20). The right, ability and opportunity of those subject to a collective decision to participate in deliberation about the content of that decision are central for democratic legitimacy and democratization (Dryzek, 2009). Rose-Ackerman (2007, p. 130) argues that full democracy cannot be attained unless the policy-making process is accountable to citizens through transparent procedures that seek to incorporate public input, and NGOs should be capable of playing a key role in

this process. This view is used as a focal point in this thesis which seeks to evaluate the extent to which the policy process in Bulgaria and Serbia is open to the input and participation of NGOs as a reflection of democratization and Europeanization. Therefore, the theoretical framework used in this thesis and presented in this chapter focuses on the factors that determine the deliberative potential of policy-making in terms of procedures for consultation and inclusion of civil society organizations, and for transparent decision-making. As the emphasis on inclusion of interested parties and all affected stakeholders in policy-making is strongly related to the ideas of deliberative democracy and discursive politics, this thesis turns to scholarship that evaluates policy development in these terms.

The theoretical framework of the thesis focuses on two main aspects: first, the deliberative aspects of policy consultation as a forum which provides NGOs with the opportunity to bring citizens' needs to the policy arena, and second, the role of NGOs in policy-making and the factors that affect the inclusion of non-state actors in the policy process. The thesis uses Jürgen Habermas' (1994; 1996) view of deliberative policy-making and his model of communicative action to provide an overarching account of deliberation in the policy process. Habermas' theory is complemented by Carolyn Hendricks' (2006) perspective on micro and macro forums for policy deliberation which provides adaptation of broader deliberative views to the institutional setting, and Bridgman and Davis' (1998) account of consultation which narrows down the focus of the framework further. These theories on policy-making as institutionalized deliberation provide the rationale for evaluating consultation with non-state actors in institutional forums in terms of discursive quality and communication procedures. Furthermore, the deliberative aspects of policy-making such as the importance of civil participation and institutionalized rules for transparent discussions have been emphasized in the EU recommendations to CEE countries (Dimitrova and Buzogany, 2014) as discussed in Chapter 1.

The second part of the theoretical framework discusses the process of policy-making in terms of participants, opportunities and power asymmetries, clarifying the factors that affect the access and functions of NGOs in the policy process. Insight on the specific role of NGOs in policy development and implementation, and their engagement

in both institutional advocacy and service provision, is presented through the work of Hal Colebatch (2002) and Susan Keen (2006). These different perspectives on the role of non-state actors in the policy process allow building a comprehensive explanation of the growing importance of NGOs in policy-making, the policy opportunities NGOs can use to access the decision-making arena, the value they bring to policy discussions, and the challenges they face promoting their policy perspective. All these aspects of the functions of NGOs in policy-making are then used to provide a comprehensive evaluation of the activities of Bulgarian and Serbian NGOs in the policy process.

Deliberation – the public sphere and the political system

Despite the consensus on civil society's ideational functions, there is a lack in the literature of a viable model of how societal interests are articulated, communicated, and recognized in democratic regimes, that is, of the policy-making process where societal interests and preferences meet the state's capacity for action (Green, 1999). Green argues that the ability of citizens or groups to participate in, communicate ideas to, and gain influence over policy-making strengthens democracy, and the failure to incorporate adequately a more sophisticated perspective of the policy-making process has led to inaccurate, misleading analyses of the state-society relationship. Communication has long been defined as one of the most important aspects of lobbying and advocacy. Milbrath (1960) argued that the most adequate explanation of the impact of the lobbying process on governmental decision-making would come from a detailed examination of all the influences or pressures producing the behavior of decision-makers. However, Milbrath also suggested that the social scientist was not equipped conceptually or methodologically to manage such a research problem. What he suggested instead was to analyze the lobbying process by viewing it as a communication process which involved direct personal communication and/or communication through intermediaries, as well as communicating power. The theoretical framework found to be best equipped to address the puzzle of interaction between the state and non-state actors in institutionalized consultation forums is Habermas' 1994 account of deliberation in the public sphere and discursive politics, 'Three Normative Models of Democracy.' This article emphasizes the importance of the institutionalization of corresponding procedures and conditions of communication

for successful discursive politics. Habermas' theory as presented in this work is thus particularly suited to providing a general guideline for the evaluation of the institutional conditions for deliberation in consultative forums in Bulgaria and Serbia, the openness and transparency of these venues, and the role of NGOs in these formal policy discussions.

Discursive theory argues that democracy is not primarily realized in elections but rather in situations in which policy-makers and citizens have access to basic information and are given enough time and trust to participate in practical reasoning to resolve social problems (Hanberger, 2001). The participation of non-state actors in the formulation and implementation of policies, and the development of forums for their inclusion in the decision-making process have received growing attention in the literature on deliberative and discursive democracy. Deliberation is defined as a particular form of communication centered on reasoned argument which encourages more rational decisions, fairer, more publicly oriented outcomes and improved civic skills (Hendricks, 1996). This view of deliberation encourages the inclusion of non-state actors (individual citizens or civil society organizations) in the policy process as participants in a transparent, discursive, argument- and expertise-based decision-making. As discussed in the literature review (Chapter 1), providing expertise, transmitting the needs of marginalized groups and pluralizing the decision-making process are some of the democratizing functions of civil society organizations, including NGOs. This brings together civil society participation in policy-making and deliberative democracy. And what is essential for both is one very important aspect of discursive politics as identified by Habermas (1994): the procedures and mechanisms that guarantee access to non-state actors, argument-based decisions and transparent discussions.

In order to understand the concept of deliberative decision-making and the interaction between the participants in policy deliberations, one needs to explore the patterns of communication in deliberative institutions. Habermas' critical theory (1987 as cited in Fischer, 2003, p. 35) provides a communications model of action which moves beyond a negative understanding of power as control and domination, and emphasizes the productive ability of communicative power to organize and coordinate

action through consensual communication. In Habermas' view, power is more than the mobilization of resources or the domination over the other participants. Knowledge and discursive practices are a critical dimension of the struggle for power (Fischer, 2003, p. 35). According to Habermas' critical theory, the truth of a statement can be supported only through consensus on the interpretation of the experience to which it refers and thus truth claims have to be warranted through unfettered argumentation, emphasizing communicative competence and the role of citizens as well as organized groups in the formation of legitimate consensus (Fischer, 2003, p. 36)

Habermas (1994) promotes this discourse-theoretic interpretation of the democratic process in which democratic will-formation draws its legitimating force from the communicative pre-suppositions that allow better arguments to come into play in various forms of deliberation, and from the procedures that secure the bargaining processes. In his view, a legitimate kind of bargaining is dependent on a prior regulation of fair terms for achieving results that are acceptable for all parties on the basis of their differing preferences. The deliberative mode of legislative practice is understood as intended to allow competing interests to find a compromise in a manner compatible with the common good, and to bring universalistic principles of justice onto the horizon of the specific form of life of a particular community. In legislative politics, the supply of information and the rational choice of strategies are interwoven with the balancing of interests and the articulation of strong preferences.

According to Habermas, discourse theory takes elements from both the liberal and republican views of democratic will-formation, and integrates these into the concept of an ideal procedure for deliberation and decision-making. Discourse theory explains the success of deliberative politics not as the result of a collectively-acting citizenry but as dependent on the institutionalization of the corresponding procedures and conditions of communication (Habermas, 1994). This view can be applied to the development of consultative practices in Bulgaria and Serbia where deliberative forums are being established largely under the pressure of external organizations for more inclusive governance through the development of institutional mechanisms and regulations, and not under the pressure of the general public. It can also be used to explain and evaluate the access of NGOs to policy-making in Bulgaria and Serbia on

the basis of procedures for inclusion of stakeholders which represent particular groups or bring specific expertise to the discussion table, and are not necessarily backed by popular pressure and power (which NGOs in CEE countries still lack).

Deliberative practices require design features that generate distortion-free communication, such as good facilitation, procedures ensuring fair representation of affected communities, and equal access to the process (Fung, 2003 as cited in Dodge, 2014). Habermas (1994) also strongly emphasizes the importance of legally institutionalized procedures of democratic deliberation and decision-making for the quality of discursive practices. Furthermore, in discourse theory, the practical conception of reason is concerned with the processes of deliberation and offering reasons as a form of evidentiary support for the credibility of particular propositions with an emphasis on the processes of argumentation (Fischer, 1993). These procedures and communicative presuppositions of democratic opinion and will-formation are the most important "sluices" for the discursive rationalization of the decisions of an administration constrained by law and statute as described by Habermas (1994). In his framework of political discourse, the public opinion that is transferred via democratic procedures into communicative power cannot rule of itself but can only point the use of administration power in specific directions. He defines this communicative power as stemming from the interactions between legally institutionalized will-formation and culturally mobilized publics in the form of associations of civil society.

Habermas describes associations and public-interest groups as "suppliers" to the political process which are positioned at the outer periphery of the political system, outside the core or state institutions with decision-making authority (Habermas, 1996, p.355). He states that these organizations give voice to social problems, make broad demands, articulate public interest or needs, and thus attempt to influence the political process. He also describes them as opinion-forming associations which are designed to generate public influence and are part of the civil-social infrastructure of the public sphere. Therefore, some actors in civil society have a dual orientation of political engagement in that they seek to influence the political system and also seek to empower civil society's capacity to take action (Habermas, 1996, p.370).

Habermas argues that for binding decisions to be legitimate, they must be steered by communication flows that start at the periphery and pass through the procedures situated at the core, leading not only to the parliamentary complex and the courts but the implementing administration as well. He also notes that within the boundaries of the liberal public sphere, actors can acquire only influence of public opinion, not political power, and to generate political power the influence of informal public discourses must have an effect on the democratically regulated deliberations and assume an authorized form in formal decisions (Habermas, 1996, p. 371-2). The political public sphere serves as a "sounding board for problems that must be processed by the political system because they cannot be solved elsewhere" (Habermas, 1996, p. 359). There are two major conditions for the ability of the periphery to generate sufficient communicative power: 1) a specific set of capabilities to problematize issues and 2) sufficient occasion to exercise these capabilities, which requires the core area of the political system to be open to renovative impulses from the periphery (Habermas, p. 357-8). For the periphery to generate communicative power, it needs the networks of non-institutionalized public communication to be able to ensure more or less spontaneous processes of opinion formation, anchoring resonant and autonomous public spheres in the voluntary associations of civil society, ability which largely depends on the patterns of political culture and socialization (Habermas, 1996, p. 358).

These two assumptions set by Habermas in regard to the role of civil associations in the policy process hold significant value for understanding the factors which affect the access and ability of these organizations to exert influence on policy-making. They outline two very important conditions for participation of associations in the policy process: 1) the openness of the state institutions and the procedures for participatory policy-making (or the channels for communication flows from the periphery to the core) and 2) the ability of associations to engage autonomously with the broader public outside the institutional setting. These factors are explored further in relation to the ability of NGOs to participate in policy-making in the next sections of the theoretical framework through the concepts of public and institutional advocacy, and a discussion of the conditions for effective policy consultations. They are then revisited in the evaluation of the participation of NGOs in policy consultations in Bulgaria and Serbia presented in Chapters 7, 8 and 9.

Habermas argues that if we view the practice of political will-formation as a problem-solving process, it owes its legitimating force to a democratic procedure aimed at guaranteeing rational treatment of political questions. He states that the "rational acceptability of results achieved in conformity with procedure follows from the institutionalization of interlinked forms of communication, that ideally speaking, ensure that all relevant questions, issues and contributions are brought up and processed in discourses and negotiations on the basis of the best available information and arguments" (Habermas, 1996, p.170). He notes that there are various types of discourse and bargaining that have different roles for a rational political will-formation depending on the issue; these types are then realized through different forms of communication which in turn must be legally institutionalized for citizens to exercise their political rights (Habermas, 1996, p. 177). Bargaining is presented by Habermas as one of these forms of communication, where procedures are needed to secure the fairness of intended compromises and to regulate the right to participation, the choice of delegates, the length of negotiations, the kind of contributions and so forth (Habermas, 1996, p. 177). Legislation is carried out in a complex network that includes processes of reaching understanding and bargaining, and involves pragmatic and legal discourses which require expert opinion (Habermas, 1996, p. 180). Therefore democratic procedures that institutionalize the forms of communication are needed to avert the danger that asymmetrical power structures can skew the outcomes of bargaining, to ensure that all relevant interests are given equal consideration and the exchange of argument follows the most rational pursuit of preferences.

This thesis draws on the discourse theory developed by Habermas in two ways. First, it uses the idea that civil associations and public interest groups function as organizations that attempt to transform public opinion developed in the general public sphere through communication with/among their target population into communicative power by bringing their preferences from the periphery of the political system to the core where decision-making takes place. As these organizations are "suppliers" to the political process and are positioned at the outer periphery of the political system, they function as a bridge between the autonomous public sphere and the core of political system; this is their role as a transmission belt between the citizens and the state. However, for them to perform that role, they need to be in constant direct contact with

the public and encourage and follow informal and open public discourses of will formation. Second, this thesis uses Habermas' argument about the importance of established democratic procedures for channeling communication flows from the periphery to the core of the political system as a foundation for its focus on procedures for consultation with non-state actors when evaluating the deliberative aspects of policy- making in Bulgaria and Serbia. Following that view, it explores the ability of NGOs to participate in the development of public policies by looking at the procedures of regulating the access and roles of participants and the provision of argumentation as key conditions for rational decision-making based on balance of interests and democratic principles.

Where to deliberate: micro and macro discursive forums

There are two diverging streams of thought on deliberative democracy which define deliberative forums in a different way and prescribe very different roles for civil society actors (Hendriks, 2006). The first consists of micro deliberative theorists who concentrate on defining the ideal conditions of a deliberative procedure; the second consists of macro deliberative theorists who emphasize the informal discursive forms of deliberation that take place in the public sphere, outside formal decision-making institutions. Micro theorists of deliberative democracy suggest that civil society actors should engage in deliberative politics to the extent that they are willing and capable of participating in structured deliberative forums, taking on communicative forms of action through collaborating with the state, while macro theorists emphasize the informal and unstructured nature of public discussion.

These two streams of thought are summarized by Hendriks (2006) under the labels of micro and macro discursive spheres, respectively. She describes the informal macro discursive spheres as the mobilization of discourses, civil activism and protests, and identifies the typical actors in these spheres as social movements, networks, NGOs, activists, interest groups and the media. The formal micro discursive spheres, on the other hand, are described by her as expert committees, conferences, commissions of inquiry with actors involved such as parliamentarians, government officials, experts, judges.

If Hendriks' model of discursive spheres is to be applied to Bulgaria and Serbia, however, an interesting contradiction is revealed: civil society organizations such as NGOs are active participants in the micro discursive sphere through advisory committees and working groups, and not so much in the macro discursive sphere as expected by Hendriks. This may be attributed to their dual orientation of political engagement and their role as a transmission belt for their target group's needs to policy-makers, coupled with the limited interest among the general public in associational activities. For these reasons, the thesis focuses on micro deliberative spheres in order to analyze the interaction between the state and child-welfare NGOs in Bulgaria and Serbia.

There are some shortcomings in the literature on deliberative democracy in terms of the legitimacy and the scope of the participants in deliberations and in relation to the micro/macro distinction. Micro deliberative democrats define deliberation as an activity that takes place in structured forums where free and equal participants come together and decide on an agenda, reason and argue together, and settle on an outcome (Cohen, 1997 and Elster, 1997 as cited in Hendriks, 2006). The key emphasis is placed on the relative impartiality of the participants and their commitment to reaching a mutual understanding in view of the collective good. This approach can be linked to Habermas' view of bargaining processes as characterized by structured interaction and argument-based decision-making shaped by clear procedure and balance of power.

However, according to Hendricks, micro deliberative theorists focus on providing ideal models of deliberation in public institutions, mostly associated with legislatures, and do not elaborate on the actors in deliberations. As she points out, it is not clear who should be involved in policy deliberation or how they should be involved. Civil society's role is generally not well defined and is left to be inferred from discussions on legitimacy or on the procedural conditions for deliberation. She argues that the ideal of micro models of including in collective decision-making all to be affected by a decision is implausible. This also makes models of this kind exclusive as they tend to privilege deliberation over participation. Hendriks suggests that accepting that representatives can deliberate on behalf of others is one obvious way around what

is essentially an issue of scale but points out that it is not clear how this practice would be different from non-deliberative elitist versions of democracy.

Macro deliberation, on the other hand, is generally seen as a more inclusive version of deliberative democracy as it is based on less stringent communicative norms. It overcomes the scale problem by locating deliberation in the general public sphere, calling on different actors in civil society such as social movements and empowered citizens to stand up and actively engage in public discourse, often by playing an oppositional role to the state. However, Hendriks (2006) describes macro democrats as highly optimistic: they believe that broad-scale deliberation within the general public sphere, with its openness for unrestricted communication, is strong enough to counter illegitimate claims and attempts to distort communication. However, the macro account of deliberative democracy does not provide a clear and plausible suggestion on how power asymmetries between the state and the general public can be balanced, and how the issue of scale can be addressed so that the informal discursive forums can be part of the decision-making process.

To resolve this impasse, Hendriks (2006) has argued that, despite the tensions between these two deliberative worlds, all micro deliberative forums are impacted by their macro discursive context and that some actors in civil society are more willing and capable of deliberating than others. She has proposed a third discursive sphere which combines elements of both informal and formal deliberation, the mixed discursive sphere. This sphere would be exemplified by citizens' juries, facilitated town hall meetings and public seminars with a mix of actors such as lay individual citizens, interest groups representatives, experts, the media, and state officials. Such mixed deliberative forums that provide for interaction between individual citizens and state officials have already been established in some countries, mostly at a local level. One example is the practice of municipal participatory budgets in Brazil (Wampler and Avritzer, 2004).

However, such local deliberative forums have not yet developed in Bulgaria and Serbia, and most of the participation of civil society in policy discussions is conducted through the interaction of civil society organizations with state officials in consultation

forums organized by the government. These micro discursive spheres provide civil society organizations, which generally also participate in macro discursive forums and are an active part of the public sphere, with access to policy-making. This development provides support to the views of associative democrats who have proposed that the means to connect micro forums with the macro deliberative world lies in assigning particular actors in civil society such as NGOs a greater role in formal deliberation with the state as a version of institutional pluralism (Cohen and Rogers, 1995a, and Hirst, 1994 as cited in Hendriks, 2006). The extent to which this inclusion of civil society organizations in the legislative process moves beyond traditional corporatist views and meets the requirements for deliberative decision-making of taking into account equally the preferences and arguments of all participants depends on the procedures for communication as specified by Habermas.

Consultation - deliberation in institutional setting?

Habermas' account of the public sphere provides an ideal model for deliberation, but further elaboration is required in order to be able to evaluate the interaction between the state and NGOs in Bulgaria and Serbia in deliberative terms. The next section of the theoretical framework seeks to translate the highly conceptual ideas of deliberation discussed so far into more tangible indicators that can be used to explore the deliberative dimension of policy-making. For this purpose, the thesis looks at consultation as a possible venue for deliberative policy-making, and discusses the factors that affect its effectiveness, showing how they relate to the conditions necessary for quality deliberations such as clear procedures and argumentation of decisions.

Consultation involves an exchange between citizens and their government, and brings legitimacy to public policies (Bridgman and Davis, 1998, p. 66) in a way similar to the discursive rationalization of the decisions of an administration as described by Habermas. There is an increasing pressure on modern governments to consult about public policy and new forms of accountability such as developments in administrative law also encourage consultation, where it is sometimes a legal requirement to seek the viewpoint of those affected by a policy. According to an OECD study, consultation is used by governments to "support democratic values, build consensus and political

support, improve regulatory quality through information collection, reduce regulatory costs, quicken responsiveness, and carry out strategic agendas" (OECD, 1994 as cited in Bridgman and Davis, 1998, p. 67).

Bridgman and Davis (1998, p. 66) argue that the consultative process offers policy-makers a way to structure debate, and to develop a solution more likely to be followed by different stakeholders as it reflects their competing interests. This view has been supported by the opinions expressed by both NGOs and government officials interviewed for this thesis. They believe that consultation helps develop better informed policies which incorporate various standpoints, and are thus easier to adopt and implement. Another benefit of conducting consultations as described by Bridgman and Davis (1998, p. 67) is that this practice reflects particular values: it shows a desire to establish open and transparent policy process. In both Bulgaria and Serbia, consultation in the policy process to a large extent serves the purpose of aligning with European values of good governance, accountability and legitimacy in decision-making. It is generally accepted as a necessary part of the democratization process and a prerequisite for the establishment of consolidated democracy. The legal requirements and the practices of consultation established in Bulgaria and Serbia are discussed in Chapter 5.

The consultation process, however, also carries costs such as the expenses and delays typical for large public deliberations, and the risk of shifting control away from ministers and the administration to those invited into the policy process (Bridgman and Davis, 1998, p. 66). While consultation is valued by the government for addressing legitimacy problems over contentious decisions, consultation is said to have its own legitimacy issues (Davis, 1996 as cited in Bridgman and Davis, 1998, p. 66). One of these issues identified by Bridgman and Davis is the selection of participants in consultations. The authors state that if the government alone decides who to invite, this may bring preferential selection of particular organizations and can undermine the benefits attributed to consultation. Another problem identified by them is that access to the consultation process and the capacity to advocate for a case are rarely distributed evenly. They argue that consultation strategies are driven largely by the nature of the problem at hand, and the decision of when to consult, if at all, is as much a political judgment as it is a procedural issue (Bridgman and Davis, 1998, p. 67).

There are different types of consultation identified in an OECD study by Shand and Arnberg (1996 as cited in Bridgman and Davis, 1998, p. 67) suggesting that public involvement in decision-making can be placed on a continuum from minimal interaction to complete cooperation through the following five stages: information, consultation, partnership, delegation and control. These varying levels of consultation can be used to evaluate the quality of consultation mechanisms as part of the decision-making process in deliberative terms – the higher the level of consultation, the closer the policy discussions get to the ideal deliberation procedures discussed in the previous section.

According to Thomas (1990 as cited in Bridgman and Davis, 1998, p. 68), the degree of involvement desirable in decision-making depends on the attributes of the core problem, as some problems require more involvement than others. Here 'consultation' denotes only one of the levels of public involvement but in general the term 'consultation' is used as a synonym to any degree of interaction with the public in the policy process. The levels of public involvement in decision-making identified by Thomas are used in Chapter 9 together with the levels devised by the Council of Europe to evaluate the degree of participation of NGOs in policy-making in Bulgaria and Serbia.

Information is the least participatory form of public involvement in the policy process as identified in the framework of Bridgman and Davis (1998, p. 69). It is a one-way process and comprises of educating the public about a policy initiative and its objective through surveys, focus groups and information campaigns. A common, traditional instrument for public policy information is the 'white paper'.

The second level of public involvement, consultation, seeks input from individuals and groups to a policy decision. It involves an exchange of information but the decision-makers remain in charge of the agenda and outcome. The process usually involves public hearings, surveys or meetings with interest groups with the purpose of improving policy and enhancing its acceptability by taking into account the comments and interests of those likely to be affected. The aim of the consultation mode is to solicit, and respond to, views about a policy proposal from relevant people and groups,

and the discussion paper or 'green paper' is a traditional form of consulting about a policy proposal.

The next level in this framework, partnership, is described as handing some control from decision-makers to the public, with citizens being able to do more than just express an opinion: they have influence over the policy content, working in cooperation with decision-makers. Bridgman and Davis (1998, p. 71) state that this is often achieved through consultation structures with clients and experts sitting on advisory boards, helping shape policy and its implementation. The authors claim that many welfare services use advisory boards of clients, public servants and policy communities to decide priorities within the government's overall framework. According to the OECD, the use of advisory committees as a primary vehicle for consultation is widespread (OECD, 1994a as cited in Bridgman and Davis, 1998, p. 71) and over time these committees can become policy communities themselves through regular meetings of the key interests in a policy field (Sabatier and Jenkins-Smith, 1993 as cited in Bridgman and David, 1998, p. 71). Governments see the role of these committees as providing a forum for discussion that ensure that participants are representative of the broader community's interest and that policy proposals can be adopted with common support (Bridgman and Davis, 1998, p. 71). However, the authors point out that representativeness needs to be carefully considered when consulting through partnership bodies in order to ensure the legitimacy of the organizations consulted and of the interests they pursue. Governments often address this concern by asking peak bodies to represent their sector.

The last two levels of Bridgman and Davis' framework (1998, p. 72), delegation and control, exhibit the highest levels of public involvement in policy-making. Delegation encompasses handing control of the agenda to an outside group such as a statutory authority; control is passing the management of a policy issue entirely to the public through referenda or privatization. Neither of these practices was apparent in the field of children's welfare in either Bulgaria or Serbia and therefore these levels of public involvement will not be discussed in further detail in the thesis.

The consultation process, however, does not always yield the desired results in terms of the quality of the policy decision, the legitimacy of proposed policies, consensus, transparency, accountability, or opportunities for participation in the policy process. The OECD acknowledges that most governments have not articulated very clearly their objectives for consultation and even though the general acceptance for consultation demonstrates its strong appeal to modern societies, this lack of clarity can lead to poorly designed and inefficient consultation programs which are difficult to evaluate, and produce disappointing or even disillusioning results (OECD, 1994 as cited in Bridgman and Davis, 1998, p. 73). The need for argumentation of policy decision, open communication and exchange of ideas, justification of selected policy alternatives, broader access to stakeholders, clear procedures and transparency for effective consultations clearly indicate that ideally consultation practices are supposed to exhibit features of deliberation as defined by Habermas in the previous section of the chapter.

Canada's principles of consultation, which are given as an example by the OECD in one of their studies, state that effective consultation is about partnership, and that consultation should not be used to communicate decisions already taken. They point out that the participants in consultation need to have clear mandates and influence over the outcome, and a stake in implementing the policy developed (OECD, 1994 as cited in Bridgman and Davis, 1998, p. 76). The consultation standards in Queensland, Australia, also state that communication is essential to consultation and that effective consultation requires openness about the purpose and method of consultation and the influence stakeholders will have in the policy decision (Office of the Cabinet, 1993 as cited in Bridgman and Davis, 1998, p. 74). Bridgman and Davis suggest that the consultation processes should be tightly structured, with clearly specified terms of reference, timelines and outcomes in order to avoid possible pitfalls. They emphasize that transparent and inclusive selection of participants is essential to the consultation process, and point out the importance of avenues for the self-identification of actors as parties to the consultation. Another factor for efficient consultation, according to them, is documenting in advance the purpose, process and outputs of the consultation phase, and starting the consultation early enough to allow for the consideration of any comments and suggested alternatives, thus ensuring transparency throughout the process. Representative bodies need time to consult their members and that most

consultations require two to three months at least (Bridgman and Davis 1998, pp. 73, 75).

Most importantly, for consultation to be complete, Bridgman and Davis note that comments need to be acknowledged as soon as possible, and that it is essential to "close the loop". Interest groups and the public should be told how their input has been used as this builds trust and credibility in the consultation process (Bridgman and Davis 1998, p. 75). Bridgman and Davis argue that the successful completion of consultation requires details of the outcome to be provided to the participants in the process invited to submit comments. They point out that feedback needs to include a summary of the views and information collected, and of the resulting proposals or action while also ensuring that there are processes in place for receiving information from citizens after policies are implemented. The importance of feedback is reflected in Canada's principles of consultation, which state that effective consultation requires follow-through and participants are entitled to know what use is made of the views and information provide and they need to be informed of the impact their ideas and involvement ultimately have had on government decision-making (OECD, 1994 as cited in Bridgman and Davis, 1998, p. 76).

Participants in policy consultations: authority and expertise

This next part of the theoretical framework discusses the factors that affect the access of non-state actors such as NGOs to the policy process. Before turning to the position of NGOs in policy consultations, three key characteristics of the policy-making process that are essential for the roles of the different participants are briefly discussed: order, authority and expertise. Colebatch (2002) stresses that these elements are used as a basis for participation and are thus essential for understanding the positioning of different policy actors in the policy process.

First, policy is concerned with order, Colebatch (2002, p. 8) argues, because it involves system and consistency. As it draws a range of activities into a common framework, it requires consistency between different policy fields. This involves interaction among interested parties, organized forums ranging from permanent

committees to ad hoc working parties, and recognized processes of consultation, such as extending invitations to interested parties to comment on the drafts of statements or other official documents. These institutionalized mechanisms of consultation are used extensively by NGOs in Bulgaria and Serbia as arena for advocacy, mostly through their participation in working groups convened for the discussion and development of different policies. NGOs are invited to these forums for consultation by the line ministries on the basis of their professional expertise and field knowledge. Colebatch argues that the policy process tends to draw organized interests into a stable relationship with public officials through recognized processes of consultation. He also argues that organizations claim a place in the policy process on the basis of the knowledge they have of their constituencies' needs so that, over time, representation becomes institutionalized and professionalized (Colebatch 2002, p. 126).

Second, policy rests on authority because it has the endorsement of authorized decision-makers. Authority legitimates policy, and policy questions flow from and to authority figures such as ministers and executive committees (Colebatch, 2002, p. 9). Colebatch argues that authority should be seen as a construct that frames the world in particular ways, and gives particular positions to people that allow them to participate in the policy process. Specialists and advisors within the bureaucracy as well as experts from outside all attempt to place their advice and plans near the authority which makes the final decision. As mentioned in the section on deliberation in the public sphere, authority is an essential segment in the framework of political discourse as communicative power formed by public opinion needs the cooperation of the state administration which holds the power to move policy in specific directions to action decisions or policy preferences. The shared understandings reached on the horizontal plane of relevant others outside the state need the instruments of the hierarchical authority in order to take effect (Colebatch 2002, p. 35). These two types of participants in the policy process or two dimensions of policy-making, however, are interrelated and inform each other as "it is advisable that the enlarged knowledge base of a planning and supervising administration be shaped by deliberative politics, that is shaped by the publicly organized contest of opinions between experts and counter-experts and monitored by public opinion" (Habermas, 1996, p. 351).

Third, policy is not only about authorized decision-making but also about problem-solving. This constitutes another basis for participation and brings the issues of expertise and argumentation to the policy process which is one of the pillars of deliberative policy-making. Problem-solving requires having expertise that is relevant to the problem (Colebatch, 2002, p. 9). Colebatch argues that policy does not exist in a vacuum but is related to an identified field of practice which implies knowledge both of the problem area and of possible solutions.

Here it should be noted that in the literature on policy-making, experts and interest groups or civil society organizations are usually presented as separate categories (Renn et al., 1993; Fischer, 1993; Wesselink et al., 2014) but in reality this division is not so clear-cut in Bulgaria and Serbia. NGOs working with children in these countries are considered part of civil society and representative of specific target groups, but at the same time they are perceived as professional organizations that can provide expertise and technical information in the consultation process. Emphasis on expert discourses is a central feature of discursive politics because such professional discourses are seen as a way to bring reason – in particular technical reason – to bear on the play of power (Fischer, 2003). In discursive theory, Fischer argues, experts are understood as part of a larger power-knowledge relationship and have the ability to constitute, control, and legitimize the very issues that are taken to be the subjects of deliberation.

An interesting concept presented by Colebatch in this regard is the idea of "institutional homes for expertise" (Colebatch 2002, p. 30). These are governmental agencies responsible for different policy areas such as health, education, or transport, where the experts in government have good links with those outside. Still, according to Colebatch (2002, p. 31), different fields of expertise may have different ways of addressing the same problem, and may frame a problem differently. Nevertheless, people who are concerned with a particular policy area and develop a special knowledge about it come to know who shares that knowledge. This leads to the formation of groupings in the policy process called issue networks or policy communities. This tendency is visible in the area of child welfare in both Bulgaria and Serbia where state experts from the national agencies for child protection (as

institutional homes for expertise) are well acquainted with experts from the main NGOs working in that field, forming issue networks. The development of such issue networks in policy-making and the emphasis on problem-solving and expertise in current debates of the policy process not only brings to the fore the importance of the deliberative aspects of policy development through consultation, but also provides the basis for inclusion of NGOs in policy discussions as holders of knowledge and expertise.

This raises the question of who participates in the policy process and introduces Heclo's seminal conceptualization of issue networks which emphasized the concept of policy subsystems and their importance for policy formation in the policy cycle (Heclo, 1978 as cited in Fischer, 2003, p. 31). In this account of Heclo's work on issue networks by Fischer, participation in policy formulation is described as much more restricted to the members of the policy subsystem who have a working or professional knowledge of the substantive issues compared to participation in agenda setting where interest group leaders and selected members of the public are more readily involved. Fischer (2003, p. 34) presents the members of such systems as actively participating in advancing solutions to policy problems, discussing the feasibility of various options, and sometimes serving as "policy entrepreneurs" who actively develop and push particular policy solutions.

Fischer (2003, p. 15) makes the important point that, with the "disturbingly thin relationship between the citizens and the legislators" in contemporary politics, a state administration that is in more direct contact with various groups in the population is likely to gain importance and more responsibilities. In his words, the traditional conception of the administrative role as limited to technically executing policies transmitted down by elected legislators no longer adequately presents the reality. He argues that, given the delegation of decision-making to administrative bureaucracies in the modern state coupled with the increasing shallowness of electoral politics, decisions are increasingly shaped by the discourses of policy experts rather than elected officials. This means that the state bodies and administrative units that manage the implementation of specific policies and work directly with stakeholders in the area are more likely to develop policy proposals and solutions to policy problems. Therefore, the regular interaction and collaboration of NGOs with these units as part of their work on

the ground may provide NGOs with more opportunities to participate in policy-making. In a way, this shift of responsibility from elected officials such as parliamentary representatives to state administration and different government commissions in the modern state may indicate a tendency of moving policy deliberations in the institutionalized public sphere from the parliamentary bodies to smaller consultation venues organized by the implementing agencies, closer to the "institutionalized homes of expertise". This may be perceived as a departure from the classical view of Habermas that depicts the institutionalized public sphere as the representative institution of parliament but it reflects the professionalization of the policy process. This professionalization and functional differentiation is evident in the emphasis on evidence-based decision-making and expert opinion as discussed in this section.

Policy-making nowadays is a highly information-intensive process involving complex issues that require input from various sources. This in turn provides NGOs with a niche to develop their policy work in the area of policy-related social research (Keen, 2006, p. 29). Having solid grounding in the particular policy issue and the immediate availability of analysis, evidence and proposals place NGOs in a position to act and take advantage of opportunities to participate in the policy process (Keen, 2006, p. 31). Keen's study of Australian organizations engaged in social services shows that the need for policy research and development has become a priority for most non-governmental welfare organizations, and has been largely carried out by peak bodies as the coordination of member organizations has best facilitated information flows.

Keen (2006, p. 36) argues that "the advent of new public management has changed the relationship between the government and NGOs," and the latter are more important now they are agents of service delivery. NGOs are described by Keen as organizations that are on the ground and hold the knowledge and expertise necessary to determine the needs of their constituencies. There is an interesting dualism, however, identified by Keen (2006, p. 40) in relation to the attitude of the government towards the contributions of NGOs in evidence-based policy-making on the one side, and their advocacy activities on the other. Keen (2006, p. 39) observes that governments do invite NGOs to participate in the policy process through consultation and participation, but that invitation is based largely on the expertise NGOs have developed in relation to

their constituents. In the words of Maddison, Denniss and Hamilton (2004, as cited in Keen, 2006, p. 39), NGOs serve as essential intermediaries between the community and the government. They convey information about the needs of a wide range of groups and provide a voice for marginalized groups. However, while the production of evidence, the development of expertise and participation in government committees and taskforces as part of policy development is seen as legitimate, advocacy is not well received (Keen 2006, p. 40). This dualism in the attitude of the state officials towards NGOs advocacy in policy consultations has important applications for the role of NGOs in policy-making as discussed further in Chapter 8.

According to Dodge (2014), it cannot be expected that civil society organizations will assume only a communicative forms of action in collaboration with the state in micro deliberative forums. She notes that they often engage in strategic deliberation in micro forums which is described by Hendriks (2006) as better suited to the informal political activities outside the state. Dodge argues that micro deliberative forums also involve elements of interest-based politics as they co-exist with advocacy, lobbying, and other strategic activities, and in some cases, the term deliberative advocacy is more appropriate for describing the contributions of civil society organizations (Dodge, 2014). This concept is similar to the notion of institutional advocacy which is discussed in the next section. It is important to note that deliberative views of policy-making do not preclude participants in deliberations from having policy preferences and providing argumentation and rationalization for particular choices. The participation of NGOs in policy consultations as part of their advocacy strategies is discussed in the next section of the chapter together with the other common advocacy tactics used by NGOs to influence the policy process, and their sources of legitimacy as participants in decision-making.

NGO advocacy and legitimacy in the policy process

NGOs can be expected to have an increased role in generating and implementing policy, "being the legitimate voice of civil society at the negotiation table" in line with the concept of good governance which prioritizes process over conventional hierarchy, and communicative over authoritative power (Lang, 2013, p. 5). The extent to which

NGOs will be included in the policy process, however, may vary significantly, and range from being asked to contribute a five-minute statement in a hearing to providing continuous and extensive expertise over time, helping write legislation, implementing policy or organizing dialogue with civil society (Lang, 2013, p. 25). As discussed in the previous section, governments have become increasingly dependent on the policy expertise residing within the NGO sector with the expansion of policy arenas and have been compelled to establish coordination and communication venues. However, new governance contexts do not necessarily create more advocacy channels for NGOs as part of the consultation processes, even if they can do that in principle (Lang, 2013, p. 25). This issue will be explored in depth in the context of Bulgaria and Serbia where new institutions and mechanisms for consultations have been established as part of the transition to democracy and EU accession. It will be seen that the current institutional channels for NGO participation in policy-making do not necessarily enhance NGO opportunities for advocacy but may actually limit their role in the policy process.

Advocacy is defined as "the attempts to change policies or influence the decisions of any institutional elite, government, and state institutions through the enhancement of civic participation to promote a collective goal or interest" (Schmid et al., 2008). "Non-profits have a political role to play as interest groups, even if they are not always aware of it" (Berry and Arons, 2005, p. 42) and "may be in the position to serve as a link between individuals and the broader political process, providing a way to bring group concerns to broader public attention and to push for policy or broader societal change, not only on behalf of those belonging to a group but also on behalf of the general public" (Salamon et al., 2000). According to the Institute for Regional and International Studies in Bulgaria (2005), the involvement of civil society organizations in the decision-making process is the essence of advocacy and is a powerful anti-corruption mechanism.

The advocacy activities of NGOs range from producing literature to creating publicity and promoting social legislation. Advocacy means employing a purposefully directed and instrumental voice, and using it with a specific intention and target in mind. It covers any attempt to influence political decisions on behalf of an imagined or organized community (Lang, 2013, p. 22). The most common paths for political

influence in advanced industrialized democracies are lobbying elected officials and governmental agencies, organizing grassroots activists to mobilize public opinion, building coalitions with other like-minded groups, and making strategic financial contributions to supportive politicians (Berry, 1989).

Keen (2006, p. 33) provides a comprehensive list of the activities involved in NGO policy work which can be used as a guideline when evaluating the engagement of NGOs in the policy process in Bulgaria and Serbia. These include: 1) monitoring government policy; 2) researching issues relevant to the policy field; 3) making pre-budget submissions; 4) preparing submissions to government inquires; 4) liaising with parliamentary representatives, ministers and their staff; 5) being available for consultation; 6) sitting on government committees and task forces; 7) influencing legislation; 8) networking with relevant policy communities; 9) disseminating information; 10) ensuring the visibility, credibility and legitimacy of the organization; and 11) encouraging public debate. Further activities, as identified by Keen (2006, p. 33), might include the evaluation of service delivery to determine best practice and inform government policy, developing strategic plans, and advocacy work on behalf of constituents.

Varying classifications of advocacy have been discussed in the literature with some scholars distinguishing between rights-based and civic advocacy (Boris and Mosher-Williams, 1998) or between political advocacy that is directed at political institutions and social advocacy that aims to influence public opinion (Jenkins, 2006, p. 308). These different modes can be summarized in the two broad categories of advocacy proposed by Lang (2013, p. 23), institutional and public advocacy, which are characterized by different ways to seek influence, different repertoires of action, and different communication practices.

Institutional advocacy is defined by Lang (2013, p. 22) as "the attempt to influence decision-making by gaining some degree of insider status in institutions or in organizations that initiate, prepare, legislate or execute policy change; institutional advocacy strategies are primarily tailored to secure access to, and build relationships within, a given governance body or arena" in order to activate institutional elites. NGOs

generally use their expert knowledge and reputation of effective project implementers to gain leverage in institutional advocacy (Lang, 2013).

This advocacy mode is performed in non-public or semi-public contexts such as government commissions and expert consultations, and can be related to the micro discursive sphere where policy deliberations are conducted in institutional setting. Its primary communication practices or tools are the sharing of expert knowledge, insider debate and lobbying; its aim is to work constructively inside institutions to achieve policy success through consultation and collaboration (Lang, 2013, p.22). Late modern societies offer more venues for institutional advocacy than emerging societies and NGOs may perceive lobbying government officials or members of parliaments as providing stronger immediate returns than organizing a public campaign (Lang, 2013). The way these channels for institutional advocacy function, the advocacy activities of NGOs working, in particular, with children, and the communication between these NGOs and the state in consultation forums, are the focus of this thesis, and are explored in detail in Chapters 7 to 9 through case studies on Bulgaria and Serbia.

According to Lang (2013, p. 23) "[p]ublic advocacy, by contrast, aims to achieve policy success by engaging broader publics and, at its most effective, actively stimulating citizen voice and engagement in the process…employing strategies that allow for interactive communication with citizens" with a focus on outreach such as initiating public debate and "synthesizing and amplifying citizen voices." The tools of public advocacy are protest, mobilization of citizens, and calls for action via media, using strategies of communication and/or confrontation. These strategies can be seen as suitable to encouraging and organizing policy deliberations in the general public sphere, or macro discursive forums which provide open access to lay citizens to discuss policy issues and form public opinion.

Lang states that the mobilization of publics has more opportunity costs than institutional advocacy and NGOs thus will turn to public advocacy only if they are shut out of or are strongly marginalized in a specific high-stake governance arena. In other words, NGOs might use public advocacy to increase pressure and have their voice heard if they are denied insider status or to generate public if and when governments

encourage them to do so: "Whom NGOs address, how they organize dialogue and constituents, and to what degree they are open to broad citizen input are all indicators of their capacity to nurture publics" (Lang, 2013, p. 22).

Steel, Henderson and Warner (2007) argue that the advocacy strategies employed by civil society organizations are related to their level of organizational membership. In their view, organizations with large memberships may pursue letter writing and staging of public demonstrations while organizations with few members and large budgets focus on influencing the election of key decision-makers or lobbying decision-makers. In Bulgaria and Serbia, NGOs are largely professional, non-membership organizations which have difficulty engaging the general public in their activities due to limited links with the grassroots and the disillusionment with the policy process typical for post-communist countries (Raik, 2002). Their limited connection to the grassroots and professional orientation therefore make them more likely to use institutional advocacy as preferred strategy for influencing the policy process.

The increased involvement of NGOs in institutional advocacy is related to the professionalization of civil society organizations which suggests "a focus on policy change by institutional negotiation among experts rather than on involving NGO constituencies" (Lang, 2013, p. 87). Professionalization is described as the "tendency of groups towards less reliance on grassroots and increasing dependence on experts as well as elite-level contacts over time" (Buth, 2011, p. 70). The professionalization of NGOs can lead to greater institutional leverage and the importation of former "outsider issues" to the agenda (Disney and Gelb, 2001 in Lang, 2013). In this way, institutional insiders can play an important role in pushing for social change but they can also feel pressured to adjust their goals in accordance with feasibility (Lang, 2013, p. 74). However, while the professionalization of civil society organizations can bring higher recognition and insider status in issue-specific policy circles it also encompasses certain trade-offs between institutional influence and the connection to the grassroots (Lang, 2013, p. 64).

The participation of NGOs in policy consultations can bring risks of co-optation and mission drift. Neither governments nor NGOs may have the incentive to practice public outreach if states can point to NGOs as their "proxies for citizens", and NGOs

can use policy results as a source of effectiveness-based legitimacy (Lang, 2013, p. 5). Lang argues that the inclusion of NGOs in institutional discussions brings a reciprocal bestowing of legitimacy to policy-making, with NGOs being recognized as 'naturalized' representatives of those for whom they advocate, establishing a "relationship pattern of co-dependency among unequals" (Lang, 2013 pp. 93, 17) This use of consultation practices as a means of legitimizing decision-making and answering external demands for a more inclusive policy process as well as the dangers it poses to NGOs can be seen in the NGOs working in children's services in Bulgaria and Serbia. The motivations of the NGOs working with children to take part in policy deliberations in these countries are discussed in Chapters 7, 8 and 9.

A study by Milbrath (1960) showed that a certain 'quid pro quo' relationship can develop between advocacy groups that provide information and perform certain tasks desired by decision-makers, that strengthens their side in policy debates. State officials, on the other hand, lend a sympathetic ear when the groups have a problem they would like to present. Such a relationship, however, can be seen as undesirable by some organizations. Some active publics and strategic groups resist the norms and intentions of institutional deliberative forums, primarily because they fear co-option or a loss of power (Hendriks, 2006). For this reason, civil society actors often have to choose whether to work with or against the state and, in doing so, whether to take on the role of the deliberator or the activist (Barnes, 2002 and Montpetit et al., 2004 as cited in Hendriks, 2006). In this way, some of the non-profit organizations limit their advocacy activities to only one arena of engagement: they focus on either institutional or public advocacy, not both. Non-profits that perceive themselves as in opposition to the structures of power choose not to engage in policy-making in order to preserve their independent status (Edward, 2004 as cited in Pollard and Court, 2005).

Whether the professionalization of civil society organizations affects their ability to represent the interests of their constituencies is an important question but it does not fall within the scope of this study. The more recent literature on interest groups seeks to differentiate the expectations towards non-profits, accommodating the empirical diversity of groups and the consequential differences in the authorization and accountability relations between leaders and constituents (Halpin, 2006). After all,

institutional and public advocacy are not incompatible and "many NGO campaigns today combine political and social advocacy which expose institutional as well as civic features" (Lang, 2013, p. 22). However, engaging in parallel insider/outsider advocacy presents challenges to NGOs not only due to limitations in terms of resources, competencies and legal restrictions but also due to possible "governance conditions which actively discourage or more subtly disincentivize public advocacy" (Lang, 2013, p. 22). Lang (2013, p. 8) argues that contrary to the common perception that highly visible public communication by NGOs increases their institutional clout, "too much critical public voice tends to jeopardize institutional leverage" which might lead to NGOs becoming experts in institutional advocacy and lobbying at the expense of generating broader public debates.

In any case, the shift from public activism to institutional advocacy may result in NGOs proposing only marginal policy changes, using a more expert-oriented, donor-friendly communication style and language (Lang, 2013, p. 92): "Research on state-NGO relations indicates that invitations to sit at the table are most likely extended to NGOs whose message is in broad accordance with the government agendas" (Brinkerhoff and Brinkerhoff, 2002, as cited in Lang, 2013, p.24). Similar views on the NGOs selected to formally participate in policy formulation have been expressed by Hulme and Edwards (1996), who suggest they are "too close for comfort" to the government. Organizations may need to curtail their more radical messages or change their orientation towards institutional advocacy and away from public displays of dissent in order to have better access to consultation and funding (Lang, 2013, p. 150).

In a similar fashion, heavy reliance on state funding may cause non-profits to adopt conformist behavior with government institutions in order to secure resources. According to Berry and Arons (2005, p. 105), the "dependence on government for a sizable part of their budget forces non-profits to be too compliant, too ready to do what funding agencies want." Government programs and tax policies in the USA, for example, direct civil engagement towards charity and social service, and away from activities challenging the state, "exercising a chilling effect on advocacy" (Goss, 2010 as cited in Henriksen and Svedberg, 2010). This claim is of particular relevance for the NGOs in Bulgaria and Serbia as the NGOs in post-communist countries in general are

largely dependent on foreign donors for funding, not so much on the state, and are therefore likely to follow the agenda and priorities of their donors.

Two other factors that may influence the way states perceive the advocacy initiatives of particular NGOs are the issues and target groups the latter work with. Political activities aimed at the promotion of marginalized groups may be perceived by the state as opposition to government policies and jeopardize the financial viability of the initiating organization (Schmid, Bar and Nirel, 2008). Nevertheless, Schmid and colleagues argue that the problems of social distress and inequality may be difficult to address but will not be solved if human services organizations limit their activities to service provision. Thus, they see participation in the political arena where decisions are made as a necessary means for human service organizations to achieve their espoused social goals.

The ability of non-profits to access the policy-making process and advocate effectively is greatly affected by their organizational legitimacy and the way they are perceived by state actors (Pollard and Court, 2005). NGOs are formal and professional organizations which generally do not have members and thus do not base their legitimacy on traditional representation. Their legitimacy stems from social representation which is based on expertise, organizational credibility and trust, and is defined as "the acceptance of groups' representativeness in the eyes of the constituency, in other words, the social validity of a representative claim" (Buth, 2011). The concept of social representativeness is highly relevant for the present study as NGOs advocate on behalf of social groups which are not their members but are beneficiaries of their projects, and they need to demonstrate how their activities reflect the interests of these groups.

Lang also supports the view that NGO legitimacy can be gained through a variety of sources other than formal representation. The first source is their reputation for getting things done faster, better, and less bureaucratically than established institutions, based on the "'effectiveness' yardstick" or the tendency to assess performance in terms of successful outcomes (Lang, 2013, p. 2). The second source of legitimacy derives from an NGO's field expertise and policy know-how: these are

invaluable for governments because they expand the political choices in a democratic polity through the provision of specialized knowledge to the decision-making process. On-the-ground work gives NGOs more credibility when formulating and commenting on policy, and also gives them legitimacy which in turn strengthens their advocacy (Keen, 2006, p.35). The third and most salient source of legitimacy for NGOs identified by Lang (2013, p. 4) is based on their public accountability, which encompasses engaging with the publics that the organization claims to represent.

Legitimacy based on claims to expertise, knowledge or competence and enhanced by the used of evidence, the second of the sources mentioned above, is also termed *technical legitimacy* (Brown, 2001 as cited in Pollard and Court, 2005). Here it is important to note that, even though NGOs provide technical expertise in the policy process, they are not seen as special interests proponents or lobbyists because they are speaking for under-represented issues and often marginalized groups (Lang, 2013, p. 2). Therefore, in order for NGOs to be perceived as legitimate civil society actors in the policy process, working in the public interest rather than as a special interest group, technical evidence should not be used as a substitute for other kinds of expertise such as the views and experiences of local communities or target groups (Lewer, 1999 in Pollard and Court, 2005). This is linked to the third source of legitimacy: nurturing publics and engaging with the communities or groups the organization works with. Evidence is also rarely neutral or context-free and the way it is received in policy debates is affected by the hierarchical position of the participants who bring it forward (Boswell, 2014, as cited in Wesselink et al., 2014).

Nevertheless, Pollard and Court (2005) argue that evidence can help civil society organizations gain better access to policy-making which in turn can greatly enhance their political influence. According to them, NGOs can have greater political leverage if they can turn their practical expertise into evidence that can be used to inform the other three stages of the policy process besides implementation: agenda setting (to build momentum behind an idea), formulation (to establish their credibility), and evaluation; evidence can also be used in the stage of policy implementation to improve the effectiveness of development initiatives. In this way, NGOs play a vital part in the co-production of policy through their role in both policy development and

implementation (Keen, 2006, p.37). In a similar vein, Lang (2013, p. 86) claims that the image of NGOs as reliable experts might facilitate access to institutional contexts and that this access in turn can mean more informed NGO strategies on how to achieve policy success. Despite the dangers involved, the potential for NGOs to gain better access to policy-making and stronger political leverage through the use of evidence and technical expertise is very important for the role of NGOs in the policy process, as will be shown in Chapters 7, 8 and 9 of this thesis.

Conclusion

The theoretical perspectives discussed in this chapter will be used to evaluate the role of NGOs in the policy-making process in Bulgaria and Serbia, and the consultation mechanisms which provide NGOs with access to that process. Habermas' (1994; 1996) account of deliberative policy-making with a focus on the role of civil society organizations as dual actor in the public sphere and the political system provides the overarching theory of the thesis. Its emphasis on rules and procedures for regulated discourse is used as a baseline in the examination of consultation mechanisms in Bulgaria and Serbia and their capacity to serve as micro discursive forums. This is done by assessing how the present rules governing policy consultation hinder or promote authentic deliberations characterized by openness, strong argumentation and transparent selection of participants. The evaluation of policy consultations organized by the state as a venue for policy deliberation is further informed by the criteria and principles for effective consultation defined by Bridgman and Davis (1998).

The second part of the theoretical framework moves from the conditions for deliberative and inclusive policy-making to the ability of NGOs to access and participate in the policy process. Through Colebatch's (2002; 2005) analysis of the policy process in terms of authoritative decision-making and structured interaction, the theoretical framework sets some expectations about factors that affect the role of participants in policy-making such as order, authority and expertise. It provides grounds for understanding the position of NGOs as largely based on their expertise and familiarity with the needs of their target groups in an increasingly information-intensive policy process. The last section of the theoretical framework then discusses how this

professionalization of NGOs and reliance on technical expertise may impact their legitimacy, access and influence in policy-making, and provides an account of the different advocacy strategies NGOs use to influence the political system – not only in institutional settings but also in terms of connecting to the public.

All these theoretical perspectives, despite not being aimed specifically at explaining the participation of civil society organizations in decision-making, complement each other and allow for a comprehensive analysis of the consultation mechanisms in Bulgaria and Serbia, and the role of NGOs in the policy process. They are used in this thesis to understand and evaluate the main aspects that affect the ability of NGOs to participate effectively in the policy process as transmitters of the needs of their target groups and the public interest: 1) the opportunities NGOs have for accessing policy-making in terms of clear and transparent procedures for participation in consultations, and 2) the advocacy strategies employed by the NGOs to influence policy-making and the extent to which these allow them to problematize issues not only as technical experts but as part of the public sphere.

Chapter 4

The European Union and Civil Society in Bulgaria and Serbia

One of the major external factors that plays a role in civil society development in the post-communist countries of CEE is the European Union. The EU political and economic conditionality exerts strong influence on the domestic legislative frameworks of candidate countries on their way to EU accession. The leverage of the EU on the development of institutional and legal structures in applicant states is strongest during the pre-accession period when candidates aim to satisfy accession criteria in order to become members of the union (Pridham, 2007). The EU promotes the development of particular areas in candidate countries not only through conditionality requirements but also through the provision of funds for certain strategies and projects, and technical assistance for state bodies through the Instrument for Pre-accession Assistance (EC, 2014).

The EU has clearly indicated that civil society is an important part of European integration and participatory democracy (EC, 2000a). It encourages the relationship between civil groups and its own institutions, and expects the same from member states and candidate countries (EC, 2002). The European Commission's White Paper on Governance from 2001 sets forth the necessity of a stronger interaction between institutions, local governments, and civil society on both European and national levels (EC, 2001). This need is further recognized in the EU Enlargement Strategy from 2007 where the Commission made the development of civil society in the Western Balkans (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Kosovo and Croatia) one of the key reform priorities for the accession of the countries in that region (EC, 2007).

This chapter explores the emphasis placed by the EU on the importance of consulting civil society in the policy-making process of candidate countries through its annual Enlargement Strategies of the European Commission. It then examines the recommendations made by the European Commission in its Progress Reports on

Bulgaria and Serbia in regards to the legal environment for civil society organizations and the mechanisms for their inclusion in policy-making. The chapter investigates the policy of the EU towards the development of dialogue with civil society organizations in Bulgaria and Serbia in order to establish whether a parallel exists between the EU requirements and the practices established in the two countries.

Enlargement strategies and the accession process

The requirements of the European Union in the area of civil society development towards candidate countries are fairly general and are not of a binding nature. They are presented in the form of recommendations in progress reports and European Commission (EC) communications, and are not part of the political conditionality set in the chapters of the *acquis*. The EU cedes power to member states and candidate countries to independently establish their own models of a favorable environment for the development and work of civil society organizations, and for cooperation between state institutions and CSOs. The *acquis communautaire* does not contain specific rules on these issues and thus the development of civil society in candidate countries is not subject to the strict EU conditionality which governs the adoption of all current EU rules (the *acquis*).

These rules are divided into thirty-five different policy fields or 'chapters' each covering a different sector and each of which is negotiated separately.[10] There is, however, no chapter specifically discussing the institutional framework and the

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[10] Chapter 1: Free movement of goods; Chapter 2: Freedom of movement for workers; Chapter 3: Right of establishment and freedom to provide services; Chapter 4: Free movement of capital; Chapter 5: Public procurement; Chapter 6: Company law; Chapter 7: Intellectual property law; Chapter 8: Competition policy; Chapter 9: Financial services; Chapter 10: Information society and media; Chapter 11: Agriculture and rural development; Chapter 12: Food safety, veterinary and phytosanitary policy; Chapter 13: Fisheries, Chapter 14: Transport policy, Chapter 15: Energy, Chapter 16: Taxation, Chapter 17: Economic and monetary policy; Chapter 18: Statistics; Chapter 19: Social policy and employment; Chapter 20: Enterprise and industrial policy; Chapter 21: Trans-European networks; Chapter 22: Regional policy and coordination of structural instruments; Chapter 23: Judiciary and fundamental rights; Chapter 24: Justice; freedom and security; Chapter 25: Science and research; Chapter 26: Education and culture; Chapter 27: Environment; Chapter 28: Consumer and health protection; Chapter 29: Customs union; Chapter 30: External relations; Chapter 31: Foreign, security and defense policy; Chapter 32: Financial control; Chapter 33: Financial and budgetary provisions; Chapter 34: Institutions; Chapter 35: Other issues

legislative process of the candidate countries. These are evaluated against the general political conditionality set in the accession criteria. However, after the fifth wave of enlargement (from 2004 to 2007), the number of chapters for accession negotiations increased from thirty-one to the present number. The two important new chapters relevant to the establishment of stable institutions and the rule of law are Chapter 23, Judiciary and Fundamental Rights, and Chapter 24, Justice, Freedom and Security. In its approach to current and new candidate countries, the EU emphasizes the rule of law and fundamentals first, and pays more attention to the implementation of the *acquis*. Rule of law issues are now 'chapterised', meaning that they are included in the negotiating Chapters 23 and 24 and treated as matter of priority. They are the first opened and the last closed in the accession negotiation process.[11]

According to the accession process, an applicant country for EU membership may be granted candidate status by the European Council on the basis of a recommendation by the European Commission.[12] The Commission examines the application in light of the accession criteria and draws up an opinion. Then the European Council has the authority to decide whether to open accession negotiations with the candidate country, a process that involves the adoption of established EU law, and the implementation of judicial, administrative, economic, and other reforms considered necessary for the country to meet the conditions for joining. Membership negotiations with the EU cannot start until all EU governments agree, in the form of a unanimous decision by the EU Council, on a framework or mandate for negotiations with the candidate country.

The accession criteria were mainly defined at the European Council in Copenhagen in 1993 and are hence routinely referred to as the Copenhagen criteria. They require:

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[11]Data obtained through email correspondence with Professor Simion Costea, Policy Strategy Unit of DG Enlargement at the European Commission.
[12]EC. (n.d.)The accession process for a new Member State [website section]. European Union. Accessed from http://europa.eu/legislation_summaries/enlargement/ongoing_enlargement/l14536_en.htm

- stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

- a functioning market economy and the capacity to cope with competition and market forces in the EU; and

- the ability to take on and implement effectively the obligations of membership, including adherence to the aims of political, economic and monetary union.[13]

 The Conclusions of the Presidency of the European Council in Copenhagen in 1993 are seen as the first major EU document to introduce political criteria into the assessment of accession candidates. Section Seven of the Conclusions concerns the EU relationship with the countries of CEE and states that "membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union" (European Council, 1993). These requirements may have subsequently promoted the establishment of non-profit organizations so as to work towards their achievement, but the development of civil society organizations per se is not explicitly mentioned in the document. Therefore, civil society development is not part of the political conditionality of the EU contained in the chapters of the *acquis communautaire*, the basis for accession negotiations and membership. However, the European Commission emphasizes, and follows, civil society development in its Enlargement Strategies and progress reports. Each year the Commission adopts its Enlargement package – a set of documents explaining its policy on EU enlargement and reporting on progress achieved in each country. The Enlargement Strategy sets out the

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[13]EU (n.d.). Accession criteria (Copenhagen criteria) [website section].European Union. Accessed from http://europa.eu/legislation_summaries/glossary/accession_criteria_copenhague_en.htm

way forward for the coming year and marks the progress made over the previous twelve months by each candidate country and potential candidate.[14]

The European Commission has thus made the development of civil society and civil dialogue one of its priorities for accession in its communication with the states of the Western Balkans and Turkey (BCSDN, 2010). The issue was first addressed in 2005 in a communication by the Commission to Turkey and Croatia, promoting strengthened civil society dialogue (EC, 2005a). It was referenced in the EC Enlargement Strategy from 2005 which stated that "a vital part of the Commission's communications strategy is the civil society dialogue, which aims to reinforce links between civil society in the EU and candidate countries in order to improve mutual understanding, address concerns, and encourage a high quality debate" (EC, 2005b).

This priority has since been extended to the whole of the Western Balkans in a Commission communication from 2006, and has been increasingly reflected in the individual country assessments in the progress reports. In its Enlargement Strategy from 2006, the EC stated it would "expand its support for civil society dialogue, building on the measures taken to date for Turkey and the Western Balkan countries" and that the "Civil Society Dialogue established with Turkey in 2004 and extended to the Western Balkan countries in 2006 should be further developed" (EC, 2006).

Four main reasons for prioritizing civil society development and civil society dialogue are emphasized in the Enlargement Strategy from 2007: strengthening the support for reforms; strengthening democracy and functioning democratic institutions; anti-enlargement fatigue measure and ensuring public support for enlargement (EC, 2007). A Civil Society Facility (CSF) was created in 2008 under the Instrument for Pre-accession Assistance (IPA) to support the implementation of the policy goals set out in the Strategy. More specifically, according to the Enlargement Strategy for 2007-2008, the goal of the CSF is to strengthen civil society bodies and their role in the political process, enhance the capacity of civil society organizations to develop cross-border

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[14] EC. (n.d.). Strategy and Progress reports [website section]. European Commission. Accessed from http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm

projects and networks, and to familiarize civil society representatives and opinion leaders with EU affairs.

According to the Enlargement Strategy for 2010-2011, the CSF helps civil society organizations to strengthen their capacities and professionalism. This allows them to engage in an effective dialogue with public and private actors, and to monitor developments in areas such as the rule of law and respect for fundamental rights.[15] The Enlargement Strategy for 2010-2011 thus promotes support for civil society and stresses the importance of its organizations a step further, emphasizing their role in policy-making. It contains a separate section on civil society development and defines civil society activities as "essential for a mature democracy, the respect for human rights and the rule of law," stating that they contribute to a more open, participatory and dynamic democracy (EC, 2010). This Strategy not only reaffirms the view that "the involvement of CSOs in the pre-accession process contributes to the quality and public support for accession-related reforms" but continues to say that "a culture of acceptance and appreciation of CSO's role needs to be put in place, in order to allow CSOs to engage in an effective policy dialogue" (EC, 2010). The EC concluded in its Enlargement Strategy 2010-11 that "public consultation on policy initiatives and draft laws should become the general principle" and "developing the capacities of local actors – so that they can play an important role in the decision-making process and be an equal partner in the civil dialogue process – is an essential part of CSOs in the enlargement process" (EC, 2010).

In its Enlargement Strategy for 2012-2013, the EC reiterated that "civil society activities [were] essential for a mature democracy, the respect for human rights and the rule of law; a vibrant civil society contributes to enhancing political accountability, deepening understanding and inclusiveness of and support for accession related reforms

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[15]In Programme Fiches for IPA programmes for the period 2011-2012, the program purpose of CSF is to achieve "[a] more dynamic civil society actively participating in public debate on democracy, human rights, social inclusion and the rule of law and with capacity to influence policy and decision-making processes." EC (2013).*Civil Society Facility 2013, amending the programme for 2011-2012 (8) Country Fiche: Serbia.* European Commission, Retrieved from: http://ec.europa.eu/enlargement/pdf/ financial_assistance/ipa/2013/multi-beneficiary/pf_8_csf_rs_amend_1_csf_2011-2012-_allocation_2013_final.pdf

and supporting reconciliation in societies divided by conflict." It also acknowledged that "in most enlargement countries, civil society has continued to develop; in some cases, a culture of acceptance of CSOs needs to be better nurtured, and a more enabling environment and the conditions for improved policy dialogue put in place" (EC, 2012).

The variation in the political and social environment, as well as in the institutional and legislative frameworks among candidate countries, as expected, leads to different emphases and different areas for improvement in the country-specific EC progress reports. The repercussions of the Yugoslav wars on human rights and civil society may be one of the reasons the EC has paid particular attention to the development of an environment conducive to the development and engagement of civil society organizations in the countries of the Western Balkans, including Serbia. As the 2005 Enlargement Strategy notes in its introduction, "the pull of the EU has helped transform Central and Eastern Europe from communist regimes to modern, well functioning democracies…the Western Balkans is a particular challenge for the EU; enlargement policy needs to demonstrate its power of transformation in a region where states are weak and societies divided" (EC, 2005b).

It is interesting that the EC started putting a stronger emphasis on the importance of civil society for democratic governance in its general Enlargement Strategies from 2005 onwards. This coincided with the time when the negotiations with Turkey and the countries of the Western Balkans became formalized.[16] This strengthening of the EC's approach may be explained by Pridham's (2007) observation that the EU had broadened the scope of its political conditionality and tightened its procedures since 2004 in order to meet the challenges of the more difficult democratization cases from the West Balkans as well as to incorporate lessons learnt from the previous enlargement cycle and to answer enlargement fatigue. However, the emphasis on civil society dialogue evident in the current Enlargement strategies of the EU may also be a reflection of the EU's growing concern with its own legitimacy and democratic deficit. Börzel and Buzogani (2010) argue that the European Commission

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[16] Turkey started negotiations with the EU on 3 October 2005; Croatia applied for EU membership in 2003 and was in negotiations from 2005 to 2011

has promoted the inclusion of civil society in the accession process as a means to increase the effectiveness and democratic legitimacy in the implementation of the *acquis communautaire*. There are, of course, many factors that influence the priorities and conditionality of the EU at certain stages and it is beyond the scope of this study to examine them in detail, but the factors behind the increased focus of the EU on civil society issues in candidate countries are pertinent to this thesis to the extent that they have informed the development of mechanisms for inclusion of NGOs in policy-making in Bulgaria and Serbia.

Ivanova (2009 as cited in Börzel, 2010) notes that the Commission has insisted on the inclusion of 'social partners' in the preparation of government positions on the various chapters of the *acquis*. Furthermore, EU funding has been made subject to the partnership principle, so that national governments are encouraged to cooperate with the private sector and NGOs in their pursuit of development goals (Grosse, 2010 as cited in Börzel, 2010). Partnership has for a long time been one of the key principles for implementation of the European Union Common Strategic Framework funds (CSF funds). The principle implies close cooperation between public authorities at national, regional and local levels in the member states, and with the private and third sectors. According to the principle, partners should be actively involved throughout the whole programme cycle — preparation, implementation, monitoring and evaluation. These developments are reflected in the practices established in Bulgaria and Serbia for the preparation of national strategic documents and the distribution of EU funds which show the involvement of NGOs in these activities, as discussed below. In accordance with the partnership principle, NGO representatives take part in all the working groups involved designing the new Programming Period for European Structural and Investment Funds (ESIF), 2014-2020, in Bulgaria. The overarching thematic areas to be funded by the ESIF are pre-determined by the EU in the Common Strategic Framework for Cohesion Policy.[17] The Bulgarian state is then responsible for developing a Partnership Agreement, a document setting out the national priorities to be funded under the ESIF, as well as detailed Operational Programs (OPs) specifying the subareas

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[17]EESC. (2012). Council adopts cohesion policy package for 2014-2020 [Press release]. European Economic and Social Committee (EESC). Accessed from http://www.eesc.europa.eu/?i=portal.en.events-and-activities-common-strategic-framework

to be supported and financed in different sectors. The OPs are a form of financing from the EU Structural Funds, the major financial instrument of the EU for the implementation of its cohesion policy. They guarantee the coordination, financial control and implementation of the EU Structural Funds instruments in the accession country. Their structure in Bulgaria is organized in accordance with the domestic institutions responsible for national policy in the corresponding sectors. Each OP has its own Managing and Contracting Authority which is the Ministry responsible for the specific sector. The OPs contribute to the realization of the relevant thematic priorities set in the National Strategic Reference Framework (NSRF), a document that defines the role of the Structural Funds for the programming period and presents the strategy for the development of the country for this period, as well as the main goals of its policy in relation to EU Funds. There were seven Operational Programs in Bulgaria for the Programming Period 2014-20: Transport and transport infrastructure, Environment, Regions in growth, Innovation and Competitiveness, Science and education for intelligent growth, Human Resources development, and Good governance.

As defined in two regulations of the EU, the working groups which draft the Partnership Agreement and the Operational Programs must include a wide range of partners.[18] These include representatives of local authorities, socio-economic partners, civil society organizations, the academic society and others.[19] There is a formal mechanism for the non-random selection of legitimate and active NGOs, signed by the Minister for the Management of EU funds, to participate in these working groups and to provide information to the other civil society organizations from their particular field.[20]

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[18] EU. (2013). *Regulation (EU) No 1303/2013 of the European Parliament and of the Council*. European Union. Retrieved from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?
uri=OJ:L:2013:347:0320:0469:EN:PDF; and EU (2014). *Commission delegated regulation (EU) No 240/2014*. European Union. Retrieved from http://eur-lex.europa.eu/legal-content/EN/TXT/
?uri=CELEX:32014R0240

[19] Information in Bulgarian on these working groups is available on the website of Bulgaria 2020, a website developed by the NGOs participating in the working groups convened in relation to the programs funded by the EU (http://2020.europe.bg/).

[20] Minister of EU Funds Management, Republic of Bulgaria (2014). *Mechanism for selection of non-governmental organizations whose representatives are to participate in the working groups for the development of the Partnership Agreement and the programs of the Republic of Bulgaria for the programming period 2014-2020*. Retrieved from the Ministry of Education website:
https://www.mon.bg/?h=downloadFile&fileId=2595. The same data on this mechanism was provided in the interviews with NGOs representatives.

The National Program for Development: Bulgaria 2020, which is one of the documents that informs the Partnership Agreement and other state policies, was also developed in consultation with NGOs.[21]

In Serbia, NGOs are similarly included in the negotiation process for the accession of the country to the EU through the monitoring of explanatory screenings, participation in the preparation of the bilateral screening for some negotiating chapters and participation in briefing meetings that followed bilateral screenings (OCCS, 2014a). The distribution of pre-accession funding for Serbia had been done centrally from the European Commission until recently, however, and the mechanism for decentralized funding that is going to be used in this country had not been established at the time of the writing.

EC Progress Reports on Serbia and Bulgaria

This section of the chapter presents the recommendations of the European Commission on Bulgaria and Serbia in the area of civil society development made in the EC Progress Reports for these two countries. In order to clarify the role of the progress reports in the accession process, this section starts with a brief description of the general stages of negotiation and accession.

The process of official EU negotiations for membership is based on two elements for each chapter of the *acquis*: screening and negotiating positions.[22] Screening is performed by the European Commission through a detailed examination of each chapter, together with the candidate country, to determine the readiness of the country in the specific policy field. The findings by chapter are presented by the Commission to the member states in the form of a screening report. The conclusion of this report is a recommendation of the Commission to either open negotiations directly or to require that certain conditions or opening benchmarks for the chapter first be met.

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[21] Council of Ministers. (2012). *National Program for Development: Bulgaria 2020*. Council of Ministers. Retrieved from http://www.eufunds.bg/bg/page/809
[22] EC (n.d.) Steps towards joining [website section]. European Commission. Accessed from http://ec.europa.eu/enlargement/policy/steps-towards-joining/index_en.htm

These screening reports are chapter-specific and are different from the progress reports that mark the progress on all *acquis* chapters together, as well as the progress made on the general political and economic criteria.

This practice of progress reports was established in 1998 in relation to the EU accession of the post-communist states of Central and Eastern Europe. In Agenda 2000 the Commission stated it would report regularly to the European Council on the progress made by each of the candidate countries of CEE in preparation for membership and that it would submit its first report at the end of 1998 (EC, 2000b).[23] According to Agenda 2000, these reports would be accompanied by any necessary recommendations for opening bilateral intergovernmental conferences, and a review of the progress of each Central and East European applicant state towards accession in the light of the Copenhagen criteria, in particular the rate at which they adopted the Union *acquis*. The Commission's reports were defined in Agenda 2000 as a basis for taking, in the Council context, the necessary decisions on the conduct of the accession negotiations or their extension to other applicants.

The first draft of a progress reports is prepared by the EC Delegation in the individual country following consultations with civil society organizations in order to exchange views on the topics covered in the report. The EC Delegation in Serbia launches calls for written contributions to the progress report each year.[24] It also organizes meetings with civil society organizations. The contributions of these organizations, however, are not made public and can only be obtained from the organizations if they are willing to share them. The EC Delegation also collects inputs from authorities, including on the involvement of the civil society in policy formulation. It follows all developments in the country throughout the year and the information collected in this way is also used in the progress reports. Information is collected on a

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[23]EC. (2000). *The communication "Agenda 2000: For a stronger and wider Union" (COM(97) 2000)*.European Commission. Retrieved fromhttp://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:51997DC2000
[24]EU. (2014). Political, Economic Criteria and European Standards Consultations – call for written contributions to the 2015ProgressReport [Press Release]. European Union. Accessed from http://europa.rs/files/2015_Progress_Report_web.pdf

local level as well as in Brussels, and monitoring on progress made is done by both Commission staff 'on the ground' as well as those based in Headquarters.[25]

These regular reports of the EC are major documents with multiple cognitive and symbolic functions. They are a source of information on the state of the political economy of the countries in question, and on recorded internal progress and shortcomings. They form a strategy for applying extra EU pressure on the regional actors to comply and persist with the reform process, are important signals for extra-EU international actors to engage or not with the countries in question, and they show evidence of regional diversity and bilateral differentiation (Anastasakis, 2008). The increasing importance the EC places on the development of civil society in candidate countries and its role as a partner in the policy-making process has been reflected in the EC Progress Reports for Serbia and Bulgaria over the years. Serbia − along with five other Western Balkans countries − was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in June 2003. In 2008, a European partnership was adopted, setting out priorities for the country's membership application, and it officially applied on 22 December 2009. The EC recommended making it an official candidate on 12 October 2011 and received full candidate status on 1 March 2012. In September 2013, a Stabilisation and Association Agreement between the EU and Serbia entered into force and in December 2013, the Council of the EU approved opening negotiations on Serbia's accession. Bulgaria applied for EU membership in 1995 and on 13 October 1999, the Commission recommended member states to open negotiations. It became a member state on 1 January 2007, although it still had progress to make in the fields of judicial reform, corruption and organized crime. In December 2006, the Commission set criteria ("benchmarks") for assessing progress made on these issues.

Although the EC progress reports do not provide strict benchmarks for the development of the third sector and consultation procedures, the fact that civil society

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[25]Data on the development of a progress report was obtained through email correspondence with Ana Milenic (EC Delegation Serbia), Vassilis Maragos (EC Delegation Bulgaria in the pre-accession period), Joeri Buhrer-Tavanier (EC Representation Bulgaria) and Professor Simion Costea (Policy Strategy Unit of DG Enlargement in EC).

and the institutions for cooperation with it are mentioned in most progress reports on both countries exerts pressure on the governments and provides a reference point for improvement of the environment for NGOs. All four EC progress reports for Serbia for the period 2005-2008 mentioned that civil society organizations were well developed and active but their legal situation remained unclear as there was a continuing lack of adequate legislation on associations (non-profit civil society organizations).[26] NGOs were also reported to be struggling with financial sustainability and remained heavily dependent on donor support. The reports stated that authorities had made efforts to take the opinions of the civil sector on board, notably in the area of poverty reduction. Parliaments had also become more open, allowing NGOs to attend sessions, and the Serbian Office for European Integration had signed a special Memorandum of Cooperation with NGOs to create a framework for more effective participation by CSO in public policies impacting on the EU integration.[27] On the other hand, according to the reports, the state administration continued to show insufficient understanding of the critical role of NGOs in a democratic society. NGO activities that implied criticism of the government, in particular those that drew attention to sensitive, often unpopular issues were publicly denigrated.

The EC Progress Report for Serbia from 2009 acknowledged the cooperation of the Ministry of Human and Minority Rights with civil society organizations during the period under review, indicating an improvement in the level of involvement of civil society organizations in policy- and decision-making. It also acknowledged the adoption of the new *Law on Associations* in July 2009 which clarified the legal status of NGOs. However, it noted that cooperation remained mainly ad hoc and selective and that the Parliament still lacked a coherent approach to consultations with civil society, international organizations and other stakeholders.[28] The Progress Report from 2010 acknowledged the establishment of the Office for Cooperation with Civil Society that

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[26]All progress reports for Serbia are available at: http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/index_en.htm

[27]EIO. (2005). NGO and the Office signed Memorandum of cooperation [Press Release]. European Integration Office (EIO). Accessed 12 February 2014 from http://www.seio.gov.rs/news.101.html?newsid=258

[28]EC. (2009). *Serbia 2009 Progress Report (SEC (2009) 1339).*European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2009/sr_rapport_2009_en.pdf

was established by the government in April 2010 but again noted that cooperation between state authorities and civil society remained uneven.[29]

As a result, the EC Analytical report on Serbia from 2011 presented an important recommendation: "Cooperation between state bodies and civil society organizations needs to be improved. Threats, verbal abuse and even physical attacks against NGO activists dealing with war crimes and other sensitive topics need to be addressed." Even more importantly, the report identified civil society organizations as necessary participants in the legislative process: "Further efforts are needed in order to make effective use of the regulatory impact assessment and improve public consultation in the legislative process, particularly with regard to civil society and local self-government."[30] The EC Progress report from 2012 reiterated this message, stating that financial support for civil society needed to be directed towards assisting the involvement of civil organizations more widely in decision-making and increasing the capacity of independent civil society organizations.[31] Thus some evolution in the recommendations of the EC towards Serbia can be noticed in the progress reports over the years in the shift from an insistence on building essential democratic institutions and respect for human and political rights towards an insistence on the development of deliberative practices and dialogue with civil society.

In contrast, the first three Progress Reports for Bulgaria for the period 1998-2001 did not mention the development of civil society as such, and the Progress Report from 2000 only noted that:

> NGOs generally play an active and important role in Bulgarian
> society in many sectors and at national, regional and local level.
> There are strong think-tank NGOs that are influential in setting the

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[29]EC. (2010). *Serbia 2010 Progress Report (SEC (2010) 1330)*. European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf

[30]EC. (2011). *Analytical Report accompanying the document Commission Opinion on Serbia's application for membership of the European Union (SEC (2011) 1208)*. European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf

[31] EC. (2012). *Serbia 2012 Progress Report (SWD (2012) 333 final)*. European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/sr_rapport_2012_en.pdf

agenda for civil society and encouraging initiatives to remedy some of the most acute problems facing Bulgarian society. NGOs working in the field of protection of the Roma minority have introduced good practices and success stories that became part of the Government programme. The trend to consult NGOs on issues of concern is very positive. The legal framework for NGO activity is in the process of being modified. A significant part of funding of NGOs comes from donors outside Bulgaria, which has meant some NGOs are over-dependent on those donors. Changes to the legal framework to make donations more attractive in Bulgaria will help but there is clearly a link to the economic situation.[32]

These early comments by the European Commission on the third sector in Bulgaria show some subtle differences when compared with the EC progress reports on Serbia. First, the term predominantly used in the reports for Bulgaria is "NGO" rather than the "civil society" or "civil society organizations" in the reports for Serbia. This suggests a higher degree of professionalization and specialization of these entities in Bulgaria. Second, there were no issues such as the abuse and threats mentioned above identified in the first progress reports on Bulgaria in regard to NGOs working on human rights or sensitive issues such as was noted for Serbia. These may be interpreted as signs of a better institutionalization of NGOs in Bulgaria and a higher degree of cooperation between them and the state in the early 2000s than was the case in Serbia.

These differences between Bulgaria and Serbia may be attributed to the different political environment of the NGOs in the two countries in the late 1990s/early 2000s. According to a report by CIVICUS on the development of civil society in Serbia, in that period NGOs operated in complex and difficult conditions due to the war conflicts in ex-Yugoslavia and their implications (Milivojevic, 2006). Their role was that of defenders of human rights and opponents of the nationalist regime. This placed them in opposition to the government. Civil society organizations were therefore often

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[32]EC. (2000). *Bulgaria 2000 Regular Report: Progress towards accession*. European Commission. Retrieved from http://ec.europa.eu/enlargement/archives/pdf/key_documents/2000/bg_en.pdf

portrayed as acting against national interests and conveying foreign influence. Since the fall of the regime in late 2000, the relationship between civil society and the state has been changing towards increased cooperation, participation in policy-making and inclusions in service provision. This is reflected in later EC Progress Reports on Serbia where NGOs are mentioned as partners of the state in different areas.

The EC Progress Reports on Bulgaria from 1998-2001, on the other hand, show that NGOs have had a cooperative relationship with the government since the early stages of civil society development: NGOs were involved in a number of projects aimed at building state institutions and assisting with inclusion, such as studies and information campaigns on corruption, the integration of Roma people, social inclusion, and pilot projects for the establishment of Ombudsman offices, as well as participation in an inter-institutional working group with the task of preparing legislation on equality of treatment. NGOs in Bulgaria also became involved in service provision much earlier than the NGOs in Serbia. The Progress Report from 2001 states that:

> In the field of social protection, sustained efforts are required to implement the reforms introduced. Though some progress has been made, further efforts are needed to strengthen the role of NGOs in the provision of social services to people who are socially excluded, in particular for ethnic minorities and disabled people.[33]

The EC Progress Report on Bulgaria from 2002 mentions civil society in regard to developments made on the policy-making process and consultation.[34] A Strategy for Modernization of the State Administration was adopted in June 2002, built on five main principles: openness to citizens; participation of social and economic partners and civil society in policy design; accountability of the administration; effectiveness of national policies; and coherence of the political process. The report stated that consultations with

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[33]EC. (2001). *2001 Regular Report on Bulgaria's Progress towards Accession (SEC (2001) 1744).* European Commission. Retrieved from http://ec.europa.eu/enlargement/archives /pdf/key_documents/2001/bu_en.pdf
[34]EC. (2002). *2002 Regular Report on Bulgaria's Progress towards Accession (SEC (2002) 1400).* European Commission. Retrieved from http://ec.europa.eu/enlargement/archives /pdf/key_documents/2002/bu_en.pdf

civil society and economic and social partners were improving, and that there was increasing recognition that this could be beneficial in helping prepare better quality drafts which would be easier to implement. It provided examples of co-operation with civil society such as the development of action plans to implement the anti-corruption and judicial reform strategies. The Progress Report also mentioned the establishment of a Committee on Civil Society Issues at the National Assembly and a Public Council of NGO representatives to mediate between NGOs and the Committee to ensure transparency, dialogue and participation.

The Progress Report on Bulgaria from 2003 further followed the inclusion of NGOs in decision-making and noted that the rules of organization and procedure of the Parliament provided for the participation of NGOs in the preparatory legislative process, notably in the social field.[35] Public-private consultative bodies such as the National Council on Child Protection, the Council for Social Assistance and the National Council for Rehabilitation and Social Integration, were noted as having provided support for the formulation and implementation of government policies. However, both the 2002 and the 2003 reports noted that budgetary sources were still scarce and that the third sector was mostly funded by external donors. Some funding, for instance, was provided through PHARE for civil society development. This program had originally been created in 1989 as the Poland and Hungary: Assistance for Restructuring their Economies (PHARE) programme, but was expanded to assist eight of the ten 2004 accession member states, as well as those countries that acceded in 2007, one of which was Bulgaria.

In 2004, the Progress Report on Bulgaria stated that the transparency of the legislative process had continued to improve through more systematic consultations with civil society and economic and social partners, despite the fact that there was no formal harmonized mechanism for the consultation of stakeholders in the preparation of new legislation. There was a direct recommendation that "a greater effort could be made by Bulgaria to encourage the development of NGOs and to stimulate their

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[35]EC. (2003). *2003 Regular Report on Bulgaria's Progress towards Accession*. European Commission. Retrieved from http://ec.europa.eu/enlargement/archives/pdf/key_documents/2003/rr_bg_final_en.pdf

involvement in the preparation for accession."[36] However, neither of the progress reports from 2005 and 2006 commented specifically on civil society development.

As EC recommendations on the development of civil society and policy dialogue are general and not binding, states can decide how and to what extent to incorporate these in national legislation. Steps to act on EC recommendations are set in the candidate country's annual Action Plans for Fulfillment of the European Commission Recommendations under the Progress reports.[37] These include steps for the development of civil society as recommended in the progress reports but due to the limited monitoring and lack of benchmarks, the implementation of such measures is slow. For example, the Progress Report for Serbia from 2012 states that the drafting process continued to lack transparency, sufficient structure and time for effective consultation of all interested parties, which would also make the legal environment more predictable and that the implementation and monitoring of adopted legislation needed to be improved.[38] These issues were formally taken into consideration by the Serbian government and the planned measures to address them in the Action Plan of Serbia for 2013 were to: 1) adopt the Decision on Amendments to the Rules of Procedure of the Government; and 2) formulate a document defining standards for cooperation between civil society organizations and the state and standards for the participatory process between civil society organizations and state authorities in the drafting of legislation.[39]

Still, there was improvement noted in the Progress Report from 2013:

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[36]EC. (2004). *2004 Regular Report on Bulgaria's Progress towards Accession (SEC(2004) 1199).*European Commission. Retrieved from http://ec.europa.eu/enlargement/archives/ pdf/key_documents/2004/rr_bg_2004_en.pdf

[37]The Action Plans developed by the Bulgarian government in the pre-accession period could not be found online and could not be obtained from the relevant institutions despite numerous emails sent to the Office for Coordination of EU Affairs at the Council of Ministers in Bulgaria. The Action Plans of Serbia are available here: http://www.seio.gov.rs/documents/national-documents.70.html

[38]EC. (2012). *Serbia 2012 Progress Report (SWD(2012) 333 final).* European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/sr_rapport_2012_en.pdf

[39] See the 2013 Action Plan at: http://www.seio.gov.rs/documents/national-documents.70.html

> In March (2013), the government amended its rules of procedure, significantly extending the holding of public consultations and making it compulsory to carry out impact assessments in consultation with the Office for the Regulatory Reform and Impact Analysis. The transparency of the legislative drafting process should be further enhanced and sufficient time given for effective consultation of all interested parties to ensure a more predictable legal environment.[40]

Despite these changes, however, the current Rules of Procedure of the Government (which will be discussed in the next chapter) still do not contain specific information on public consultation in the drafting process, or on monitoring implementation. Consultation standards (presented in further detail in the next chapter) were developed by the Office for Cooperation with Civil Society in 2014, although they were recommendatory, not a legal requirement. Still, the implementation of the EC recommendations on civil society development and consultation may be slow but it is nevertheless moving forward.

Political conditionality and civil society development

The progress reports of the EC for Serbia and Bulgaria clearly show that the Commission has continuously emphasized the development and policy involvement of civil society organizations in these two countries. These reports show that two main tasks have been identified by the EC to be pursued in the two countries in regard to civil society development: to complete the process of regulating the position of civil society organizations and to guarantee their autonomy and sustainability, and to introduce more certainty into the relationship between the state and civil society organizations in the process of EU integration and domestic policy-making.

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[40]EC. (2013). *Serbia 2013 Progress Report (SWD (2013) 412 final).* European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/sr_rapport_2013.pdf

In parallel with the recommendations of the EC, some significant achievements have been made in the area of civil society development and the inclusion of its organizations in policy-making in Bulgaria and Serbia. As will be discussed in detail in the next chapter, both countries have adopted specific legislation on associations and foundations, and standards and guidelines on public consultation. Furthermore, NGOs are included in the EU integration process through participation in the working groups planning the priorities for EU Structural Funds in Bulgaria, and through participation in the screening mechanisms for EU accession in Serbia. Although Serbia received authorization for the decentralized distribution of IPA funding last year, the mechanism for the development of funding programs is not yet clear.[41] Last but not least, both countries have developed strategies to support the development of civil society organizations and a more enabling environment which also encompasses the discussion of possible mechanisms for state funding for civil society organizations. Additionally, a dedicated governmental Office for Cooperation with Civil Society has been established in Serbia which is supported technically and financially by the EU.

The support of the EU for a dedicated institution for cooperation with civil society in Serbia may be attributed to the increased emphasis on civil society development evident in the EC Enlargement strategies since 2005. This emphasis may be related to the commitment to the role of civil society organizations as a way to strengthen democratic institutions and monitor developments in human rights and the rule of law apparent in the Enlargement Strategy for 2010-2011. As suggested by Pridham (2007), the issues that are of greatest importance in the accession process of candidate countries from the Western Balkans are now included in the *acquis* as separate chapters.

Nevertheless, despite the slight differences in the accession conditionality towards Bulgaria and Serbia, the findings of this research do not point to significant differences in the current practices of interaction between the state and NGOs in the two countries. Most NGOs interviewed for this study acknowledged the positive role of the EU for the development of consultation mechanism and the inclusion of civil society in

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[41]This is discussed in more detail in Chapter 5.

policy discussions in the two countries. Therefore, despite the non-binding nature of the EC recommendations to Bulgaria and Serbia in regards to civil society development and its inclusion in policy-making, the governments in these countries have taken significant steps towards the establishment of a regulatory framework for civil society organizations and institutional channels for consultation. All the NGOs interviewed for this study had participated in institutional forums for consultation on draft legislation or policies/strategies. The effectiveness of these mechanisms for consultation and the quality of policy deliberations, however, is a separate matter, and is discussed in the chapters on Working Groups (Chapters 8 and 9).

The recommendations made by the EC in its progress reports on Bulgaria and Serbia do not contain specific prescriptions for the mechanisms for consultation or benchmarks for the monitoring of the process because domestic policy-making practices fall within the realm of sovereign nation states. The EC recommends that NGOs be included in the policy-making process but the mechanisms of cooperation and interaction with the government, and the forms of consultation are left open. The EC mentions in the progress reports on both countries that the consultation process needs to be improved and a culture of appreciation of civil society needs to be developed but it is not clear where the governments and NGOs in Bulgaria and Serbia are expected to find models of consultations that can be implemented in their national contexts. The Consultation Standards of the European Commission, *Towards a Reinforced Culture of Consultation and Dialogue*, adopted *after* a consultation process are not very specific and are also of recommendatory nature. Some of the organizations consulted for the Consultation Standards have questioned the Commission's decision to set consultation standards in the form of a Commission communication (i.e. in the form of a policy document) rather than adopting a legally-binding instrument. These organizations have argued that this makes the standards toothless and the Commission would therefore be unable to ensure the consistency and coherence of its consultation processes. The stance of the EC, however, as defined in its Consultation Standards, is that a legally-binding approach to consultation is to be avoided, for two reasons:

> First, a clear dividing line must be drawn between consultations
> launched on the Commission's own initiative prior to the adoption

of a proposal, and the subsequent formalised and compulsory decision-making process according to the Treaties. Second, a situation must be avoided in which a Commission proposal could be challenged in the Court on the grounds of alleged lack of consultation of interested parties. Such an over-legalistic approach would be incompatible with the need for timely delivery of policy, and with the expectations of the citizens that the European Institutions should deliver on substance rather than concentrating on procedures…Finally, the Commission is of the opinion that improvement of its consultation practice should not be based on a 'command and control' approach but rather on providing the appropriate guidance and assistance to Commission officials in charge of running the consultation processes. The general principles and minimum standards should serve as a reference point for a permanent in-house learning process (EC, 2002).

The Commission is not likely to base its approach to the development of consultation mechanisms in candidate countries and member states on a "command and control" method while it declines to use this approach in the establishment of its own consultation practices. From its Consultation Standards, it can be seen that the Commission views consultation guidelines as a reference point for the development of more inclusive policy-making which, however, is to be based on a continuous learning process and not distributed top-down. This is one possible explanation for the lack of specific requirements and monitoring of the consultation mechanisms developed in the EU candidate countries.

Similarly, the EC does not specify the conditions sufficient for the development of a strong civil society or adequate consultation mechanisms. As a consequence, the mere existence of civil society organizations and formal contact with the government can be seen as meeting these requirements. The introduction of formal channels for the inclusion of civil society in policy-making such as consultative councils and working groups can be seen as satisfying the EC requirements but the actual work of these

bodies is not monitored. There are no guidelines provided by the EC on the structure, functions, composition and modes of operation of these bodies.

Some scholars argue that the EU's strategies and programs reflect a rather functional understanding of civil society which is shared by other international donors and is characterized as "participatory engineering" (Beate Kohler-Koch as cited in Börzel, 2010). In this view, the EU "instrumentalizes" civil society organizations as "co-producers of efficient and effective policy regulations" by providing information and expertise "on demand" to EU policy-makers that need them to improve governance performance (Trenz, 2008 as cited in Börzel, 2010). Börzel argues that the EU accession process also entails countervailing factors which seem to strengthen the state rather than society. For example, the adoption of the *acquis* is done under such significant time pressure as to leave little room for social participation. Furthermore, NGOs in CEE countries are often described in the literature as organizations that develop their agendas following the funding priorities of the EU and other external donors, which detaches them from the grassroots, diminishes their independence (Börzel, 2010; Fagan, 2005), and undermines their legitimacy as participants.

Pridham (2007) has argued that the European Commission's focus on institutional approaches has made conditionality more effective in changing formal provisions and structures than in bringing about change in the norms and practices of domestic actors. In his opinion, the EC monitoring of the implementation of various political conditions is limited beyond the adoption of legislation and does not distinguish between commitments and application. He states that institutions in CEE countries are developed by copying from Western models in a top-down manner that does not invoke the transposition of behavioral patterns and often leads to only superficial acceptance of EU norms as means for obtaining membership. This view finds some support in the statements of the NGO representatives interviewed for this thesis, who emphasized that a lot of the strategies developed in Bulgaria and Serbia to satisfy different external requirements remain on paper only. This may account for the

lack of attention to the mechanisms for participation in policy-making noticed in NGO contributions to progress reports.[42]

Pridham (2007) has also argued that despite the increase in the scope of EU conditionality to include new demands, certain areas of political activity important in democratic life such as civil society organizations have remained outside the range of the formal conditionality of the *acquis communautaire*. He attributes this lack of prescriptiveness on matters of civil society to the Commission's focus on the official or institutional aspect of conditionality and reforms. Anastasakis (2008) similarly argues that some of the prescriptions of EU conditionality prioritize law and order over elections and/or civil society development, especially in post-conflict states where the rule of law is weak and the main challenge is institution-building, which takes precedence over other democratic bottom-up goals and criteria. He also states that in many areas of its political conditionality, the EU does not provide any instructions, specifications or commonly defined policies on how political standards should be attained, and in some areas there is very thin conditionality. The characteristics and limitations of EU political conditionality are an important and interesting topic which falls beyond the scope of this study but they are mentioned here in order to provide a context for the discussion of EU recommendations on civil society development to Bulgaria and Serbia.

Conclusion

The findings of this study show that there have been major developments in the adoption of legal frameworks for civil society organizations and in the establishment of consultation practices in Bulgaria and Serbia, following the recommendations of the EU in the accession process. These developments are evident in the Action Plans adopted by the national governments in response to the EC progress reports which further the adoption of specific legislation and strategies for civil society, and consultation standards and cooperation mechanisms.

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[42] MODS Serbia provided access to their contributions to the Progress Reports in 2013 and 2014. There was no mention in them of issues in regard to the mechanisms for participation in policy-making.

However, as identified in the EC progress reports and in the interviews with NGO representatives conducted for this thesis, further efforts are needed to achieve effective participation of civil society organizations in policy-making. Given that Bulgaria and Serbia do not have long democratic traditions and are facing difficult socio-economic conditions in the transition to a market economy, the development of an active civil society and participatory policy-making can be expected to be a long process. The conditionality of the European Union, as stated in the Copenhagen accession criteria, is focused on stable institutions, the rule of law, the protection of human rights and a functioning market economy. The incorporation of these Western democratic values and norms in domestic policy-making processes in CEE countries cannot be prescribed by an external supranational body but requires behavioral and cultural change over time. Therefore, in the accession process, the EU has been focused, at least so far, on the compliance of candidate countries with the economic and political conditionality set in the *acquis communautaire*.

The lack of monitoring on consultation mechanisms and practices has allowed national governments to report progress on the inclusion of civil society in policy-making simply by noting the adoption of relevant legislation, development strategies and consultation mechanisms, with limited implementation and actual transformation of decision-making practices. This limited incorporation of EC recommendations on the inclusion of civil society in domestic policy-making is observed in both Bulgaria and Serbia, and is thus not directly related to the pre-accession or post-accession status of these countries. The institutional framework in regards to civil society organizations in these two states is very similar.

Given the lack of specific EU guidance on the mechanisms for involvement of civil society in the policy-making process, and the lack of monitoring in that area, it is not clear how the EC intends to achieve the goals set in its Enlargement strategies for improved dialogue with civil society at both EU and domestic level. The findings of this research show that the line ministries in Bulgaria and Serbia often conduct consultations with stakeholders, including NGOs, which do not meet the criteria set in the adopted recommendatory national standards on consultation. Neither, according to the interviews conducted for this research, has any clear suggestion emerged on how the

consultation process could be improved, besides the insistence of NGOs in both countries on the provision of feedback from the government. Whether and how the EU can assist with the improvement of domestic consultation practices in candidate countries and new member states cannot be easily established. After all, the development of an authentic civil society and effective consultation practices in national policy-making require that domestic actors acquire sufficient capacity and political resources for this kind of task – and this cannot be imposed or replaced by the EU.

Nevertheless, despite the limitations of the EU recommendations in the area of civil society, there are clear indications of the continuous interest and acknowledgment of its importance for democratic consolidation by the European Union. The EU requires the governments in Bulgaria and Serbia to acknowledge the non-profit sector as an important part of society and the development of new strategies in both countries show attempts at change as a result of compliance, if not conviction, for without EU pressure and political conditionality, many of the required changes would have not taken place, or would have taken longer to happen (Anastasakis, 2008).

The environment in which NGOs operate is thus changing as the EU integration process raises new topics, brings new models for the fulfillment of NGO missions, and opens up new channels for the achievement of their goals (Jelincic and Durovic, 2011). For such changes to have an impact, however, supportive legal and institutional frameworks are needed on a national level to promote the autonomy and sustainability of civil society organizations and their access to domestic policy-making. The development of such political spaces where civil society organizations can participate in the creation of public policies in Bulgaria and Serbia, and the regulations governing such organizations in these countries are explored in the next chapter.

Chapter 5

The NGO Sector in the National Context

The establishment of favorable conditions for the development and functioning of an autonomous civil society is part of the implicit political criteria for EU membership which has been emphasized in the EC Enlargement Strategies and progress reports in regard to CEE candidate countries. However, as already mentioned, EU accession requirements and the *acquis communautaire* do not contain specific rules on the development of an environment conducive for civil society, or on the mechanisms for cooperation between the state and civil society organizations. These legal and institutional specifics are left to the discretion of nation states. Therefore, in order to understand to what extent the EU recommendations in regard to the development of civil society and better dialogue between the state and its organizations are implemented in Bulgaria and Serbia, the legal framework in the two countries needs to be explored.

This chapter starts with a description of the gradual establishment of regulations addressing the legal status and activities of civil society organizations in Bulgaria and Serbia. It then explores the national strategies and state bodies established in these countries with the purpose of promoting the development of the non-profit sector. The chapter concludes with a discussion of the standards for public consultation on draft legislation adopted in Bulgaria and Serbia, and the specifics of current consultation practices in the two countries.

The legal framework on non-profit organizations

As shown in the previous chapter, the adoption of legislation regulating the legal status of civil society organizations has been repeatedly emphasized in the EC progress reports on Bulgaria and Serbia. This legislation has subsequently been adopted in both countries, where the legal frameworks regulating the establishment, registration, organization and activity of non-profit organizations show great similarity.

Legislation in both countries distinguishes between two legal forms of non-profit entities, namely associations and foundations. In Bulgaria, both types of non-profits are subject to a single law, the *Law on Non-profit Legal Entities (2000)* and are equal in terms of goals, activities and status but have to satisfy slightly different registration criteria (Republic of Bulgaria, 2000). In Serbia, there are two separate laws on non-profits, the *Law on Associations (2009)* and the *Law on Endowments and Foundations (2010)*, and the requirements for the establishment of these two types of non-profits vary (Republic of Serbia, 2009; 2010). One of the main differences between associations and foundations as defined by the law in Bulgaria and Serbia is that the former is a membership organization, requires a minimum of three founders and must have a statute and general assembly. These conditions are not valid for foundations, with few exceptions, but the founder(s) of foundations are required to do a founding monetary or property endowment. However, there is no significant difference between the activities of NGOs, whether registered as foundations or as associations since both can be engaged in charity, service provision, human rights promotion etc.

The Bulgarian law on non-profit entities allows these organizations to choose their status by defining their activities as being conducted for either public or private benefit. The non-profit legal entities for public benefit can receive state support through tax and other financial and economic concessions, and have to be entered in a dedicated registry at the Ministry of Justice, and to submit annual activity reports. This indicates that there is an additional level of public monitoring for non-profit entities eligible for financial concessions.

Similar to the public benefit activities' status for non-profit legal entities in Bulgaria and the state concessions available to them, the *Law on Associations* in Serbia mentions programs of public benefit and the receipt of state funding for their implementation:

> The (financial) means for promoting programs or the missing share
> of the (financial) means for funding programs (hereinafter referred
> to as the program) that the associations are carrying out and are of
> public interest shall be secured out of the Republic of Serbia

budget. The Government or the ministry responsible for the association's area of work assigns the funds referred to in paragraph 1 hereof on the basis of the completed open competition and shall conclude contracts for the implementation of the approved programs (Republic of Serbia, 2009).

The fields eligible for these programs as stated in the law are social security, disabled war veterans' security, security of persons with disabilities, social child care, security of internally displaced persons from Kosovo-Metohija and refugees, promotion of the birth-rate, assistance to senior citizens, health care, protection and promotion of human and minority rights, education, science, culture, information dissemination, environmental protection, sustainable development, animal protection, consumer protection, and combating corruption, as well as humanitarian aid programs and other programs whereby the association pursues public needs exclusively and directly. However, it is not clear from the *Law on Associations* whether this list is exclusive or how the associations working in the above mentioned areas can apply for state funds. For instance, it is unclear whether it can be done only in response to announcements for tenders made by the government or also through an application initiated by the organization independently of any calls for projects.

Regarding income sources, associations can acquire assets from membership fees, voluntary contributions, donations and financial subsidies, interest rates and dividends and in other ways permitted by the law. In both countries, associations are "allowed to pursue a business activity or another profit-making activity under the condition that is linked to the statutory goals of the organization and is of narrower scope" (*Law on Associations (2009)*, Serbia) and "non-profit legal entities for both public and private benefit can also engage in additional for-profit activities which are directly related to their core activity" (*Law on Non-profit Legal Entities (2000)*, Bulgaria), but they are required to use the profit generated from these additional activities only for the achievement of the goals set in their statutes or basic instruments.

However, not all non-profit legal entities are citizens' alliances and not all non-profits are subject to the above mentioned laws. According to their type and goals, non-

profit entities are described in the literature on the third sector as associations, foundations, political parties, trade unions, religious organizations and libraries, and others. The *Law on Non-profit Legal Entities* in Bulgaria does not provide a definition of associations but the *Law on Associations* in Serbia defines an association as "a voluntary and nongovernmental non-profit organization based on the freedom of association of several individuals or bodies corporate, established in order to pursue and promote a particular shared or general goal and interest which are not prohibited by the Constitution or the law" (Republic of Serbia, 2009).

Entities different from associations and foundations are not considered non-profit legal entities in the sense of the *Law on Non-profit Legal Entities* in Bulgaria, and are regulated by other, entity-specific laws, being subject to the above mentioned law only if other provisions are absent. The regulation in Serbia follows the same pattern and the activities of political parties, trade unions, associations pursuing certain profit-acquiring activities, sports organizations, churches and religious communities, spontaneous temporary associations of several persons and other associations are regulated by a separate law but the provisions of the *Law on Associations* apply with respect to any issues related thereto that are not governed by another specific law.

In Bulgaria, as defined in the law on non-profits, these organizations are registered through a simple procedure requesting entry into the court registry at the district court according to the address of the organization's headquarters after the court has verified that the registration documents do not contradict existing judicial norms. The district court is also the institution that can terminate the operation of non-profit legal entities prior to the expiration of the term they have been established for if "their registration does not comply with the regulation, their activity conflicts the Constitution, the law or the established societal norms, or if they become insolvent" (*Law on Non-profit Legal Entities (2000)*, Bulgaria). In such cases, non-profits are given a six-month period to abate the nuisance and avoid termination. However, incidents of non-profit terminations by the court, if any, seem to be extremely rare as no such records could be identified for the purpose of this research. The state follows the compliance of non-profits with financial regulations through other bodies such as the

Central Registry at the Ministry of Justice, the National Revenue Agency, and the State Financial Inspection Agency.

The legal framework regulating the operation of non-profits in Serbia is very similar to the regulations established in Bulgaria, with simple and clear procedures for the establishment of associations and foundations. The institution which grants the status of a legal entity to associations in Serbia is the Business Registers Agency which hosts the Associations Registry.[43] The application for entry in the registry is voluntary. Associations can operate without entering the registry but this would mean not having the status of a body corporate. This practice is slightly different than the one in Bulgaria where all associations are required by law to register with the district court registry.

In Serbia, as defined in the *Law on Associations*, court involvement in the registration or operation of an association can occur when the Constitutional Court launches a procedure to ban an association's activities upon the proposal of the Government, the Associations Registry, the Republic Public Prosecutor, and the ministry responsible for administrative affairs or the ministry responsible for the sector where the association's goals are being pursued. This can happen in the case of secret and paramilitary associations, which are prohibited, or because of engagement in the following activities: violent overthrow of the constitutional order; breach of the Republic of Serbia's territorial integrity; violation of the guaranteed human or minority rights or incitement and instigation of inequalities, hatred and intolerance based on racial, national, religious or other affiliation or commitment as well as on gender, race, physical, mental or other characteristics and abilities. However, cases of NGO activities

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[43]The terms and methods for deleting an association in Serbia from the Associations Registry, in which case it loses its status of body corporate, are the same as the termination conditions for non-profit legal entities in Bulgaria and occur if: 1) if the number of members declines below the number of founders required for its establishment and the association's competent body fails to take a decision to admit new members within thirty (30) days; 2) if the term for which the association has been established expires, when an association has been established for a definite period; 3) if the association's competent body takes the decision to terminate activities; 4) if a status change has been made that, in accordance with the law, has as its consequence the association's termination; 5) if it is established that the association has not been pursuing the activities to achieve its statutory goals or has not been organized in line with its statute for over two (2) years without any interruptions or if the time that has elapsed has been double that specified by the statute for holding the assembly session and the session has not taken place; 6) if the association's activities have been banned; 7) in case of bankruptcy (Republic of Serbia, 2009).

banned by the Constitutional Court are rare; one record mentions a potential ban on the activities of one far right organization called *SNP Nasi*. In another instance, the Constitutional Court ruled that Serbian authorities had violated the right to freedom of assembly of a peace organization, *Women in Black* (BalkanInsight, 2013).

According to the *Law on Non-profit Legal Entities*, organizations (defined there as associations and foundations) cannot engage in political, religious and union activities in Bulgaria. Organized political activity has been given a legal definition in the first *Law on Political Parties (1990)* in Bulgaria as the following: holding rallies, demonstrations, meetings and other forms of public agitation in support of political parties/elections or candidates or to their detriment.[44] However, this definition has since been removed from the *Law on Political Parties*. There is no legal obstacle to non-profit legal entities participating in demonstrations and discussions, or in the submission of draft proposals for changes in legislation etc., when these are not part of a political electoral campaign.

This inclusion in socio-political debates is suggested also by the goals of these organizations, examples of which are given in the *Law on the Non-profit Legal Entities* in Bulgaria: development and endorsement of humane values, civil society, health care, education, and culture, technology, assisting social integration and personal realization, environmental and human rights protection. These activities are similar to the public benefit programs mentioned in the *Law on Associations* in Serbia as discussed earlier in the chapter that also include social care and environmental protection among others. Pursuing activities that aim at a certain degree of change in existing practices of social and environmental protection, for example, suggests involvement in advocacy; aiming to influence most of these goals suggests political decisions at local or national level.

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[44]BCNL. (2009). *Legal framework for non-profit organizations: questions and answers* [Website section].Bulgarian Centre for Non-profit Law (BCNL). Accessed 18 September, 2013 from http://www.bcnl.org/bg/nav/137-%D0%BF%D1%80%D0%B0%D0%B2%D0%BD%D0%B0-%D1%80%D0%B0%D0%BC%D0%BA%D0%B0-%D0%BD%D0%B0-%D0%BD%D0%BF%D0%BE-%D0%B2%D1%8A%D0%BF%D1%80%D0%BE%D1%81%D0%B8-%D0%B8-%D0%BE%D1%82%D0%B3%D0%BE%D0%B2%D0%BE%D1%80%D0%B8.html

The *Law on Foundations and Endowments* in Serbia similarly prohibits these organizations from direct engagement in election campaigns through either support or fundraising for political parties or candidates. However, the *Law on Associations* in Serbia does not mention anything on that matter. The only explicit limitation on the involvement of associations in political activities is found in the *Law on Financing Political Activities (2012)* which prohibits domestic associations and other non-profit organizations among others from making financial contributions to political campaigns.[45]

Therefore, the legal frameworks regulating the activities of non-profits in Bulgaria and Serbia are not restrictive and facilitate the operation of NGOs in these countries. Registration requirements are simple and straightforward, and the legal mechanisms which the state can use to impede or control the activities of NGOs are quite limited and have only been used in a very small number of cases. The involvement of non-profits in institutional or public advocacy initiatives such as demonstrations, petitions, policy draft proposals and working group participation is not restricted, and is not related in any way to their source of funding.

The NGOs interviewed for this thesis did not express dissatisfaction with the legal frameworks on non-profit entities or made any complaints about the state intervening or limiting their activities. The NGOs in both countries only mentioned the need for a designated state fund for projects performed by NGOs on a competitive basis, and one NGO in Serbia was dissatisfied with the lack of tax concessions for non-profit organizations in the country. All of the NGOs interviewed for this thesis, regardless of the type of their core activity, are active in institutional advocacy (they can advocate both at the legislature and the executive), and are free to engage in public advocacy as well. Therefore, it can be concluded that the legal framework regulating the status and activities of NGOs in Bulgaria and Serbia is supportive and non-restrictive.

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[45]Republic of Serbia (2011). *Law on Financing Political Activities.* Retrieved 24 May, 2013, from the Organization for Security and Co-operation in Europe (OECD) website: http://www.osce.org /serbia/80544?download=true

It is important to note that in both countries, non-profit legal entities can also engage in the provision of social services that can contribute towards their financial sustainability, especially after funding from international donors decreases.[46] According to the Bulgarian Centre for Non-profit Law (2004), non-profit legal entities have a number of advantages compared to other providers of social services: higher efficiency due to better understanding of local social needs, availability of volunteers, more flexible administrative structures than state and municipal bodies, and dedication to improving social conditions. All of these help them provide services of better quality and lower price (BCNL, 2004). Furthermore, the introduction of non-profits as providers of social services may present the beneficiaries with other advantages besides a greater choice of providers. One of the characterises of NGOs as mentioned in the literature on civil society is their role as a transmission belt between citizens and the state based on their proximity to specific groups whose interests they claim to represent, thus pluralizing the institutional arena. The extent to which NGOs that work directly with vulnerable groups are consulted by the government in the preparation and implementation of social inclusion and welfare strategies on the basis of their connection to these groups and knowledge of their needs is discussed in Chapter 8, but for the moment it is sufficient to note that in Bulgaria, NGO involvement in service provision is not a new practice and both individuals and legal entities can provide social services beside the state and the municipalities, provided that they register with the Agency for Social Assistance. The provision of services for children, however, requires an additional license from the State Agency for Child Protection and compliance with specific criteria and standards.

In Serbia, the involvement of non-profit organizations in service provision has only recently been established. The new *Law on Social Welfare* is an attempt to encourage an increase in the capacity of NGOs and the private sector to provide social services. Nevertheless, service provider organizations in Serbia need to obtain a license (work permit) from the relevant ministry, and professional workers need a permit from

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[46]Republic of Bulgaria (1990-2002). *Social Assistance Act*. Retrieved 16 January, 2014 from the RefWorld website: http://www.refworld.org/docid/44ae614c4.html, and Republic of Serbia (2011). *Law on Social Welfare (2011).*Retrieved 10 March, 2014 from Paragraf website: http://paragraf.rs/propisi/zakon_o_socijalnoj_zastiti.html.

the Chamber of Social Protection, an independent professional association. This transformational change in social provision regulation in Serbia was introduced by the Social Innovations Fund (SIF), a program implemented in cooperation with the United Nations Development Program (UNDP) and financially supported by the European Union[47] As described by UNDP, SIF was established in 2003 within the Ministry for Labour and Social Policy with the purpose to create a so-called 'transitional mechanism' over a period of five years that would enable fast reforms in the social protection area through the initiation of quality, accessible and diverse social services.[48] It aimed at setting up an alternative framework for the management of Serbia's social protection system thereby strengthening the links between the Ministry and civil organizations, and establishing models of cooperation for wider use within institutions.

The SIF was most active in Serbia during the period 2004-2006. It supported the development of local services in the field of social protection, and cooperated with local non-government organizations that were performing the monitoring and evaluation of projects in local communities. According to UNDP, the measures SIF developed and advocated for were institutionalized from 2011 with the adoption of the new *Law on Social Welfare* which recognized SIF as a model and best practice for service provision.[49] With the new *Law on Social Welfare* in Serbia, the NGOs in both countries studied for this thesis can now engage in service provision when they meet the requirements set in the licensing criteria and procedure. The development of this particular law is also an example of the extensive public consultation that can be initiated by the Serbian government, for it included experts from social care facilities and civil society organizations in its deliberations.

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[47]Ministry of Labour and Social Policy (n.d.) Social Innovations Fund [website section]. Accessed 25 June 2013 from http://www.sif.minrzs.gov.rs/index.php?PID=2&lang=2

[48]UNDP. (2010). *Country programme performance summary 2005-2010*. United Nations Development Program (UNDP). Retrieved 20 July 2014 from http://web.undp.org/execbrd/word/Statement_of_challenges_and_performnce_Serbia.doc

[49]UNDP. (2013). UNDP's Social Innovation Fund informed a Law on Social Welfare Services [website section]. Accessed 20 March 2014 from http://www.rs.undp.org/content/serbia/en/home/ourwork/povertyreduction/successstories/undp_s-social-innovation-fund-informed-a-new-law-on-social-welfa.html

The institutional avenues for this kind of participation in policy-making are presented in more detail in the next section of the chapter which focuses on the regulatory framework for public consultations in Bulgaria and Serbia. It explores the development of opportunity structures in these countries for NGOs to access the policy-making process and the motivation behind these channels for interaction.

National strategies for the development of civil society

The governments of both Bulgaria and Serbia have taken steps to promote a more inclusive and transparent decision-making process in accordance with the principles of good governance and the recommendations of the EU on the inclusion of civil society in policy-making. The approach for the development of more deliberative institutions is similar in the two countries and comprises of four main steps: the establishment of strategies for the development of an enabling environment for civil society, the setting up of consultation standards, the establishment of the requirements in the national legislation for public consultations on draft laws, and the setting up of a state body for cooperation with civil society (in Serbia only). An 'enabling environment' has been defined as a pre-requisite or necessary condition for civil participation in the Code of Good Practice for civil participation in the decision-making process issued by the Council of Europe:

> To ensure that the essential contributions of NGOs are enshrined in the political decision-making process without discrimination, an enabling environment is required. Conditions of an enabling environment include the rule of law, adherence to fundamental democratic principles, political will, favourable legislation, clear procedures, long-term support and resources for a sustainable civil society and shared spaces for dialogue and cooperation. These conditions allow for a constructive relationship between NGOs and public authorities built on reciprocal trust and mutual understanding for *participatory democracy* (Conference of INGOs of the Council of Europe, 2009; original emphasis).

In Serbia, an Office for Cooperation with Civil Society (OCSC) similar to governmental bodies in Croatia and Slovakia was established in 2011 as an institutional mechanism to support the development of dialogue between the Serbian government and CSOs. As stated on the website of the Office:

> Civil dialogue is understood as the institutional conversation between CSOs and public administration, essential involvement of civil society into decision-making processes, including the fruitful exchange of opinions and attitudes of both stakeholders as equal partners in that dialogue. The importance and role of the Office for Cooperation with Civil Society is reflected in the coordination between the government and CSOs on the development of accurate standards and procedures for the inclusion of civil organizations in the decision-making process. According to its mandate, the Office should provide support to CSOs in the process of defining and implementing legislative procedures altogether with public policies, and thereby contribute to a positive pressure on the governmental institutions.[50]

In February 2014, the Office launched an initiative to adopt a strategic framework for establishing an enabling environment for civil society development in Serbia, assisted by the EU Support to the Office and SIPU International, the Swedish Institute for Public Administration.[51] The first stage in the initiative was a conference entitled "Get involved – define the civil society you want" which gathered representatives of around three hundred national and local governmental institutions and CSOs (EU Support to the Office for Cooperation with Civil Society, 2014).[52] The

[50]OCSC website accessed April 2015, from http://civilnodrustvo.gov.rs/en/. Information on the Croatian and Slovakian bodies can be found at the Council for the Development of Civil Society, Government of the Republic of Croatia website accessed 20 April, 2015 from http://www.uzuvrh.hr/ page.aspx?pageID=75 and from the Office of the Plenipotentiary of the Slovak Government for Development of the Civil Society website, accessed 20 April, 2015 from http://www.tretisektor.gov.sk/
[51]The Swedish Institute for Public Administration (SIPU) website accessed 12 April, 2015 from http://www.sipu.se/about-us/
[52] Data also obtained from interviews with representatives of the Office for Cooperation with Civil Society, MODS (Serbia) and Centre for Youth Integration (Serbia).

conference used the Open Space technology to provide an opportunity for both government and civil society representatives to engage in discussions and to participate in defining the key themes and objectives for the future strategic framework for civil society development.[53] This format allowed participants to set the agenda and the topics for elaboration in several rounds of working sessions so that the draft of National Strategy covered the issues defined as important by civil society and the state.

The strategy that was developed through this initiative towards establishing an enabling environment for civil society development covers the period 2014 – 2018. It will include a summary of the reports produced in the conference. A draft version has been published on the website of OCSC for comments.[54] The final version of the strategic document will be developed by the Office and external experts, and will address five thematic areas: the institutional and legal framework for civil society organizations in Serbia; the financial sustainability of CSOs; the role of NGOs in the socio-economic development of the society (civil society organizations as service providers and the role of civil society in the field of non-formal education); CSOs in the context of EU integration; and the ethics and integrity of civil society.[55]

The strategy is being developed with the assistance of the project "EU Assistance to the Government Office for Cooperation with Civil Society" and implemented by SIPU International, with the Office for Cooperation with Civil Society (the Office) being the direct beneficiary of the project.[56] The purpose of the project is to support the Office to fulfill its mandate and strengthen the dialogue between the Serbian government and civil society organizations, and in this way to ensure a greater space for an active role for civil society in Serbia in the process of building democratic

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[53]Office for Cooperation with Civil Society (n.d.).Enhancing enabling environment for civil society [website section]. Accesses 12 April, 2015 from http://civilnodrustvo.gov.rs/eu-ipa/en/support-to-the-office-for-cso/enhancing-enabling-environment-for-civil-society-development/
[54]Technical Assistance for Civil Society Organizations. (2014).National Strategy Conference "Get Involved, Define the Civil Society You Want!" [website section]. Accessed 20 March, 2015 from http://tacso.org/news/p2p/?id=10581
[55]EU Assistance for the Office for Cooperation with Civil Society. (2014). Public call for short-term experts, Strategy for enabling civil society development 2014-2018. Retrieved 12 January, 2015 from http://civilnodrustvo.gov.rs/media/2014/04/PUBLIC-CALL-FOR-EXPERTS-STRATEGY-FOR-ENABLING-ENVIRONMENT-MARCH-2014-Final-1.docx
[56]Project website accessed 25 April, 2015 from http://civilnodrustvo.gov.rs/eu-ipa/en/

institutions and the society as a whole. The mandate of the project runs from January 2013 until the end of 2015 and its scope includes providing support to the EU Delegation in Serbia by monitoring the program EU IPA "Support to Civil Society" (Civil Society Facility) grant scheme.

The technical assistance of the EU to the Office for Cooperation with Civil Society in Serbia under this project is significant. It has supported an analysis of the mechanisms and methods of cooperation between the state and public institutions and CSOs (see Milovanovic and Stojanovic, 2013). It also supported the development of the guidelines for the participation of civil society organizations in the legislative process that were adopted by the Serbian government and president in August 2014 (OCCS, 2014b). The project team has suggested the establishment of a National Council for Communication and Enabling Environment for Civil Society which would participate in the development of the sector strategy, monitor its implementation and support other processes of relevance for the development of civil society in Serbia.[57]

A similar initiative on developing civil society was initiated by the government in Bulgaria in September, 2012, when the Council of Ministers adopted the Strategy for Support for the Development of Civil Society Organizations in Bulgaria, 2012-2015 (Republic of Bulgaria, 2012a). Here it is important to note that the Minister of EU Funds Management at the time, Mr Tomislav Donchev from GERB, a center right party, was a former employee of the Open Society Institute and has been generally supportive of civil society organizations. However, with the change in government in February, 2013, these initiatives have been put on hold and there have been no steps in that direction since the Socialist Party (BSP) took power in May 2013. GERB came into power again after the elections held in October 2014 but at the time of writing there were no new development in regard to the Strategy.

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[57]OCCS. (n.d.). Enhancing enabling environment for civil society [website section] Accessed 15 January, 2015 from http://civilnodrustvo.gov.rs/eu-ipa/en/support-to-the-office-for-cso/enhancing-enabling-environment-for-civil-society-development/

Nevertheless, the Strategy aims at establishing an enabling environment to support the development of CSOs and to stimulate the partnership between them and national/local institutions through the implementation of three main measures. The first of these is the creation of a Council for Civil Society Development under the direction of the Prime Minister which will observe the implementation of the Strategy and facilitate interaction between the authorities and the CSOs. This Council seems to have a similar purpose to the Serbian Office for Cooperation with Civil Society and is designed to have an equal number of representatives from relevant ministries and selected NGOs from different areas. The second measure of the Strategy aims to achieve financial sustainability for CSOs through the creation of a dedicated funding mechanism for the non-profit sector, and a vision for the establishment of such a funding mechanism for the third sector was developed as part of the Strategy. The third measure emphasizes the creation of opportunities for civil activism through the development of clear rules and procedural opportunities for civil participation, and making the stands of CSOs part of the compulsory materials to be considered in decision-making (Republic of Bulgaria, 2012b).

These strategic documents show that the approaches of the governments in Bulgaria and Serbia towards supporting the development of civil society and its inclusion in the policy process are very similar. In both countries, the governments have developed, in response to EU requirements and with EU support, strategies for supporting the development of civil society organizations designed to promote the role of civil society organizations in policy-making and EU integration, and their financial sustainability, although the Serbian strategy is still under development. Therefore, it can be said that the governments in these countries appear to be committed to creating a more conducive environment for civil society organizations and their inclusion in policy-making. To what extent these strategies will be applied in practice, and whether they will have any impact on the activities and sustainability of NGOs and their role in policy-making and EU integration, remains to be seen. In Bulgaria, very few steps have been taken so far on the implementation of the Strategy as has been noted in the round

table "Development of the civil sector – is a strategic approach possible?" convened by NGOs to discuss the measures to be taken with state officials.[58]

Guidelines and standards for public consultations

With regard to consultation with the stakeholders, including NGOs, in the process of the preparation of draft legislation in Bulgaria and Serbia, the legal framework is very similar. The legally binding requirements for public consultations set in the national legislation of the two countries are minimal. They only require the government to provide information to the public, not to incorporate or provide feedback to public input, and this only obliges governments to upload draft legislation to the website of the relevant institution and/or governmental web portal for public consultations. Therefore, the recent consultation requirements clearly do not provide for enhanced accountability, transparency or openness of the policy-making process. Although guidelines for more extensive and inclusive consultations have been developed in both Bulgaria and Serbia and adopted by the respective governments, these documents are of a recommendatory nature, without any binding obligation for state institutions to follow them.

It is clear that European practices and requirements for consultation play a role in the development of consultation mechanisms in CEE candidate countries and new member states, since similar consultation standards have been adopted in Croatia.[59] The Croatian Council for the Development of Civil Society has also published the Council of Europe's document on the development of a Code of Good Practice for civil participation in the decision-making process on its website,[60] and has indicated that the Code is reflected in the Croatian standards, stating that "[p]articipation by citizens, or the interested public, is one of the fundamental principles of European management of public affairs." Similarly, consultation standards adopted in Bulgaria and Serbia also

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[58]Further details of this event are available in Appendix 4.

[59]Republic of Croatia. (2009). *Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulation and Acts.* Retrieved 20 April, 2015 from the Office for Cooperation with NGOs, Republic of Croatia website: http://www.uzuvrh.hr/userfiles/file/code%20of %20practice%20on%20consultation-croatia_final.pdf

[60]Council of Europe (2008).*Code of Good Practice on Civil Participation* [Background paper]. Retrieved 20 April, 2015 from the Office for Cooperation with NGOs, Republic of Croatia website: http://www.uzuvrh.hr/userfiles/file/Background_paper_Civil_participation_en.doc

refer to European practices. The Bulgarian government's 2009 Standards for Conducting Public Consultations state that:

> Bulgaria, the European Union and the European common market have adopted the principle of transparency in regards to policy-making due to sound reasons related to economics, governance and democracy…Consultations with stakeholders and impact assessments are a common practice in Europe.

Similarly, the Republic of Serbia's 2014 Guidelines for Participation of Civil Society Organizations in the Regulation Adoption Process declare that:

> With a view of internal reforms and harmonisation with the EU acquis during the last decade in the Republic of Serbia a number of steps have been taken to establish legal and institutional framework for participation of civil society organizations in the drafting process for regulations and strategic documents. Having regard to significantly improved communication and cooperation with civil society organizations and with a view of practice unification in the whole public administration system for enabling full cooperation with civil society organizations in accordance with contemporary European tendencies in this field, the Guidelines for Participation of Civil Society Organizations in the Regulation Adoption Process (hereinafter: Guidelines) shall be established.

In Serbia the development of consultation standards started in September 2013 with the report "Analysis of the mechanisms and methods for cooperation between the state and public institutions, and civil society organizations" (Milovanovic and Stojanovic, 2013). As mentioned earlier, this initiative was funded by the EU and was part of the "Action plan for fulfillment of the European Commission recommendations

under the Serbia 2012 Progress Report in the European integration process."[61] A draft document on the "Guidelines for participation of civil society organizations in legislative processes" was developed based on this analysis and a public call was made for submission of comments, together with an invitation to CSOs to participate in round tables to discuss the draft.[62] The guidelines were adopted in 2014 and aim to establish a clear criteria of cooperation in the procedures for adopting laws, and to develop principles, standards and measures for future participation of civil society (Republic of Serbia, 2014). Their purpose is to create the conditions for a better understanding of the need for civil society to participate in policy-making, to improve the relationship with citizens and other interested parties in the democratic process, and to improve the quality of regulations. Part III of the Guidelines describes four levels of participation. These are the same levels of participation defined in the Council of Europe's Code of Good Practice, except for the name of one of the participation levels in the Serbian consultation standards. These call the third level of participation 'Inclusion' rather than 'Dialogue', as in the Code of Good practice. Similarly to the Council of Europe's Code of Good Practice, the Serbian guidelines require timely provision of information on legislative proposals to stakeholders, and the provision of feedback on the results of consultations.

In Bulgaria, similar standards entitled Standards for Conducting Public Consultations were adopted in 2009 by the Council of Ministers (Republic of Bulgaria, 2009a). These were also developed with EU assistance. The project was funded by the Operational Program *Administrative Capacity* and financed by the European Social Fund. The standards explain the necessity and benefits of public consultations, when, how and with whom such consultations need to be conducted, and specify that they are mostly needed for draft laws and strategic documents.

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[61]Republic of Serbia (2012). *Action plan for fulfilment of the European Commission recommendations under the Serbia 2012 Progress Report in the European integration process.* Retrieved 12 September, 2014 from the European Integration Office (SEIO) website: http://www.seio.gov.rs/upload/ documents/nacionalna_dokumenta/action_plan_12.pdf.

[62]OCCS (2013). Public call for submitting comments [Press release]. Accessed 20 April, 2014 from the Office for Cooperation with Civil Society (OCCS) website: http://civilnodrustvo.gov.rs/en/news/public-call-for-submitting-comments/

However, both the Serbian guidelines and the Bulgarian standards are optional guidance documents. They follow European principles of good governance but lack a compulsory character and accountability mechanisms. Moreover, laws on administrative procedures and normative acts, and the rules of procedure of the government that regulate the policy-making process do not reflect the countries' consultation standards. The guidance documents are not incorporated in any legal regulation. The only legal requirement that concerns consultation procedures is the obligation of state institutions to make draft legislation available online for public comments.

In Bulgaria, the process of drafting of legislation is regulated in the *Law on Normative Acts* and in the Rules of Procedure of the Council of Ministers and its administration (Republic of Bulgaria, 2009b). The requirements on consultation set in the *Law on Normative Acts* are minimal:

> Before submitting the draft law for publication or adoption to the competent body, the proposer of the draft publishes it on the internet site of the respective institution together with the motives, or report, and the interested parties are allowed a minimum of 14 days to submit proposals and opinions on the project (Article 26/2) (Republic of Bulgaria, 2007).

Almost all institutions use the online Portal for Public Consultations (www.strategy.bg) to publish draft legislation and strategies where, during the public discussion, every citizen or NGO can submit their opinion. At the next stage, according to the Rules of Procedure of the Council of Ministers and its administration (Article 35/2), when a draft law is submitted for review by the Council of Ministers, the proponent is also obliged to present in a report of the public discussion (the number of comments and a copy of the comments) attached to the draft. However, as is evident from the lack of comments on most of the documents uploaded for public discussion on the governmental portal,

public discussions are very limited.[63] Furthermore, only few of the online discussions present a summary document of the comments with a reply from the relevant institutions on whether the comments are incorporated or not in the document, and the rationale behind that decision because the state administration is not required to issue a reply to the comments.[64] Therefore, this mechanism for online public consultation cannot be perceived as meeting the requirements for effective consultation as defined by Bridgman and Davis (1998). The existing mechanism does not encourage the participation of stakeholders, and does not provide feedback to contributions.

In Serbia, the legal requirements on consultation processes are similarly minimal. The legal framework concerning public debates on the preparation of laws is included in Article 77 of the *Law on State Administration*. This Article states that a ministry "and a special organization" shall be obliged to undertake a public debate when preparing a law which essentially changes the legal regime in any field or which provides for issues of particular relevance for the public.[65] According to Article 77, the conduct of public debate in the preparation of a law should be regulated in detail by the Rules of Procedure of the Government. These are discussed in further detail later in this chapter.

Recognizing the wide and vague nature of these requirements on public consultation, a Resolution on Legislative Policy was drafted by a working group for the project "Legal Reforms in the Republic of Serbia." The Legal Reform project has been supported by the German Federal Enterprise for International Cooperation (GIZ), which is a federal enterprise that supports the German government in achieving its objectives in the field of international cooperation for sustainable development. A project entitled "Support to the Implementation of the Legal Reforms in the Republic of Serbia" in the 2011-2018 period (with the first stage covering the 2011-2013 period) was launched as part of the bilateral development cooperation between Serbia and Germany, aimed at

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[63]Only between 1 and 20 comments on most proposals were uploaded on the website
[64]Data obtained from email correspondence with the administration of the Council of Ministers managing the web portal.
[65]Republic of Serbia. (2005). *Law on State Administration.* Retrieved 20 August, 2012 from the LegislatiOnline, OSCE Office for Democratic Institutions and Human Rights website: http://www.legislationline.org/documents/id/15792

"addressing the deficiencies identified in the Serbian legislative process and the need to improve the individual stages of the process, particularly given the stepped up legislative activities involved in harmonization with the EU acquis communautaire" (Milovanovic, Nenadic and Todoric, 2012, p.14).

This reform project has been facilitating dialogue with the aim of improving the legislative process in Serbia. One of its outputs, the *Survey on the Improvement of the Legislative Process in the Republic of Serbia* (Milovanovic et al., 2012) has been acknowledged by a large number of Serbian institutions and individual experts. The Resolution on Legislative Policy proposed in the *Survey* is something new in Serbia's legal system and aims to introduce the practice of white papers, to be published for comments *prior* to the convening of a working group to develop a draft law. In this way, participants in the legislative process will be able to better understand the meaning of a change from the beginning as well as the impact of any future solutions, thereby increasing the public's degree of acceptance and facilitating enforcement.[66] In the view of the GIZ team, the adoption of the resolution would ensure the synergy of politics and expertise needed to achieve greater (political) support for identified principles and solutions and their implementation. This is because, according to that Resolution, proponents of draft documents would be required to publish the comments from public discussions in order to increase the responsibility of law makers. They would not be required to reply to the proposals since that requirement would slow down the legislative process, but they would be required to submit the (modified) white paper to the Government together with the key reasons for (non) adoption of any received proposals. This idea is similar to the requirement in the Bulgarian legislation that proponents of draft laws need to present the results of public discussions to the government but takes it a step further by adding the requirement for the provision of *a justification* for including or rejecting the proposals submitted in public discussions.

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[66] Data obtained from interview with Professor Dobrosav Milovanovic, Professor of Law and member of the working group for the drafting of the Resolution Proposal and one of the authors of the *Analysis of the mechanisms and methods for cooperation between the state and public institutions, and civil society organizations* (2013) mentioned earlier.

A public hearing was held on the adoption of the Resolution on Legislative Policy at the National Assembly of Serbia on 2 April, 2013 and some of the proposed changes have been adopted.[67] Article 41 from the Rules of Procedures of Government of Serbia now provides a more precise definition of the cases in which it is necessary to organize public debate, an obligation to publicly announce details on a public debate (e.g. members of the working group that prepared the draft document, time of public debate, possible ways to make comments, duration of public debate), and the obligation for the ministry (as proposer of new law) to provide a report on the public debate on its website (Republic of Serbia, 2005). Furthermore, Article 41, the decision on whether to conduct a public debate, on the programme of the public debate and the time in which it is to be carried out, is to be made by a competent committee, at the suggestion of the proponent. The public debate procedure is to start with the publication of a public invitation to participate in the public debate, along with the programme of the debate on the internet page of the proponent and the portal of e-government. The deadline for the submission of initiatives, proposals, suggestions and comments in writing or electronically is to be at least fifteen days from the date of the publication of the announcement.

There are a number of other provisions in the Rules of Procedure that are also relevant to the issue of public debates, according to a report issued by the Office for Cooperation with Civil Society (Matic, 2013). Under Article 40, Paragraph 1 of the Rules of the Procedure, in the section Annexes to the Draft Law, the proponent is requested to submit with the draft law an analysis of its effects. This, among other things, should include an explanation as to who the solutions provided for by the law are directed to and how they are likely to affect them, whether all interested parties have had an opportunity to state their opinion on the law or not. In this respect, the report states, this set of mandatory annexes to a draft law can include information on the public debate held on it, or from other forms of consultations with interested parties.

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[67]National Assembly of the Republic of Serbia. (2013). *Public hearing held on adoption of resolution on legislative policy* [press release*]*. National Assembly of the Republic of Serbia. Accessed 18 July, 2014: http://www.parlament.gov.rs/Public_Hearing_Held_on_Adoption_of_Resolution_on_Legislative_Policy. 18156.537.html

Still, as identified in the report, the Rules of Procedure need further amendments in order to enable the public and interested parties to participate in the process of consultations from the very start. The report states that:

> This could be done by amending Article 37 of the Rules of Procedure so as to define the proponent's obligation to prepare the groundwork before starting to put together the draft law in order to present in an easy-to-understand manner the situation in a given area, the goals to be achieved and instruments of regulation believed to be able to ensure the achievement of the set goals. Moreover, Article 41 of the Rules of Procedure should lay down that a public debate should be held already at the point when there is an idea/initiative to pass, change or amend legislation, as well as while putting together the text of a law before the finalisation of its draft, after the finalisation of its draft and once the proposed law has already been introduced in the National Assembly (Matic, 2013).

The following amendment is also proposed in the report:

> Article 41 of the Government Rules of Procedure should include yet another paragraph to specify the contents of a report on a public debate. Consequently, it could be stipulated that the report should include the following: list of all invited participants, list of participants who have made comments and proposals on and suggestions for a draft/proposed law, and an explanation of ways and reasons to act upon comments. It could be laid down that the report should constitute an integral part of the rationale for a given law so that deputies, too, could take into account the comments and suggestions made during a public debate when deliberating the proposed law (Matic, 2013).

In Bulgaria, the Action Plan of the Strategy for Development of the State Administration 2014-2015 also aims at improving consultation practice by adopting a requirement for all proposals during public consultations to be published, and the proponents of the draft legislation to be obliged to publish information on which proposals they accept and which they reject.[68] The Action Plan proposes to develop a differentiated timeframe for public consultations, extending the timeframe from fourteen to thirty days for strategic documents and new laws, and commencing public discussions as early as possible. These changes would require the *Law on Normative Acts* and the Rules of Procedure of the Council of Ministers to be amended accordingly. The proposal for change indicates that there is an acknowledgement of the shortcomings of the consultation process by the state administration. The same issues are identified in the few comments submitted to the portal for public consultations on the draft of the Second Action Plan for the global initiative Open Government Partnership, which Bulgaria joined in 2012.[69] The Second Action Plan adopted by the Bulgarian government acknowledges the limited involvement and participation of civil society in the decision-making process and aims at improving the process of its inclusion in the development of draft laws through changes in the *Law on Normative Acts*.[70] The Action Plan also demands a change in the *Law on Non-profit Legal Entities* in order for the Council for Development of Civil Society to be established as part of the Strategy for support and development of civil society organizations in Bulgaria for the period 2012 to 2015.

It is clear from the proposed changes in the regulatory frameworks in Bulgaria and Serbia aimed at improving and institutionalizing the consultation process that both

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[68]Republic of Bulgaria. (2014). *Plan for implementation of the Strategy for development of the state administration in the period April 2014-2015.*Retrieved 16 July, 2014 from the Portal for Public Consultations website: http://www.strategy.bg/publicconsultations/View.aspx?lang=bg-BG&Id=1243
[69]Republic of Bulgaria. (2014). *Summary of the comments of the nongovernmental sector and civil society on the draft for second action plan on the initiative "Partnership for good governance", received in the process of public consultation.* Retrieved 16 July, 2014 from the Portal for Public Consultations website: http://www.strategy.bg/FileHandler.ashx?fileId=4863. More information on this initiative is available at http://www.opengovpartnership.org/
[70]Republic of Bulgaria (2014). *Second action plan of the Republic of Bulgaria on the Open Government Partnership initiative,* Open Government Partnership (OPG). Retrieved 20 January, 2015 from the OPG website: http://www.opengovpartnership.org/sites/default/files/OGP-second-plan-Bulgaria-final.pdf

governments accept that effective consultation requires regulation in national legislation, e.g. in the rules of procedures of the government. According to the GIZ survey of the legislative reform in Serbia, one of the key requirements for producing high quality laws is the regulation of and compliance with the norms and standards defining the legislative process. Furthermore, according to GIZ, the transparency of the legislative process depends on the way the procedure that ensures the involvement of the interested parties in the process, most commonly through public debates, is regulated (Milovanovic et al., 2012, p. 17). It can nevertheless be concluded that the low level of regulation of the consultation process and the lack of a clear, legally binding procedure for conducting consultations and providing feedback do not support the application of the consultation standards adopted in Bulgaria and Serbia.

As stated in one of the interviews conducted for this thesis, consultation standards are a general guide, vision or framework, which set out the steps and procedures for different administrative offices on how to engage civil society. They cannot change the way the government operates. For this to happen, a change in the law is needed. For example, the *Law on Public Administration* would need to have the Article on civil society participation enhanced.[71] As the Analytical Report accompanying the European Commission's communication to the European Parliament and the Council/Commission Opinion on Serbia's application for membership of the European Union states, a more consistent and fully transparent approach to the consultation of stakeholders is needed for the preparation of draft legislation, as well as sufficient consideration of its enforceability (EC, 2011).

Other issues in regard to current consultation practices in Bulgaria and Serbia have also been identified in both the interviews conducted for this thesis and in various reports such as those by the Open Society Institute for CIVICUS.[72] These include concerns about the inclusion of NGOs only in the final stages of the drafting process which is ineffectual because decision-makers by that stage have already assumed a

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[71]Data obtained from interview with a representative of the Office for Cooperation with Civil Society working on the development of the consultation standards and the strategy for civil society development
[72]See, for instance, Kurzydlowski (2011).

specific position and are unwilling to adopt other proposals, as well as concerns about the length of the time period allowed for public deliberations, which often is not sufficient to allow for the contribution from stakeholders and civil society and concerns about the lack of clear, well-grounded and verifiable reasons for the approaches or policies proposed. Still, the development of consultation standards and the proposed changes to national legislation in both countries aimed at improving the transparency of public debates and the participation of stakeholders in policy-making show the willingness of the governments to work towards a more inclusive policy process, and there are examples of wide public consultations on draft laws conducted in both Bulgaria and Serbia.[73] Perhaps surprisingly given its more troubled recent history, the research conducted for this thesis showed that the consultation process in Serbia was slightly more extensive and open to different stakeholders than in Bulgaria. The examples of consultation given by the Serbian NGOs and state officials interviewed for this thesis (discussed below) included round tables across the country with various participants. These were not found in Bulgaria.

Furthermore, only the line ministries of the Serbian government provided records of the consultation process, the announcements and forms for the submission of comments on draft laws, and plans for the drafting process and review of comments, in particular regarding the consultations conducted for the *Law on Youth* and the *Law on Social Welfare*. No such documents were provided by any of the line ministries in Bulgaria, pointing to a less well documented consultation process in that country. The only reply received from a line ministry in Bulgaria to the request for information on the working groups convened by the ministry (e.g. a list with the participants and coordinator of the group, records of the discussions or working document from the group showing suggestions by participants) was from the Ministry of Justice, which stated that all publicly accessible information was available on their website. However, the only documents available on that website were proposals for new laws or amendments. There was no information provided on any consultation conducted for the

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[73]Data obtained from interviews with NGOs in both Serbia (MODS; MDRI, and SIPRU) and Bulgaria. Bulgaria gave as an example the wide consultative process on the draft *Law for the Child* and draft *Law on Pre-school and School Education*. However, documentation on the consultation process for these two draft laws (which have not yet been adopted) could not be obtained for this thesis.

development of these draft documents. Therefore, even if a working group had been convened for the development or discussion of a particular draft, there appears to be no document trail of any suggestions made by participants in the working groups. Even though the final law, policy or strategy adopted by the government might state that these were developed in consultation with civil society, it is hardly possible to establish what the input from civil society organizations had been, or even if working group had been convened at all. The reasons for this poor documentation of the consultation process in Bulgaria are not clear but perhaps can be explained by the different EC requirements on civil society development during the EU accession of Bulgaria, which were not as developed or elaborate as they are in the pre-accession processes for Serbia.

One of the most extensive public debates on draft legislation in Serbia was organized by the Serbian Government for the development of the *Law on Social Welfare* adopted in 2011. The debate was funded and executed by the Social Inclusion and Poverty Reduction Unit (SIPRU) of the government and took place between 2009 and 2010. The participants in the public discussions included representatives from social welfare institutions, relevant state authorities, experts and other stakeholders such as civil society organizations dealing with the protection and promotion of human and minority rights, social and economic rights of the most vulnerable groups, and issues of social inclusion, as well as users of social welfare services, and interested citizens (Office for Human and Minority Rights, Republic of Serbia, n.d.). The debate was facilitated by SIPRU and organized around round tables and meetings with non-governmental organizations. The organizations were grouped in six clusters pre-determined by SIPRU on the issues of women, people with disabilities, the elderly, children and youth, refugees, and the Roma. Each cluster was led by a designated "Focal Point" NGO, which acted as the core of the public discussions.[74] According to a report from the Office for Human and Minority Rights at the Government of the Republic of Serbia, all comments and suggestions were forwarded to the Ministry of Labour and Social Policies for further consideration and over eighty percent of these were included in the wording of the draft Law.

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[74]Data obtained from interview with a representative of one of the Focal Point NGOs - MODS

As stated in one of the interviews conducted for this thesis, the clusters and the Focal Points program provided the basis for establishing connections with civil society and strategy discussions. The Focal Points program established for the development of the Poverty Reduction Strategy made an open call for NGOs in the field to submit a proposal for developing a cluster group, stating their suggestions and plans for organizing consultations in the particular cluster group they wished to establish. The selection committee included representatives of the EU, UN, and the government and each of the cluster groups was developed to gather organizations working on one of the pre-determined six issues. SIPRU distributed a number of one-year grants from the funding provided to the government by the World Bank or DFID for various events to be organized by the Focal Points, with the government deciding which issues to fund within a certain framework. According to the state official interviewed, at least two things were initiated through the establishment of the Focal points: communication with the institutions, which established an initial relationship; and the creation of clusters of civil society organizations to deal with specific issues, providing a direct link and exchange of information between 100 to 120 organizations.[75] Even though such a large-scale consultation process engaging various actors in wide public discussions on draft laws seems to be an exception rather than the norm in policy-making even in Serbia, it is a positive development that can be used as a good practice benchmark to be applied more widely in both countries.

Conclusion

The governments in Bulgaria and Serbia have taken steps towards the establishment of a more conducive and supportive environment for civil society organizations and their inclusion in policy-making, as recommended in EU strategic documents and progress reports. The approach to civil society development in both countries is very similar and consists of the adoption of legislation on non-profits, strategies for support to civil society, and consultation standards to promote a more inclusive policy process. In Serbia, a governmental Office for Cooperation with Civil Society was also established that is supported technically and financially by the EU and acts as an intermediary

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[75]Data obtained from an interview with a representative of SIPRU

between the government and civil society organizations. However, the assistance for civil society organizations in terms of capacity building and financial sustainability, despite being mentioned in the strategies for civil society development, is not clear yet. Therefore, the approach to civil society development in Bulgaria and Serbia has taken a top-down, institutional form aimed at the establishment of formal forms of interaction between the state and the third sector.

The implementation of consultation standards that emphasize the inclusion of civil society organizations and other stakeholders in both countries is also problematic because these standards are not legally binding. In both Serbia and Bulgaria the requirements for the governments to conduct public consultations on draft laws and strategies in national legislation are very minimal: the only obligation of the state entity proposing the legislation is to publish the draft document on its website and/or the dedicated web portal for public consultations. There is no regulation in Bulgaria and Serbia specifying how public consultations should be organized, there are no provisions on the treatment of the public debate results (submitted proposals) and the laws do not ensure the transparency of public debates because the governments are not obliged to provide information on input from consultation. The current legal framework on public consultations provides for limited or incomplete consultation practice which serves as one-way channel of information from the participants in policy deliberations to the government. Therefore, in their current form, the consultation practices in both Bulgaria and Serbia do not significantly enhance the transparency and accountability of the policy process. Nevertheless, the lack of specificity and sufficient regulation on the mechanisms for public consultations has been recognized in both countries and proposals for changes in the legislative framework have recently been made.

Chapter 6

Child-welfare NGOs and International Organizations

This chapter presents the activities and advocacy engagement of the NGOs working with children in Bulgaria and Serbia interviewed for this research in order to provide a detailed understanding of their aims and orientation which in turn influences their involvement in the policy process. As discussed in the research design of this thesis (Chapter 2), child-welfare NGOs are among the NGOs most active in the policy process in Bulgaria and Serbia, and their advocacy engagement provides a good opportunity to explore the institutional mechanisms for participation of NGOs in policy making in these countries. Furthermore, a survey conducted in Bulgaria shows that the most embedded areas of CSO advocacy as seen by the citizens are the issues of social concern, protection of vulnerable groups of people and citizens' rights, with the most important area where CSO action is viewed necessary being the rights of children (Kabakchieva et al., 2012).

The chapter starts with brief description of the UN Convention on the Rights of the Child which is of high relevance for the work of child-welfare NGOs, which covers child rights and protection, education, social inclusion and deinstitutionalization. This is followed by a discussion of the role of international organizations such as UNICEF, the World Bank and the EU in the development of national strategies on children's issues, and the way the priorities set in these strategies inform the activities of NGOs working with children. It also examines the ways in which these organizations encourage and promote the participation of NGOs in the development and implementation of national strategies. Particular attention is paid to the deinstitutionalization process in Bulgaria in order to shed light on the higher involvement of Bulgarian NGOs in service provision which is largely influenced by the recommendations of international organization on reform priorities and therefore the funding available to NGOs. The chapter concludes with identification of some commonalities in the activities and structure of the NGOs working with children in Bulgaria and Serbia, and the types of advocacy they engage in.

The UN Convention on the Rights of the Child

The main document that guides both the activities of NGOs working with children and the development of national strategies on children in Bulgaria and Serbia is the United Nations Convention on the Rights of the Child (UNCRC) (United Nations, 1990). Both countries have ratified the Convention, Bulgaria in 1991 and Serbia in 1990.[76] The Convention constitutes a common reference against which progress in meeting human rights standards for children can be assessed. Having agreed to meet the standards in the Convention, governments:

> [A]re obliged to bring their legislation, policy and practice into accordance with the standards in the Convention; to transform the standards into reality for all children; and to abstain from any action that may preclude the enjoyment of those rights or violate them.[77]

The Convention encourages governments to develop national agendas for children, to set up independent statutory offices such as ombudspersons, commissions and other institutions, to promote children's rights and to involve civil society, including children themselves, in the process of implementing and raising awareness of child rights.[78]

As national governments are obliged to comply with the standards set in the Convention, this document provides support to NGO advocacy activities. Many of the NGOs interviewed for this thesis formally declare in their mission statements that their aims and activities are informed by the Convention, and that their work is focused on

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[76]For Serbia, this is the year of the ratification of UNCRC by the former Yugoslavia. On 12 March 2001, the Government of Yugoslavia notified the Secretary-General of its intent to succeed to the Convention, as from 27 April 1992. Further, effective 4 February 2003, the State of Yugoslavia changed its name to Serbia and Montenegro. Effective 3 June 2006, the State changed its name again, to Republic of Serbia.
[77]UNICEF. (2005). Convention on the Rights of the Child. Frequently Asked Questions [website section]. Accessed 20 July 2013 from http://www.unicef.org/crc/index_30229.html
[78] UNICEF. (n.d.). Factsheet: Implementation Guidelines for the Convention on the Rights of the Child. Retrieved 20 July, 2013 from http://www.unicef.org/crc/files/Implementation_guidelines.pdf

promoting the rights and well-being of children as set in the Convention.[79] This shows that NGOs working with children in Bulgaria and Serbia use the Convention both to enhance the legitimacy of their activities and to inform their projects, as well as to obtain a reference point and stronger leverage in the policy process. The Convention is also acknowledged as the basis for child protection activities in the mission statement of the State Agency for Child Protection in Bulgaria.[80]

Governments that are party to the Convention are required to report periodically on their progress to achieve the standards on protection of children's rights to the Committee on the Rights of the Child (CRC), a body of eighteen independent experts sitting in Geneva.[81] Nation states must submit an initial report two years after acceding to the Convention and then provide period reports every five years. The Committee reviews and comments on the reports submitted by national governments, and encourages states to take special measures and to develop special institutions for the promotion and protection of children's rights.

In the review issued by the CRC on the first report submitted by the government of Serbia in 2007, the CRC requested the state party to submit in written form additional and updated information on numerous points (UN CRC, 2008a).[82] One of these was the involvement of civil society organizations in state efforts to implement the Convention, and in drafting the state report.[83] In its response, the Serbian government stated that the government and line ministries worked in cooperation with NGOs and that the latter had been consulted in the preparation of the report (UN CRC,

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[79]Data obtained from the websites of the Child Rights Centre (Serbia), National Network for the Children (Bulgaria), Help for the Children (Serbia), SOS Children Villages (Bulgaria), Parents Association (Bulgaria), Parents Association (Serbia)

[80]SACP. (n.d.). About the agency – who we are [website section]. State Agency for Child Protection (SACP). Accessed 20 September, 2014 from http://sacp.government.bg/za-agenciata/koi-sme-nie/

[81]OHCHR. (2015). Committee on the Rights of the Child [website section]. Accessed from http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx

[82] The initial report of Serbia (CRC/C/SRB/1) was submitted on 31 August 2007. All documents relating to the monitoring of the implementation of the Convention on the Rights of the Child in Serbia are available at: http://tb.ohchr.org/default.aspx?country=rs

[83]Part I, B9, p. 5: Provide information on the Government's cooperation with non-governmental organizations in efforts to implement the Convention. Indicate also whether such organizations have had a role in the preparation of the State party report.

2008b).[84] The issue of NGO participation was also raised in the review issued by the CRC on the first report submitted by the Bulgarian government in 1995 (UN CRC, 1996).[85] In its first report to the CRC, the Bulgarian government acknowledged the emergence of civil society organizations working to promote the well-being of children in cooperation with the state, but emphasized the central role of the state (UN CRC, 1995).[86] In the second report submitted by the Bulgarian government to the CRC in 2007, NGOs were mentioned numerous times as partners on different initiatives and projects, and no issues were raised regarding to NGOs participation in the following CRC review (UN CRC, 2007). In both cases, the willingness of the national governments in Bulgaria and Serbia to comply with the requirements of international organizations such as the UN and to adopt their recommendations is apparent, at least on paper. The change in the rhetoric used in the two reports submitted by the Bulgarian government in regards to NGOs clearly showed a tendency towards better recognition of the sector and inclusion of NGOs as partners in different projects.

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[84]Point 207, p. 74: The Government of the Republic of Serbia and its line ministries achieve wide cooperation with those numerous domestic associations of citizens and international non-governmental organizations, which have the mandate of the protection of the rights of the child, and whose objective is that all provisions of the Convention on the Rights of the Child be fully implemented in both law and practice. As stated above in responses to the questions asked by the Committee, permanent cooperation is maintained with certain associations of citizens and organizations, such as the Centre for the Rights of the Child from Belgrade, the Society for the Protection and Advancement of Mental Health of Children and Youth, etcetera (208). During the preparation of the initial report on the application of the Convention on the Rights of the Child, cooperation with the civil sector has taken the form of consultations with the associations of citizens at various stages of the preparation of the report. The views expressed in these consultations were incorporated into the report.

[85] Point 3: Please provide further information on the coordinating mechanism, in particular with regard to: involvement of non-governmental organizations within the coordination mechanism; Point 4: Is the Government considering the possibility of establishing an independent national institution such as an ombudsperson for children? What role are the non-governmental organizations playing for the implementation of children's rights? The response by the Bulgarian government is provided at different meetings of the CRC, stating that the initial report had been drafted in accordance with the general guidelines adopted by the Committee and with the widest possible participation of representatives of competent institutions and NGOs (CRC/C/SR.345, 30 January 1997)

[86]Point 20.Several charitable foundations were established on special occasions in connection with providing medical treatment to children abroad, including the Ani and Tashko Foundations. It is obvious, however, that these humane forms of civil society can by no means serve as a replacement for the responsibility of the State to take care of the less fortunate in society. Point 21. Gradually these associations set themselves the goal of entering into the field of policy-making with respect to children. They are attempting to participate in the management and financing of public institutions for looking after children who are in a disadvantaged position from the point of view of social status or health. They are also making proposals for amendments to specific legal provisions for protection of the rights of children in line with the principles and provisions of the Convention. In this connection, they are seeking the cooperation of State institutions.

NGOs can also prepare alternative reports on the implementation of the Convention in their country but it is not clear how these can be used to further promote the implementation of the Conventions' standards. Still, this is an opportunity for NGOs to express their opinion on the implementation of the Convention and on the situation of children in the country with the hope that their concerns will be taken into consideration by the CRC and included in the list of issues to be addressed by the state. In a way, the preparation of alternative reports can be seen as a form of indirect advocacy, as the aim of these reports is not just to inform but also to achieve policy change through the intervention of an international organization as a source of external pressure on national governments.

In their report on the Implementation of the Convention in Serbia, the Child Rights Centre (CPD) included a section on the position and role of Serbian NGOs, stating that government bodies, especially ministries, still did not recognize the NGO sector as a fully-fledged partner, despite improvements in the cooperation process (CPD, 2007). As a consequence, this issue was raised in the review issued by the CRC on the first report submitted by the Serbian government, as mentioned earlier in the chapter, with the CRC requested more information on the involvement of civil society organizations in the implementation of the Convention. In Bulgaria, NGOs working with children also prepared an alternative report on the Implementation of the Convention for the second review cycle in 2007 (NMD, 2007). They also participated in the discussion after the presentation of the report of the Bulgarian government to the CRC in Geneva (NMD, 2009).

In addition to the reports submitted by the state, NGOs can submit 'alternative reports' to the UN Universal Periodic Review (UPR) of a given country, and their opinions are published online in the section for stakeholders' submissions. The UPR is a process that involves a review of the human rights records of all UN Member States. It is a "[s]tate-driven process under the auspices of the Human Rights Council that provides each state with the opportunity to declare what actions it has taken to improve the human rights situation in their countries and to fulfill their human rights

obligations."[87] The working group of the UN Human Rights Council issues recommendations following the presentation of the report of the state under review and the submission of information by different stakeholders. The aim of the UPR process is to promote respect for and implementation of all human rights and fundamental freedoms through a cooperative process with national governments. In the presentation of the national report of Bulgaria for the first cycle of the UPR, the head of the Bulgarian delegation acknowledged the contributions of non-governmental organizations throughout the consultation process in the preparation of the national report.[88]

As can be clearly seen from the detailed and well-structured information and recommendations in the 2013 submissions prepared for the UPR by the Coalition for Monitoring Child Rights in Serbia and the National Network for Children, NGOs perceive the submission of alternative monitoring reports as a way of not just fulfilling their task of bringing attention to bear on heated issues and unresolved problems, but as an important contribution to the development of effective and adequate policies in their countries (NMD, 2009, p. 10). These NGOs provided well-considered reports on issues essential to human rights, in particular to the well-being of children, in the areas of child rights, juvenile justice, children in institutions, children with disabilities, and inclusive education.[89]

The role of UNICEF

Where necessary, the Committee on the Rights of the Child calls for international assistance from other governments and for technical assistance from organizations like

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[87] UN HRC (2015).Universal Periodic Review [Website section]. Accessed 20 June, 2014 from: http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx
[88] UN HRC. (2011). *Report of the Working Group on the Universal Periodic Review for Bulgaria* (A/HRC/16/9). UN Human Rights Council (HRC). Retrieved from http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/100/55/PDF/G1110055.pdf?OpenElement
[89]CMCRS. (2013). *Submission for the second cycle of UPR of Serbia*. Coalition for Monitoring Child Rights in Serbia (CMCRS). Retrieved 2 August, 2014 from http://www.ohchr.org/EN/ HRBodies/UPR/Pages/UPRRSStakeholdersInfoS15.aspx; and
NMD. (2010). *Contribution to the first cycle of UPR of Bulgaria.* National Network for the Children (NMD). Retrieved 2 August, 2014 from
http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRBGStakeholdersInfoS9.aspx

the United Nations Children's Fund (UNICEF).[90] UNICEF assists governments in promoting children's rights through the development of country programs and advocacy, cooperation and technical assistance. Therefore UNICEF has a central role in the development of institutions and policies promoting the well-being of children on a national level, and is a central focal point for the NGOs working with children.

In order to advance the implementation of the Convention, the governments of both Bulgaria and Serbia have signed Cooperation Agreements with UNICEF, and have subsequently developed Country Programs and action plans for their implementation with the country offices of UNICEF.[91] As stated in the cooperation agreements, UNICEF representatives are allowed by the governments to monitor and control all stages and aspects of the cooperation programs. The Country programs developed in Bulgaria and Serbia, and their focus and priorities are discussed in the following section.

The cooperation priorities set in the latest Action Plan (2013-2017) of the Country Program for Bulgaria focus on increasing the national capacity for social inclusion and decreasing child poverty, achieving improvements in the realization of the right of children to equal access to education, healthcare and protection, and strengthening the system for monitoring child rights, with a focus on the most marginalized children and families.[92] The focus of the previous Country Program (2010-2012) was on the reform of the system for child care and specialized institutions, strengthening the capacity of local administration to plan and provide social services for

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[90]UNICEF. (2005). Convention on the Rights of the Child. Frequently Asked Questions [website section]. Accessed from http://www.unicef.org/crc/index_30229.html

[91]Yugoslavia signed a Basic Cooperation Agreement with UNICEF in 1947 but the document could not be retrieved. Bulgaria's Basic Cooperation Agreement with UNICEF from 2004 was published in the State gazette, issue 58 from July 2005; see http://dv.parliament.bg/ DVWeb/showMaterialDV.jsp?idMat=598; the Country programs for all countries are available in the UNICEF Country Programme Documents repository, http://www.unicef.org/about/ execboard/index_46487.html

[92]Ministry of Labour and Social Policy. (2013). Action Plan on the Country Program 2013-2017 between the government of the Republic of Bulgaria and UNICEF. State Gazette, issue 94, 29 October 2013. Retrieved from http://dv.parliament.bg/DVWeb/showMaterialDV.jsp;jsessionid =732D13A342FC72DD93EF9C28AED42B97?idMat=79818

vulnerable groups, and the development of new planning methodology for services.[93] These priorities have been reflected in the reforms undertaken by the Bulgarian government on deinstitutionalization and in the activities of the NGO sector which is largely engaged in the provision of services and assisting with the deinstitutionalization process.

As stated in the Country program, the Ministry of Foreign Affairs and the Ministry of Labour and Social Policy are responsible on behalf of the Bulgarian government for the overall coordination of the Country program, while UNICEF provides the funding set in the program budget. The support of UNICEF for the development and implementation of the activities set in the Action Plan can include technical assistance, funding for equipment and transport, funding for advocacy, research and studies, consultation, program development, monitoring and evaluation, and personnel training. Part of this support can be directed to non-governmental organizations and civil society organizations as determined in the activity-specific frameworks. The current Action Plan (2013-2017) states that cooperation with NGOs and the private sector is essential for the implementation of the country program, and that NGOs working in the area of children should be involved in its planning, implementation and evaluation. A large portion of the funding of the NGOs interviewed for this thesis in both Bulgaria and Serbia is provided by UNICEF for the implementation of projects.[94]

In Serbia, the practice and priorities of cooperation between the government and UNICEF are similar to those in Bulgaria. In the previous cooperation period, 2005-2010, the Country Program in Serbia was directed towards a reform of the social welfare system, including the transformation of residential institutions, the establishment of juvenile justice system and a regulatory framework to prevent and protect children from violence.[95] The main components of the current Country Program

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[93]UNICEF. (2011). *UNICEF Bulgaria's Annual Report 2010*. UNICEF. Retrieved from http://www.unicef.bg/en/article/UNICEF-Bulgaria-s-Annual-Report-2010/418

[94]Data is available in Appendix 3

[95]UNICEF (2010).*Country Office Annual Report for Serbia 2010*.UNICEF. Retrieved from http://www.unicef.org/about/annualreport/files/Serbia_COAR_2010.pdf

for Serbia (2011-2015) emphasize support for the national efforts towards social inclusion of vulnerable and marginalized families and children, and early childhood development, child protection, adolescent health and development, and civic engagement for child rights.[96]

UNICEF also launched the Baby-Friendly Hospital Initiative (BFHI) in Serbia in 1994. This program aims to give every baby the best start in life by creating a health care environment that supports breastfeeding and appropriate health care practices as the norm (Becker and Zisovska, 2009). NGOs have been involved in monitoring this program, and the Parents' Association has been included in the special working group on BFHI. The agenda of the country program is reflected in the activities of the NGOs in Serbia: they are focused on social inclusion, inclusive education and early childhood development, and not on deinstitutionalization or service provision, as is the case in Bulgaria.[97]

The current Country Program (2011-15) indicates that the Serbian government has set an ambitious midterm agenda covering the political, economic, social, administrative, and governance spectrum, with EU integration as the main driver of reforms.[98] The program also states that contributions will be made to the good governance pillar in the areas of juvenile justice, strengthening independent institutions, enhancing data systems, and enabling the participation of civil society in policymaking under the UNDAF framework in Serbia.[99] Funding for the implementation of the

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[96]UNICEF (2010).*Country Program Action Plan 2011-2015 between the government of the Republic of Serbia and UNICEF*. UNICEF. Retrieved from http://www.unicef.org/serbia/CPAP_2011-2015-ENGL%281%29.pdf

[97]Data obtained from interviews and the description of NGOs' projects on their websites.

[98]The Country programs for all countries are available in UNICEF CPD Repository: http://www.unicef.org/about/execboard/index_46487.html.

[99]The United Nations Development Action Framework (UNDAF) is a programme document between a government and the United Nations Country Team (UNCT) that describes the collective actions and strategies of the United Nations towards the achievement of national development. Three strategic areas were identified in the United Nations Development Assistance Framework (UNDAF) for Serbia 2011-2015: Good governance, Sustainable Development and Social Inclusion, and Regional Stability and Cooperation. See UN. (2010).*United Nations Country Partnership Strategy, Republic of Serbia 2011-2015*.United Nations. Retrieved from https://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CCgQFjAB&url=https%3A%2F%2Fdata.unfpa.org%2FdownloadDoc.unfpa%3FdocId%3D189&ei=dacDVePTFtPg8AXC5ID4Ag&usg=AFQjCNGl3F-pOouECRmf8amifxolw7c4Rg&bvm=bv.88198703,d.dGc&cad=rja

Country Program is provided by UNICEF and there are various ministries and agencies serving as partnering intuitions.

UNICEF has been recognized in the current Country Program as playing a catalytic role in supporting the Serbian government to strengthen its quality assurance systems and in brokering partnerships to reinforce independent monitoring of results for all children. In both countries, the NGOs working with children interviewed for this research identified UNICEF as a main factor in the pursuit of reforms in the area of child rights and care, especially in regards to deinstitutionalization.[100] As stated in the current Country Program for Serbia, UNICEF pursues engagement with civil society organizations to enable more systematic participation in policy development and monitoring, with a focus on coalition-building, enabling self-representation of excluded groups and brokering space for expanded dialogue with the government. UNICEF also states in its current Country Program for Serbia (2011-2015) that child-focused civil society networks will be supported to advocate for positive behavior change and improvements in services for young children, children with disabilities and adolescents. The organization recognizes that the adoption of a regulatory framework for non-governmental organizations in 2009 is an important step forward in acknowledging the value of civil society but points out that there are still no institutional mechanisms to facilitate exchange between government and civil society. UNICEF also notes in the Country Program that civil society remains fragmented and unable to systematically influence policy-making at national or local levels, and that engagement with civil society organizations should be pursued to enable more systematic participation in policy development and monitoring, with a focus on coalition-building enabling self-representation of excluded groups and brokering space for expanded dialogue with the government.

It is clear that UNICEF not only provides technical and financial assistance for programs that advance the well-being of children in Bulgaria and Serbia but also advocates for the inclusion of civil society organizations in the implementation of these

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[100]Data obtained from interviews with Parents Association (Serbia), MODS (Serbia), Centre for Interactive Pedagogy (Serbia), Association Child and Space (Bulgaria)

programs, and in policy-making.[101] The representatives of the NGOs interviewed for this thesis describe UNICEF as a main source of support for their inclusion in working groups as part of the legislative process, with UNICEF serving as a link between the government and the NGOs.[102] In addition, most of the NGOs interviewed for this research have been partners with UNICEF on projects and/or have received funding from UNICEF for their activities.[103]

In a way, UNICEF and the UN CRC have provided a framework for the inclusion of NGOs in the process of policy-making and implementation in the field of child rights and protection. As stated in the current Country Programs for Bulgaria and Serbia, UNICEF supports the inclusion of NGOs in policy consultations and in the provision and development of services and methodologies. Furthermore, NGOs participate as partnering organizations in the implementation of projects from the Country Programs which allows them to interact more closely with UNICEF and the state institutions. It is quite possible that without the involvement of UNICEF, the engagement of civil society organizations in the sphere of child rights and protection would not have been so significant. Through the insistence and guidance on particular project areas, and through the provision of funding for specific projects, UNICEF influences not only the state agenda but also the framework of activities of NGOs, setting examples of what they can do.

However, UNICEF is not used as a political source of leverage by the NGOs in the same way as the EU is. In the interviews conducted for this thesis, a number of the NGOs working with children mentioned their communication with EU institutions and the submission of contributions to the EU progress reports as part of their advocacy.[104]

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[101]UNICEF. (2010). Serbia *Country programme document 2011-15 (E/ICEF/2010/P/L.5*, p.12 and p.27). UNICEF. Retrieved from http://www.unicef.org/about/execboard/files/ Serbia_final_approved_CPD_9_Sept_2010.pdf; and UNICEF (2010). *Annual report for Bulgaria 2010* (p.3.1.2 Programme Strategy).UNICEF. Retrieved from http://www.unicef.org/about/annualreport/files/Bulgaria_COAR_2010.pdf
[102]Data obtained from interviews with representatives of Parents Association Serbia, Centre for Interactive Pedagogy Serbia, UNICEF Serbia, MODS Serbia, Child and Space Bulgaria
[103]More detailed data on funding sources is available in Appendix 3.
[104]Data obtained from interviews with representatives of MDRI (Serbia), Lumos (Bulgaria), NMD (Bulgaria), MODS (Serbia) and from interviews with representatives of MODS and Child Rights Centre in Serbia respectively

Only one NGO, the Child Rights Centre, mentioned the submission of an alternative report on the Implementation of the UN Convention on the Rights of the Child. This can probably be attributed to the stronger power of EU conditionality and the binding nature of the *acquis communautaire*, which exerts compliance from the governments of candidate countries and member states. Furthermore, the EU provides significant funding resources to national governments for the implementation of reforms. For instance, all projects on the deinstitutionalization process in Bulgaria are supported by UNICEF, but are funded by the European Union.[105] As will be discussed later in this chapter, the EU also provides more opportunities to the NGO sector for enhanced participation in the policy-making process.

Nevertheless, UNICEF supports the Bulgarian government with the implementation of the reform on deinstitutionalization, providing technical support and expertise in the development of policies and strategies, models for community services and foster care.[106] The official mandate of UNICEF in both Bulgaria and Serbia is to cooperate with the government on the programs defined in the cooperation agreement and the country-specific programs.[107] UNICEF, however, not only supports the reforms in child care but also advocates for the development of new practices in different areas such as judicial reform and early childhood development in Bulgaria, and inclusive education in Serbia.[108] UNICEF also commissions research studies that provide evidence and guidance to the government for the direction of future reforms.[109] Thus, UNICEF works very closely with both the national governments and NGOs in Bulgaria and Serbia for the promotion of children's well-being, rights and protection. The NGOs interviewed for this thesis acknowledged UNICEF as a major partner and a source of

[105]SACP. (n.d.). Deinstitutionalization of child care [website section], State Agency for Child Protection in Bulgaria (SACP). Accessed from http://sacp.government.bg/deinstitucionalizaciya/
[106]UNICEF. (2014). Support for deinstitutionalization [website section]. Accessed from http://www.unicef.bg/proekti//7
[107]Agreement for Cooperation between the government of the Republic of Bulgaria and UNICEF, 2005 (State Gazette, issue 58), Country Program Action Plan 2011-15 between the government of the Republic of Serbia and UNICEF.
[108]See UNICEF. (2010). *Annual report for Bulgaria 2010* (p.3.1.2 Programme Strategy).UNICEF. Retrieved from http://www.unicef.org/about/annualreport/files/Bulgaria_COAR_2010.pdf, and the Country Program Action Plan 2011-15 between the government of the Republic of Serbia and UNICEF, respectively.
[109]UNICEF. (2013*). 2013 UNICEF Annual Report for Serbia*. UNICEF. Retrieved from http://www.unicef.org/about/annualreport/files/Serbia_COAR_2013.pdf

support for their project work and advocacy through its assistance with the development and implementation of reforms, even though they did not see it as providing the political leverage of the EU.

Other international organizations and the deinstitutionalization process

One of the most significant areas of involvement for NGOs working with children in Bulgaria is the provision of services and assistance with the process of deinstitutionalization (USAID, 2013). In 2001, the World Bank provided a loan to the government of Bulgaria for the implementation of a five year project on Child Welfare Reform. The rationale behind this loan was based on the 1998 Country Assistance Strategy (CAS) for Bulgaria, as stated by the World Bank in its report on the Child Welfare Reform project. According to the report, the CAS was designed to:

> [S]upport the government's development agenda to advance substantial structural reforms, to rationalize the role of the state and to enhance EU accession-related sector programs with simultaneous provision of measures to protect people and vulnerable groups during the transition and restructuring of Bulgaria's social protection system (World Bank, 2007).

The reforms were thus related to the adoption of the Currency Board Arrangement in 1997 with the International Monetary Fund which required accelerated structural reforms, and the European Union accession process.

As described by the World Bank in its report on the Child Welfare Reform project, one of the vulnerable groups identified by the CAS was children. As in many other countries in Central and Eastern Europe, the institutionalization of children in Bulgaria was a serious problem with 35,123 children (1.78% of the total number of children) living in public care institutions in September 2000. The living conditions in these institutions were poor. The quality of care provided was low, lacking proper standards and regulations and adequately trained staff. Other issues mentioned by the

World Bank in its evaluation report of the Child Welfare reform project included the emergence of the street children phenomenon, limited alternative services and diffusion of responsibility.

According to the report, the project development objective was to "improve child welfare and to protect children's rights in Bulgaria through promoting community-based child welfare approaches such as deinstitutionalization, abandonment prevention and street children services, as cost effective alternatives to institutionalized child care" (World Banks, 2007). The project outcome indicators included an overall reduction of child institutionalization rates for the country at the end of the project, a twenty percent reduction of the number of children entering residential institutions, and a reduction of the total number of children in institutions by fifteen percent in eight pilot municipalities. According to the report results, the targets set for the project were achieved.

The Child Welfare Reform project is very important for the inclusion of NGOs in service provision in Bulgaria (World Bank, 2007). One of its aims was for "NGOs and other private service providers to be involved in partnerships, developed with the central and local authorities for the implementation of the sub-projects fostered under the project," as defined in the report of the World Bank (World Bank, 2007). Under its deinstitutionalization component, the project recognized the technical capacity of NGOs to contribute to the process:

> [T]he alternative community-based services to be financed as sub-projects, were based on the models of Mother and Baby Units and Community Support Centres developed previously with the NGO support, under a wide participatory approach that involved large consultations with both professionals and potential beneficiaries (World Bank, 2007).

The project also set an example of a participatory process that included the civil sector. As described in the report, "the project preparation was conducted in a participatory approach involving the relevant stakeholders at both national and local

levels, professionals, NGOs and beneficiaries" (World Banks, 2007). The final project report acknowledged that NGOs had become a reliable partner in both the design and provision of social services but noted that their capacity was not always equally well developed across the country. NGOs, however, were not mentioned in the sub-component on policy development, where the focus was on institution-building by the State Agency for Child Protection and the Child Protection Departments for the implementation of a coherent national policy for child protection.

However, there were still a large number of children in institutionalized care at the end of 2007 and a BBC documentary, *Bulgaria's Abandoned Children* (Blewett, 2007), drew the attention of the public and the international community towards the appalling conditions in one of the large state institutions for children in the village of Mogilino (NMD, 2009). According to the National Institute of Statistics, in 2009 in Bulgaria there were 7,587 children placed in institutions: 1,386 of them in institutions for children with disabilities; 3,770 in institutions for children without parental care; and 2,421 in homes for medico-social care (for children aged between 0 and 3 years) in a total of 137 institutions. There were only 431 foster parents.[110] In 2011, the number of children in institutions in Bulgaria remained high, with 4,755 children in 127 specialized institutions.[111] Thus, deinstitutionalization remains one of the main priorities of the Bulgarian government in regard to children's well-being, and many NGOs working in the area of children focus their efforts in that direction.

A "Vision for Deinstitutionalization of the Children in Bulgaria" and an Action Plan for its implementation were adopted by the Council of Ministers in 2010.[112] NGOs became extensively involved in the process of transition from large institutions to smaller family-type homes and in providing community-based services designed to help parents keep their children in their families and to prevent abandonment. The

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[110]UNICEF. (2010). *Bulgaria Annual Report 2009.* UNICEF. Retrieved from http://www.unicef.bg/bg/article/Godishen-doklad-na-UNITsEF-Balgariya-2009-g/413
[111]UNICEF. (2012). *Bulgaria Annual Report 2011.*UNICEF. Retrieved from http://www.unicef.bg/public/images/tinybrowser/upload/Annual_Report_2011_EN_n_OK.pdf
[112]Republic of Bulgaria (2010). *National Strategy Vision for Deinstitutionalization of Children in the Republic of Bulgaria.* Retrieved from the State Agency for Child Protection (SACP) website: http://sacp.government.bg/detstvo-za-vsichki/plan-za-dejstvie/

Action Plan envisaged the execution of five big projects funded by the Structural Funds of the EU through the Operational Program for the Development of Human Resources.[113] The first project, "Childhood for Everyone," commenced in 2010 and was aimed at improving the situation of the 1,800 children with disabilities in Bulgaria.[114] Its goal was to move these children out of large residential institutions and either back to their families or to foster parents, or, where neither was possible, to smaller family type homes, and to close all existing institutions for children with disabilities by 2014. It can be seen from the scope of just this one project that deinstitutionalization is a very complex and sizeable process, one that is likely to necessitate the input and assistance of civil society organizations that have the field knowledge, capacity and funding to develop community-based services, and manage small family-type homes to succeed.

In Serbia, reform processes in the social welfare system have also gradually been initiated since 2003 with the Poverty Reduction Strategy, starting with individual projects and actions, and moving towards the development of a strategic framework.[115] The government of Serbia adopted a National Plan of Action for Children in 2004,[116] a Social Welfare Development Strategy in 2005,[117] and a Strategy for Empowerment of People with Disabilities in 2006.[118] However the number of children placed in institutions in Serbia is much lower than the number in Bulgaria. According to UNICEF, the number of children without parental care fell from 1,900 in 2002 to 850 (a third of whom were babies or very small children) in 2011, while the number of children in foster families rose from around 1,800 to 4,200 in the same period. The

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[113]More detailed information about the projects is available on the website of the State Agency for Child Protection: http://sacp.government.bg/deinstitucionalizaciya/
[114]More information about the project is on the website of the State Agency for Child Protection: http://sacp.government.bg/detstvo-za-vsichki/
[115]Republic of Serbia. (2003). *Poverty Reduction Strategy Paper*. Retrieved from the European Integration Office (SEIO): http://www.seio.gov.rs/documents/national-documents.230.html
[116]Republic of Serbia. (2004). *Plan of Action for Children*. Retrieved from the UNICEF website: http://www.unicef.org/serbia/NPAfinalEnglish%281%29.pdf
[117]Republic Institute for Social Protection (2011). *Strategic Plan 2011-2014*. Republic of Serbia. Retrieved from http://www.zavodsz.gov.rs/english/PDF/ENG.pdf
[118]World Bank. (2011). *National and Regional Strategic Plans on Disability*. World Bank. Retrieved from http://siteresources.worldbank.org/DISABILITY/Resources/280658-1327953883745/National_Disability_Plans_Feb_2013.docx

number of institutionalized children with disabilities, however, has remained around 1,100.[119]

The Social Welfare Development Strategy (SWDS) was adopted by the Serbian government as part of EU integration and presents a main strategic framework for reform of the social welfare system which foresees a decrease in the number of children placed in residential institutions and the introduction of new methodological approaches. The necessity for reform, according to the Strategy, is based on the underdeveloped network of social services and the insufficient development and utilization of the social welfare services provided by the non-governmental sector with an existing system of centralized, bureaucratic, and inefficient public social welfare institutions. The Strategy states that the services provided by the non-governmental sector (private service providers and non-governmental organizations) are insufficiently developed as a result of their unequal position in obtaining state funding and due to the lack of incentives for service development. It calls for securing equal status for all service providers so that they can receive funding through the system of accreditation and licensing, regardless of whether they are public, private or non-governmental organizations (SWDS, 2005). This idea has been reflected in the new *Law on Social Welfare* which raises expectations that the NGOs working with children in Serbia will become increasingly involved in service provision once the licensing procedures become clear and the funding from international donors decreases.[120]

In 2008, a Memorandum of Cooperation between the Ministry of Labour and Social Policy of Serbia and UNICEF was signed. This presented a framework for the comprehensive reform of the child support system.[121] The Memorandum was followed by a project financed by the EU and implemented by the Ministry of Labour and Social Policy in partnership with UNICEF, the "Transformation of Residential Institutions for

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[119]UNICEF. (n.d.). Resource Centre for "A Child's Place is within the Family" Project [website section]. Accessed from http://www.unicef.org/serbia/resources_12019.html

[120]Office for Human and Minority Rights, Republic of Serbia. (n.d.). *Law on Social Welfare Questionnaire*. Retrieved from the UN OHCHR website: http://www.ohchr.org/Documents/Issues/Poverty/LivingPoverty/Serbia.doc

[121]UNICEF. (n.d.). *Transformation of Residential Institutions for Children in Serbia.* UNICEF. Retrieved from http://www.unicef.org/serbia/Deinstitutionalisation__One_year_On __Transformation_of_Institutions_for_Children__FINAL_for_web(1).doc

Children and the Development of Sustainable Alternatives (May 2008 - November 2010)." The overall purpose of the project was to reduce the number of children in residential institutions in Serbia by twenty-five percent by 2011 through the transformation of residential institutions and the development of local institutional capacities for the provision of family support and family substitute services. The implementation of the project was organized through four components, with the establishment of four multi-sector thematic working groups: Transformation of institutions and inter-municipal and operational planning for children; Strengthening accountability and monitoring mechanism; General and specialized fostering; and Health-care family support in maternity hospitals. The respective multi-sector working groups consisted of representatives of relevant ministries, experts, practitioners, representatives of professional associations and representatives of trade unions. Their main role was to advise and oversee project implementation as well as to provide strategic direction and endorse policy documents and recommendations (Redzic, 2011).

According to the final evaluation conducted by UNICEF, this project achieved a decrease of 29.5% in the number of children in residential institutions and has led to the development of a further five-year Master Plan for the Transformation of Residential Institutions for Children for the period 2009 – 2013 that stipulates a fifty percent reduction in the placement capacities of institutions for children. The main target of this Master Plan is the transformation of all residential institutions for children without parental care into small capacity centres for the temporary/prolonged placement of children with disability, and the development of other services in accordance with the needs in local community (Pejakovic and Zajuc 2014).[122] It has also achieved a ban on the admission of children aged zero to three years into residential institutions, something that is currently being considered in Bulgaria as well.

From the above mentioned projects and strategic documents it is clear that the deinstitutionalization process is being developed and implemented in a similar fashion

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[122]Pejakovic, L. and Zajuc.J. (2014). *Deinstitutionalization of residential institutions of social protection in Serbia.* Republic Institute of Social Protection. Retrieved from
http://www.zavodsz.gov.rs/english/PDF/save/Local%20experts%20DI%20proces%20review.pdf

in Bulgaria and Serbia. It focuses on the closure of large state-run institutions and the establishment of small family type homes and community-based services, frequently managed by non-governmental organizations through international projects (Serbia) or state delegated budgets (Bulgaria). Non-governmental organizations in both countries have participated to a great extent in the development, piloting and implementation of these deinstitutionalization projects, providing technical assistance and expertise for the closure of large institutions. The importance of the involvement of civil society in the process of deinstitutionalization and development of new services is emphasized by UNICEF in the Country Programs for both countries.

In both Bulgaria and Serbia, deinstitutionalization is financially supported by the European Union and implemented in partnership with UNICEF. This indicates the limited capacity of the state to execute this social reform without external assistance, both financial and administrative. International organizations play an important role in both setting the agenda for reforms in child care and protection, and in funding the projects through which these reforms are carried out. Furthermore, international organizations promote the inclusion of NGOs in the development of policies relevant for children and in the implementation of these policies.

The European Union and child rights and protection

The commitment of the EU to the promotion and protection of children's rights is based on three main documents: the UN Convention on the Rights of the Child (CRC) (OHCRC, 2015), the Council of Europe's European Convention on Human Rights,[123] and the Charter of Fundamental Rights of the EU.[124] Although the EU is not a party to the CRC, it is bound by virtue of the general principles of EU law to adhere to all principles and provisions set out in the CRC in relation to all matters that fall within the scope of EU competence (Stalford, 2012, p. 31 as cited in Van der Hoeven, 2013).

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[123]Council of Europe. (1953). *European Convention on Human Rights*. Council of Europe. Retrieved from http://human-rights-convention.org/
[124]EU. (2009). *EU Charter of Human Rights*. European Union. Retrieved from http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm

In the EU treaties, the protection of the rights of the child is specifically mentioned in the Lisbon Treaty from 2009 within the list of general stated objectives of the EU (article 3(3) TEU).[125] Another contribution of the Lisbon Treaty in regards to child rights is the elevation of the legal status of the Charter of Fundamental Rights of the EU.[126] The Charter was initially developed as a declaratory, interpretative guide with no binding effects but is now recognized to have equally legal force as the Treaties. It contains direct provisions for the rights of the child. For example, Article 24 states that children have the right to such protection and care that is necessary for their well-being. However, the extent to which the EU can regulate children's rights is limited by the principle of subsidiarity, established in Article 5 of the TEU. It appears alongside two other principles that are also considered to be essential to European decision-making, the principles of conferral and of proportionality. The principles are used to establish the desirability of intervention at EU level. The principle of subsidiarity in particular is used to determine the level of intervention that is most relevant in the areas of competences shared between the EU and the member states. This may concern action at European, national or local levels. In all cases, the EU may only intervene if it is able to act more effectively than member states, according to an established protocol.[127] Therefore, there is a limit to EU intervention as a supranational governance body. In the case of developing consultation mechanisms as part of domestic policy-making processes, and the inclusion of non-state actors in decision-making, the procedures to be established are at the discretion of member states. The EU only provides recommendations and general guidelines on that matter, which national governments are not obliged to follow.

The European Union has been working towards the promotion of child rights and protection in the member states and candidate countries since at least 2006, when the European Commission issued a communication "Towards an EU Strategy on the

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[125]EU. (2007). *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community.* European Union. Retrieved from http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ:C:2007:306:TOC

[126]EU. (2008). *A consolidated version of the Treaty on the European Union (TEU).* European Union. Retrieved from http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri= OJ:C:2008:115:0013:0045:en:PDF

[127]EU. (2008). For a consolidated version of the Treaty, see note above.

Rights of the Child."[128] This was followed in 2007 by the EU Guidelines for the Promotion and Protection of the Rights of the Child.[129] In 2011, the European Commission issued the EU Agenda for the Rights of the Child, reaffirming the strong commitment of all EU institutions and all member states to the promotion, protection and fulfilment of the rights of children in all relevant EU policies, and an equally strong commitment to turn this into concrete results.[130] In the Agenda for the Rights of the Child, the Commission emphasized making the rights of the child an integral part of the EU's fundamental rights policy, building the basis for evidence-based policy-making and cooperation with stakeholders through the European Forum for the Rights of the Child.[131] The rights of the child are also part of the EU's Social Agenda and its promotion of social inclusion.[132] However, the EU's prevailing approach to social policy-making in Europe is one of 'soft coordination.' This entails non-binding common goals being put forward for each member state to establish in national and regional policies, but no specific policy measures for the fulfillment of these goals (Van der Hoeven, 2013). The model is based on a shared belief in the effects of inspiring good practices and peer pressure (Van der Hoeven, 2013).

In order to address unemployment and to achieve greater social cohesion by tackling poverty, including children's poverty, the EU adopted a recommendation called "Investing in Children: Breaking the Cycle of Disadvantage" in 2013 as part of the Commission's Social Investment Package.[133] The package provided policy guidance on how to improve action to reach the targets of the Europe 2020 Strategy, which also

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[128]EC. (2006). *Communication from the Commission - Towards an EU strategy on the rights of the child (COM (2006) 367 final)*. European Union. Retrieved from http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52006DC0367
[129]EU. (2007). *EU Guidelines for the Promotion and Protection of the Rights of the Child*. European Union. Retrieved from http://europa.eu/legislation_summaries/human_rights/human_rights_in_third_countries/l33604_en.htm
[130]EC. (2011). *An EU Agenda for the Rights of the Child (COM (2011) 60 final)*. European Commission. Retrieved from http://ec.europa.eu/justice/policies/children/docs/com_2011_60_en.pdf
[131]EC. (2015). European Forum on the Rights of the Child [website section]. Accessed from http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index_en.htm
[132]EC. (2008). *Renewed social agenda: Opportunities, access and solidarity in 21st century Europe (COM (2008) 412 final)*. European Union. Retrieved from http://europa.eu/legislation_summaries/employment_and_social_policy/social_agenda/em0010_en.htm
[133]EC. (2013). *Commission Recommendation of 20 February 2013, Investing in children: breaking the cycle of disadvantage (2013/112/EU)*. European Union. Retrieved from http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013H0112

emphasized the need for the development of better education and access to the services and resources for children, and how to make better use of EU funds to support social investments. [134] The EC recommendation on tackling child poverty urged member states to address these problems, along with social exclusion, as a key issue within the Europe 2020 Strategy, and to mobilize relevant EU financial instruments such as the Structural Funds for the period 2014-2020 (Van der Hoeven, 2013).

Deinstitutionalization has also received significant attention at EU level and the frameworks for the European Social Fund (ESF) and the European Regional Development Fund (ERDF) for the period 2014-20 contain explicit reference to deinstitutionalization.[135] Article 5 of the ERDF regulation mentions "investing in health and social infrastructure which contributes to... the transition from institutional to community-based services" under Thematic objective 9 (Promoting social inclusion and combating poverty) (Van der Hoeven, 2013). Another document of the EU that also promotes the transition from institutional to community-based care is the Commission's European Disability Strategy 2010-2020.

During the accession process of Bulgaria and Romania, the situation of children in institutions in these countries was brought to the attention of the EU through significant media and NGO coverage. This placed the issue of children's rights on the agenda of the EU for enlargement countries and EU member states (Stalford, 2012 as cited in Van der Hoeven, 2013). According to Stalford, these events prompted scrutiny of children's rights in the accession process in a way that had previously been considered unnecessary and even unjustified, and put children's rights on the agenda for other accession negotiations. The EC Progress reports for both Bulgaria and Serbia

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[134]EC. (2010). *Communication from the Commission on Europe 2020 - A Strategy for smart, sustainable and inclusive growth (COM (2010) 2020 final).* European Union. Retrieved from http://europa.eu/legislation_summaries/employment_and_social_policy/eu2020/em0028_en.htm
[135]EU. (2013). *Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006.* European Union. Retrieved from http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1304, and EU (2013). *Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006.* European Union. Retrieved from http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1301, respectively.

contained a section on children's rights and protection, and emphasized the need for deinstitutionalization, inclusive education and the social inclusion of children from the minorities.[136] Furthermore, the rights of the child were monitored in Serbia via the Screening reports of the EU for Chapter 23 of the *acquis*, Judiciary and Fundamental Rights, which had been added to the *acquis* after the fifth wave of enlargement (2004 and 2007).[137]

The unacceptable conditions in the large institutions in Bulgaria and Romania and the concern that the EU Structural Fund was being used for strengthening institutional care were two of the factors that contributed to the establishment of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care in 2009 (Ivanova and Bogdanov, 2013, as cited in Van der Hoeven, 2013). The group consisted of representatives of seven European umbrella NGOs as well as representatives of different Directorates-General of the European Commission (Eurochild, 2011b, as cited in Van der Hoeven, 2013). Since the appointment of a new Commission in 2010, it has been decided that the group should continue its activities under the name European Expert Group on the Transition from Institutional to Community-based Care. The European Expert Group issues reports and publications to support decision-makers at EU and national levels and other actors involved in the deinstitutionalization process.[138] Another very important activity of the European Expert Group is that it organises open meetings several times a year. These are attended by members of the group and representatives of the European Commission, international organizations and governments. During these meetings, updates on the deinstitutionalization process in the various European countries are shared, and problematic situations at national levels are brought to the attention of the Commission

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[136]For Bulgaria – a separate section on child rights was introduced in the fifth Progress report (2002); before that, child rights issues were discussed briefly in other sections. For Serbia – a section on child rights was introduced in the second Progress report for the country (2006).

[137]EC. (2014). *Screening report Serbia, Chapter 23 – Judiciary and fundamental rights.* European Commission. Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2014/140729-screening-report-chapter-23-serbia.pdf

[138]See, for example, the "*Guidelines on the Transition from Institutional to Community-based Care*" (2012), which provides guidance on implementing and supporting a sustained transition to community-based and family-based care (http://deinstitutionalisationguide.eu/). See also the EC. (2009). *Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care*. European Commission. Retrieved from http://ec.europa.eu/social/BlobServlet?docId=3992&langId=en

for assessment of the feasibility and desirability of joint action (Puyet, 2013, as cited in Van der Hoeven, 2013).

Domestic NGOs and the national networks of NGOs working with children provide country-specific information to these discussions, and use these deliberations to draw attention to specific issues and link with transnational advocacy organizations, thus bypassing national governments (Van der Hoeven, 2013). For example, a representative of the Bulgarian National Network for Children was invited by Lumos in 2014 to take part in a working meeting of the European Expert Group involving representatives of the European Commission, national governments and NGOs, on behalf of Coalition Childhood 2025, a coalition of approximately one hundred and fifty NGOs and experts working on deinstitutionalization in Bulgaria.[139] The representative of the Bulgarian National Network for Children Representatives of the European Expert Group also visited Bulgaria in February 2014, and the meeting with local NGOs and government officials was hosted by Coalition Childhood 2025.[140]

This is an example which confirms the view expressed in the literature that NGOs can use the political resources provided by the EU to promote domestic change, even in areas where there is no clear EU policy or law-exerting pressure from above (Jacquot and Woll, 2003, and Radaelli, 2004 both as cited in Sudbery, 2010). Sudbery identifies four key resources that the EU provides to non-state actors: arenas, policy instruments, funding programmes and points of reference. The findings of this research show that NGOs working with children in Bulgaria and Serbia use some of these resources in their advocacy activities, despite the limited conditionality and absence of binding EU legislation on children issues and social policy. First, the EU provides NGOs with new arenas through which to pursue their goals due to its multi-level nature of governance and the multiple points of access to policy and law-making actors (Hooghe and Marks, 2001, as cited in Sudbery, 2010). Besides the institutional arenas,

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[139]NMD. (2014). European deinstitutionalization experts call for overcoming the barriers to the process and implementing an approach based on human rights and the participation of all stakeholders [news]. National network for the children (NMD). Retrieved from http://nmd.bg/eeg-prizovava-za-preodolyavane-na-barierite-pred-protsesa-na-deinstitutsionalizatsiya-i-prilagane-na-podhod-baziran-na-pravata-na-tchoveka-i-s-utchastieto-na-vsimki-zainteresovani-strani/
[140]Data obtained from an interview with the representative of Cedar Foundation (Bulgaria)

NGOs also have access to transnational advocacy networks and European level NGO platforms through which they can organize joint lobbying and gain visibility for their cause (Sudbery, 2010).The European Expert Groups on Deinstitutionalization can be seen as such an arena for domestic NGOs where they can express their positions and concerns to European policymakers. The usage of such platforms is defined by Keck and Sikkink as the "boomerang mechanism" (Keck and Sikkink, 1998, as cited in Sudbery, 2010), which occurs when domestic non-state actors bypass the state and use international channels to generate pressure on their national government from outside (Sudbery, 2010).

The second political resource provided by the EU, as identified by Sudbery (2010) is the range of policy instruments ranging from hard law such as Directives and Regulations to softer tools such as the recommendations and resolutions produced by the EU. These tools vary in the degree to which they constrain national authorities and by extension alter the domestic balance of power (Jacquot and Woll, 2003, and Liebert, 2003, both as cited in Sudbery, 2010) but the commitment of national authorities to them allows non-state actors to hold the government accountable regardless of the laws and policies being binding or not (Sudbery, 2010). This mechanism is termed by Sudbery as a "watchdog" mechanism. It is expected to empower non-state actors to promote domestic implementation of EU agreements, especially in areas where there is strong EU competence. In the case of child rights and protection, there is no EU hard law and detailed binding policy due to the principle of subsidiarity, but the NGOs working with children in Bulgaria and Serbia use EU recommendations in their advocacy to monitor the implementation of these guidelines and to prepare reports which they submit to the EC or to European networks. The NGOs also use the UN CRC as a basis of their monitoring activities but to a more limited extent, mostly due to the lack of conditionality attached to the Convention. Only one of the NGOs interviewed for this thesis, Child Rights Centre (Serbia) mentioned the submission of alternative reports to the UN CRC.

The third category of resources identified by Sudbery (2010) is funding programmes. These encompass the range of EU Community programmes, including the structural funds that finance projects and partnerships and contribute to the capacity

building of non-state actors. Last, the EU can also be used in terms of symbolic resources as a point of reference to alter the domestic discourse and to frame issues on national level (Schmidt and Radaelli, 2004, as cited in Sudbery, 2010). According to Sudbery, it is expected that NGOs working in an area where there is no EU competence would have fewer opportunities to use policy instruments such as directives and recommendations (the watchdog mechanism) or funding programmes (the capacity building mechanism). However, they should be able to create pressure for change via EU arenas (the boomerang mechanism) and the use of the EU as a reference in domestic discourse (the framing mechanism). This hypothesis finds some support for these expectations in the case of NGOs working with children in Bulgaria and Serbia, an area where EU policy is based mostly on soft law and guidance. While the NGOs interviewed for this did not receive large amounts of funding from the EU and could not rely strongly on a specific binding EU policy to promote their agenda, they were able to use EU recommendations and the EC requirements set in the annual progress reports in the area of child rights and protection as a basis for their watchdog and monitoring activities.[141]

Conclusion

This chapter shows that the activities of child-welfare NGOs in Bulgaria and Serbia develop in close relationship to the priorities for domestic reforms set by national governments under the requirements of the EU and UNICEF. Child-welfare NGOs in Bulgaria engage extensively in service provision because deinstitutionalization and the establishment of community-based service is a major area of concern for the wellbeing of children in the country but also because funding from the EU and UNICEF is focused on projects in that area. With the focus of international organizations shifting from human rights issues towards social problems such as inclusive education and provision of quality services in regard to children in Serbia, NGOs in the country are also becoming more involved in deinstitutionalization projects.

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[141]Data on the funding sources of the NGOs interviewed for this thesis is available in Appendix 3.

The chapter therefore indicates that both national initiatives for social reform and NGOs activities in the area of child welfare are dependent on external support from the EU and UNICEF. This points to the relative weakness of both the state and the NGO sector, both financially and politically, to develop and implement policy reforms without external pressure and support. The NGOs in both countries relied on inter-governmental organizations such as UNICEF and the EU in their policy work to promote children's needs and to access policy discussions. In a way, the NGOs were co-implementers of large projects developed in cooperation with or by UNICEF and the EU, and used the projects' priorities as a reference point for monitoring implementation and policy reform, knowing that the governments were vulnerable to 'naming and shaming' strategies.

The NGOs interviewed for this thesis used the EU requirements on deinstitutionalization as a point of reference in domestic policy-making discourses and reform implementation as deinstitutionalization projects are funded by the EU and funding for a specific project can be withdrawn if there is non-compliance with the project objectives. The governments in Bulgaria and Serbia also follow EU developments in the area of children and refer to EU documents in national strategies. Some NGOs (the national network organizations) also use the EU arenas made available through the European Expert Group on Deinstitutionalization and their membership in European advocacy networks. It is clear, therefore, that the political resources provided by the EU are used at least to some extent by the NGOs working with children in Bulgaria and Serbia in their advocacy activities, despite the lack of strict conditionality and clear EU policy in the field. Furthermore, the EU and UNICEF were not only a source of political and financial support for NGOs on specific projects; they also actively encouraged their inclusion in policy development.

Chapter 7

The Activity Orientation of Child-Welfare NGOs

The activity profile of the NGOs working with children interviewed for this research in both Bulgaria and Serbia follows closely the priorities set in the respective Country Programs by the national governments and UNICEF. In both countries, the NGOs working in that field pursue the well-being of children in the areas emphasized in the Country Programs, such as inclusive education, social inclusion, early development, foster care, reform of institutions, community services and children with disabilities.[142] However, there is one significant difference in the activity orientation of the NGOs working with children in the two countries: the NGOs in Bulgaria engage extensively in service provision while the NGOs in Serbia are still more focused on capacity building and awareness raising projects.

As part of the deinstitutionalization process, many Bulgarian NGOs working with children manage family type homes or day centers through delegated state budgets as well as develop and provide community-based services. In Serbia, only one of all interviewed NGOs, the Centre for Youth Integration, is involved in service provision through their drop-in centre for street children. However, the drop-in centre is run on a project basis by the NGO, it is funded by external donors, and is not registered as a social service financed from the state budget. The majority of NGOs in Serbia focus on the promotion of child's rights, inclusive education, protection from violence and youth activism through workshops and capacity building projects.

One possible explanation for this difference is the importance placed on deinstitutionalization by the EU and the Bulgarian government due to the high numbers of children in institutions in the country. As discussed earlier, the World Bank

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[142]The activities of the NGOs interviewed for this research are presented in more detail in Appendices 3 and 4.

supported structural reforms in Bulgaria through the CAS and Child Welfare Reform in the late 1990s which encouraged the development of alternative services and the inclusion of the third sector in their provision. The provision of services by NGOs in municipalities through delegated state budgets is now a widespread practice in Bulgaria. On the other hand, NGOs in Serbia were allowed to provide social services only recently through the new *Law on Social Welfare* adopted in 2011, the bylaws and procedures of which are not clear yet. Prior to that, the state had absolute control over service provision in Serbia and the NGOs could only provide services as part of a project with international donor funding or through the Social Innovations Fund which was established by UNDP to develop and pilot new community-based services, as already discussed.

The engagement of the Bulgarian NGOs working with children in service provision, however, is not attributable only to the high position of deinstitutionalization on the national agenda but also to the funding specifics in the country. In both countries NGOs are unable to self-finance their programs through fundraising, corporate donations and membership dues, and must rely on international donor organizations for project-based funds.[143] Thus, the types of projects NGOs develop are largely the ones they can get financial support for either from the state or, more importantly, from international donors. The availability of donor funding for civic initiatives and projects aimed at the development of NGO capacity, their legal and institutional environment, and the promotion of human rights is central to the ability of NGOs to engage in such activities. Without external funding for these areas, NGOs cannot engage in such projects simply because the NGOs are not financially self-sustainable and the state does not fund advocacy as such.

In Bulgaria, there has been a significant decrease in international funding following the EU accession in 2007 when many international donors left the country, considering the democratization process sufficiently well established.[144] USAID, one of

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[143]This has been confirmed by all organizations interviewed for this thesis; more details on their sources of funding are available in Appendix 3.
[144]CSD. (2010). *Civil Society in Bulgaria: Trends and Risks.* Center for the Study of Democracy (CSD). Retrieved 12 June, 2012 from http://www.csd.bg/fileSrc.php?id=20287

the leading donors of the NGO sector, closed its program in Bulgaria in October 2007. The amount of project-based funding available to NGOs for civil initiatives has therefore dropped significantly and many NGOs closed their offices or became engaged in service provision in order to utilize the existing funding opportunities.[145]

In both Bulgaria and Serbia, the state does not generally provide funding to NGOs for civil initiatives as such, or for projects dealing with democratization aspects, human rights or advocacy. The NGO sector in both countries have been insisting on the establishment of a dedicated fund from the state budget from which to finance NGO activity on a competitive project basis, but agreement has not yet been achieved. In both Bulgaria and Serbia, a certain amount of funding is available from the state budget to NGOs operating in public benefit but the allocation of these funds is not clearly defined. The funds target primarily old nationally-represented organizations such as religious communities, trade unions, veterans' associations, the Red Cross etc., and just a small share is available through calls for proposals to other organizations.[146]

In principle, the NGOs in Bulgaria can still apply for EU funding from the post-accession Structural Funds which focus on specific sectors and are distributed by the relevant ministries but the management of the Operational Programs by the state domestically creates preconditions for mismanagement. The NGOs interviewed for this study find the administration and allocation of EU funds by national institutions problematic, and characterize the application process as very demanding and bureaucratic. Furthermore, the NGOs state that there have not been any calls under the national Operational Programs funded by the EU Structural Funds for which NGOs could apply in the last few years.[147]

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[145]Data obtained from interviews with National Network for the Children (Bulgaria), Foundation For Our Children (Bulgaria), UNICEF Bulgaria

[146]Data obtained from interviews with the representatives of National Network for the Children (Bulgaria) Foundation for Our Children (Bulgaria) and BCSDN (2015). Civil Dialogue, National Level, Serbia, II.2.2State funding [website section]. Balkan Civil Society Development Network (BCSDN). Retrieved 7 February, 2013 from http://www.balkancsd.net/index.php/policy-research-analysis/structured-dialogue/civil-dialogue/national-level/serbia/441-ii22-state-funding-central-local

[147]This problem is also noted in the 2011 CSO Sustainability Index for Central and Eastern Europe and Eurasia (USAID). See http://www.usaid.gov/europe-eurasia-civil-society/cso-sustainability-2011

In both Bulgaria and Serbia, due to the difficult socio-economic situation and the low associational involvement of the general public, it is impossible for NGOs to rely on individual donations. Therefore, with the EU accession, the funding opportunities for NGO activities in Bulgaria other than service provision have greatly diminished because of the local management of EU funds, the lack of state funding for activities other than service provision and the withdrawal of many international donors[148]. Currently, NGOs in Bulgaria provide services through state contracting in many areas, mostly in the area of social support, education and child care (USAID, 2013).

The data from the interviews conducted for this research with representatives of think tanks and NGOs working on children's issues in Bulgaria and Serbia supports the notion that funding opportunities for the third sector, both in terms of priorities and sources, change with the accession of the country to the EU. In the words of one of the interviewees, there are currently no funds for real civil activities in Bulgaria due to the decrease of the volume of funding from international donors and the change in donor priorities. Some interviewees noted that there is a tendency among the international donors still present in Bulgaria to fund projects aimed at the development of services such as those for better education and social inclusion rather than advocacy activities which had been the priority area prior to EU accession.[149] This can be related to the general assumption that by the time a country joins the EU it has already satisfied certain criteria for the establishment of democratic institutions and processes. According to the interviews with representatives of the NGO sector in Bulgaria, this trend has led to a change in the activity profile of NGOs in the country following the accession to the EU, including the NGOs working with children. The interviewees stated that due to the lack of funding for advocacy or human rights organizations in the

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[148]The major foreign donors still supporting NGOs in Bulgaria are the Trust for Civil society in Central and Eastern Europe, the Balkan Trust for Democracy, America for Bulgaria Foundation and the NGO Fund of the Financial Mechanism of the European Economic Area (funded by Norway, Iceland and Liechtenstein and managed by the Open Society Institute in Bulgaria) according to the Balkan Civil Society Development Network: BCSDN. (2015). Civil Dialogue, National Level, Bulgaria, II.2.3 Foreign EU Funding [website section]. Balkan Civil Society Development Network (BCSDN). Retrieved 7 February, 2013 from http://www.balkancsd.net/index.php/policy-research-analysis/structured-dialogue/civil-dialogue/national-level/411-ii23-foreign-eu-funding

[149]Data obtained from interviews with representatives of National Network for the Children (Bulgaria), UNICEF (Bulgaria) and Foundation For Our Children (Bulgaria)

country, many NGOs working on child rights have started engaging in the provision of social services. This shows the heavy dependence of NGOs on external funding to the extent that donor funding priorities had determined the type of activity of the organizations.

As Serbia is not a member of the EU yet, there are still more international donors present in the country and NGOs can still apply for EU pre-accession funds which have a more general character and until recently were distributed by the European Commission.[150] According to the Balkan Civil Society Development Network (BCSDN), international donor organizations still remain the major funder for the NGO community providing seventy-five percent of the overall funding for the sector. The biggest foreign donors for the NGOs in Serbia are USAID, the European Commission, the World Bank, the Swiss Agency for Development and Cooperation, the British, Swedish, Dutch and Canadian Embassies, the Regional Environmental Centre for Central and Eastern Europe, and the Fund for Open Society.[151] In its latest program for Serbia, USAID supports NGOs through the pillar for Strengthening Democratic Structures, assisting civil society organizations to mobilize citizens to understand, develop and support necessary reforms, and conduct oversight at national and local levels (USAID, 2015). There are four main USAID programs involved: the USAID Civil Society Forward program, which is aimed at building long-term democratic and social reforms through strengthening the capacity of grassroots and national-level civil society organizations, providing the skills, tools and strategies needed to effectively advocate for issues of long-term importance to Serbian citizens, and supporting the development of strategic, multi-sector partnerships that promote networking and shared learning; the USAID Civil Society Enabling Environment Project, which provides funding to the Serbian government's Office for Cooperation with Civil Society to improve the enabling environment of CSOs by developing strategies to improve communications between CSOs and the government, to share best practices in engaging

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[150]Serbia received accreditation for IPA components I and II on 20/21 March 2014, to manage the IPA funds itself via the Decentralized Implementation System.
[151]BCSDN. (2015). Civil Dialogue, National Level, Serbia, II.2.3 Foreign EU Funding [website section]. Balkan Civil Society Development Network (BCSDN). Retrieved 15 February, 2013 from http://www.balkancsd.net/index.php/policy-research-analysis/structured-dialogue/civil-dialogue/national-level/461-ii23-foreign-eu-funding

CSOs in the EU accession process, and to train government officials on how to best work with CSOs; the USAID Social Care Reform Initiative, which supports improvements in the provision of social services in Serbia by strengthening civil society's engagement in the policy process, providing oversight of the government's implementation of welfare reforms, and identifying opportunities where local organizations can work with the government in delivering society services; and the USAID Political Process Support Program, which is aimed at developing the institutional capacity of the government, political parties, Parliament and civil society so they can advance key reforms, enhance the policy development process, improve accountability, increase civic engagement, and support elections.

However, according to the NGOs' representatives interviewed in Serbia, as the country has been following its path to EU accession, the funding from international donors, especially the American ones, has decreased since 2006-2008.[152] Despite the programs above, USAID, the biggest foreign supporter of civil society in Serbia, has scaled down its activity and is planning to cease support to CSOs in the country in 2015.[153] This strategy resembles the approach of USAID and other international donors in Bulgaria, which reduced their involvement and contribution as the country established democratic institutions and prepared for EU membership. It would be interesting to explore whether the NGOs working with children in Serbia will follow the same tendency observed in Bulgaria by becoming increasingly involved in service provision when international donor funding and EU pre-accession assistance decrease. This is a possible development path for NGOs in Serbia, especially with the 2011 *Law on Social Welfare* which allows NGOs to be licensed as service providers, and would be worth exploring further in future research.

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[152]Data obtained from interviews with the representatives of UNICEF (Serbia), Help for the children (Serbia), Centre for Youth Integration (Serbia), Centre for Interactive Pedagogy (Serbia) and Centre for Child Rights (Serbia)

[153]BCSDN. (2015). Civil Dialogue, National Level, Serbia, II.2.3 Foreign EU Funding [website section]. Balkan Civil Society Development Network (BCSDN). Retrieved 15 February, 2013 from http://www.balkancsd.net/index.php/policy-research-analysis/structured-dialogue/civil-dialogue/national-level/461-ii23-foreign-eu-funding

Currently, the Bulgarian NGOs working with children receive funding from the state for the services they provide but these are not sufficient and the NGOs need to secure additional funding from donors.[154] The main donors of the NGOs interviewed for this research in Bulgaria are UNICEF, the OAK Foundation, Open Society Institute, other foreign foundations and embassies, and the EU.[155] The NGOs also receive a limited portion of their funding from the business sector and fundraising campaigns, co-financing the services they provide with donor funding.[156] They also use donor funding for the other projects they run besides service provision.[157]

The work of most NGOs active on children's issues in Bulgaria interviewed for this research (six out of the eight leading organizations in the field) is focused on the deinstitutionalization process through the management of small, family-type homes, promotion of foster care, and the development of community services and day-care centers. Only two of the interviewed NGOs working with children have a different activity orientation which can be related to their different organizational structure. The first one is the National Network for the Children (NMD) which is the peak body of the NGOs working on children's issues in Bulgaria and consists of approximately one hundred and twenty-two member organizations from across the country.[158] The work of these NMD is more advocacy-oriented and is focused on the development of effective social policy with an emphasis on children and families, the establishment of better regulatory framework on child rights, and the acknowledgment of children's issues in the governmental agenda. The network also monitors governmental policies on children and families, and provides support to NGOs working on child protection so that they can advocate more effectively for better policies on children.[159]

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[154]Data obtained from interviews with representatives of the National Network for the Children (Bulgaria) and Foundation Cedar (Bulgaria)

[155]As presented in the interviews with NGOs working with children, Appendix 3.

[156]Data obtained from interviews with representatives of the National Network for the Children (Bulgaria) and Foundation Cedar (Bulgaria)

[157]Information on the projects of the NGOs working with children interviewed for this thesis is presented in Appendix 3.

[158]NMD. (2015). Members [website section]. Accessed from   http://nmd.bg/tchlenove/

[159] Detailed information on the mission and work of NMD can be found at the organization's website: http://nmd.bg/en/about-us/

The second organization is Parents Association which is the only organization among the Bulgarian NGOs working with children interviewed for this study that has individual members. The organization has a total of approximately thirty members, only twelve to fifteen of whom are active members and assist with some of the activities of the organization. The mission of Parents Association is to encourage good parenthood as a basic social value, and to support the family as the natural environment for bringing up children. Its focus is on education and the inclusion of parents in the development of education strategies, change in the education system, violence prevention, and state support for families. Therefore, the Association runs projects such as Shared School (developing models for the active engagement of parents in education), Safe internet, and Active fatherhood. The membership dues are very low (20 BGN or 10 Euro per year) and with the low number of members the association cannot sustain financially the activities of the organization. Consequently, these projects are also funded by international donors but do not involve the provision of services. Rather, they are focused on the development of active parenthood, parents' skills, and better social policy and environment for families and children.[160]

In Serbia, the NGOs interviewed for this research reported being funded by UNICEF, USAID, foreign embassies and foundations, the Delegation of the European Union in Serbia under the European Instrument for Democracy and Human Rights (EIDHR) program, the EC Fund for Social Innovation, the Swedish International Development Cooperation Agency through Save the Children International, OSCE, and the Fund for Open Society. Most of the projects of the Serbian NGOs working with children interviewed for this study focus on the promotion of child rights and youth activism, support for vulnerable children, better and more inclusive education, early development and social inclusion. Only one of the eight Serbian NGOs working with children interviewed for this research, Disability Rights International, had been involved in the deinstitutionalization process and the development of better services for

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[160]Data provided by the representative of Parents Association Bulgaria interviewed for this thesis. Detailed information on the projects of the organization and its donors can be obtained from their website: http://www.roditeli.org/ and in Appendix 3.

people with disabilities, but this was only through monitoring of the process, not through service provision.[161]

As in Bulgaria, among the NGOs working with children in Serbia interviewed for this research, the Parents Association is the only organization which has as members ordinary citizens and not professionals associated with child protection. Its priorities are to provide support to families, both children and parents, and to advocate for their rights, especially in the area of social welfare for single mothers, economically disadvantaged families and health care. The Association has twenty to thirty active members in Belgrade and around one hundred members overall when taking into account all fifteen branches of the organization across the country. The workshops organized by the Parents Association to support and strengthen parent competency are financially supported by UNICEF but the organization intends to apply for government funds for social innovative services in the community.[162]

One of the most significant NGOs working on children's issues in Serbia is the Child Rights Center (CPD). This organization was established in 1998, and is the oldest NGO in the field in the country. It was mentioned as a central organization in the field of child rights by the other NGOs working with children in Serbia that were interviewed for this thesis and by government officials. CPD does not have a counterpart organization in Bulgaria because it is focused entirely on advocacy, with a very broad focus covering improvements in the situation of children in all sectors and the monitoring of progress. The projects of the Center are funded mostly by international organizations and focus on the monitoring and promotion of child rights and advocacy for the improvement or development of national policies and strategies.[163]

The only Bulgarian NGO working with children extensively involved in advocacy as a main activity is the National Network for the Children (NMD). Unlike

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[161]Mental Disability Rights Initiative of Serbia (MDRI-Serbia) is an advocacy organization dedicated to the human rights and full participation in society of children and adults with intellectual and mental disabilities in Serbia.
[162]Data obtained from the interview with a representative of Parents Association Serbia.
[163]Data is obtained from the interview with a representative of CPD and the Child Rights Programs section of the organization's website (http://www.cpd.org.rs/en/home/programi_cpda.html).

the CPD it is a national umbrella organization. The Serbian counterpart of NMD is the Network of Civil Society Organizations for Children in Serbia (MODS), which was established a few years after the Bulgarian network, following its example.[164] These networks have a close relationship and representatives of the two organizations meet frequently. MODS has been supported by UNICEF so that the Network could develop its secretariat, thematic groups, essential documents and recommendations, and establish cooperation with state institutions and independent bodies. Both NMD and MODS actively engage in advocacy on behalf of their member organizations for the promotion of child rights and well-being, and better support for children and families.[165]

The advocacy engagement of NGOs

All the NGOs working with children in the two countries that were interviewed for this thesis engage in advocacy and consider it a very important part of their activity. Regardless of whether they are engaged in service provision or not, all of them specifically articulate in the mission statements and work descriptions that they publish on their websites that advocating for the rights of children and for their protection and well-being is a key priority for them.[166] As their goal is to improve the situation of children in Bulgaria and Serbia through better education, health care, social inclusion, support for families, community services, recognition of their rights etcetera, they recognize the need to attempt to influence the legal framework in order to bring policy change. This means that the NGOs working with children in Bulgaria assisting in the deinstitutionalization process do not limit their activities only to the provision of services. For example, although its core activity is the management of small family-type homes, the SOS Children Villages also engages in advocacy projects and initiatives following the UN Convention of the Rights of the Child and the UN Guidelines for Alternative Care for Children.[167] The organization has participated in two international projects, one aimed at improving the regulatory framework for alternative care on the

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[164] Data obtained from the interview with a representative of MODS.
[165] Data obtained from the interviews with representatives of MODS and NMD, and organizations' positions, goals and projects as specified on their websites (websites are provided in Appendix 3).
[166] See Appendix 3.
[167] SOS BG. (2014).Child Rights [website section] SOS Children Villages Bulgaria (SOS BG). Accessed from http://sosbg.org/our-work-for-children/

national level and the other aimed at developing European Standards for alternative care drafted in conjunction with representatives of other European NGOs and national governments.[168] A second example is the Child and Space Association, which also specializes in the management of family-type homes but is involved in advocacy projects as well. One of its most recent projects was a joint initiative with the National Network for the Children and the Bulgarian Academy of Science aimed at supporting the development of a "Vision for family policy supporting children and parents in Bulgaria", funded by the Norwegian Financial Mechanism. The purpose of the project, which began in November 2014 and was to continue for eighteen months, was to develop a proposal for family policy as such. This was to include not only the social sphere but also economic aspects, education and housing policy. The project design was comprehensive. It included analysis of the effectiveness of current policies in Bulgaria, a review of the legislative framework and practices in Bulgaria and other European countries, the preparation of recommendations for change and the establishment of discussion forums with various stakeholders to develop the vision for family policy.[169] This project is an example of active advocacy in which the initiative for the development of new policy has been taken by the NGO sector rather than a response to a government request for information.

However, the most common form of advocacy involvement for the NGOs working with children in both Bulgaria and Serbia, according to the interviews conducted for this thesis, is participation in the working groups organized by the line ministries for the development of draft policies or legislation. As these forums are the main form of interaction between the state and the NGOs in the policy-making process, they are discussed at length separately in the next chapter. A few of the NGOs interviewed for this research also mentioned participation in different councils as well

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[168]SOS International. (2010). "I Matter" campaign [website section]. SOS Children Villages International (SOS International). Accessed from http://www.sos-childrensvillages.org/what-we-do/childrens-rights/imatter and SOS International (n.d.) Quality4Children – Quality Standards [website section]. SOS Children Villages International (SOS International). Accessed from http://www.quality4children.info/navigation/show.php3?id=2&_language=en, respectively.

[169]CSA. (2014). National Network for the Children together with Association Child and Space and the National Academy of Science will work together towards the development of a vision for family policy in Bulgaria [press release]. Child and Space Association (CSA). Accessed 19 November, 2014 from http://www.childandspace.com/index.php?option=com_content&view=article&id=177

as ad-hoc communication with members of the Parliament and Parliamentary committees as part of their advocacy work but did not put an emphasis on these activities.[170]

The NGOs working with children interviewed for this research also organized and/or attended round tables and conferences. Round table participation was mentioned in the interviews by the National Network for the Children in Bulgaria, the Institute for Social Activities and Practices, the Centre for Child Rights in Serbia, MDRI-Serbia, and the Network of Civil Society Organizations for Children in Serbia. Some of the round tables were organized by the government to discuss developments in the legal framework. For example, SIPRU organized round tables in Serbia for the discussion of the development of the new law on social welfare in 2011. Other round tables had been convened by the NGOs with the aim of discussing with state officials problematic issues and strategies for the development of the sector.[171] The participants in the round tables organized by the NGOs generally included representatives from fellow NGOs, international organizations and embassies, and government officials who respond to their invitation. These events were usually open to the public but they did not receive significant media coverage and the attendance of representatives of the general public was minimal. The round tables organized by the NGOs thus can be seen as irregular forums for *institutional* advocacy rather than public advocacy, aimed at bringing particular issues to the attention of decision-makers. The involvement of the NGOs working with children in public advocacy in both Bulgaria and Serbia is very limited. The NGOs interviewed for this thesis did not have strong links with the grassroots or the resources to organize constituents and to nurture wide publics. They were generally not membership organizations: while some NGOs may have had volunteers they did not have a membership base or a large base of public supporters. This structural characteristic, combined with the apparent lack of interest in participation among the general public, has made it difficult for NGOs to gather support for public campaigns. This is a common phenomenon in post-communist countries where NGOs were

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[170]Data obtained from interviews with the representatives of the Network of Civil Society Organizations for Children in Serbia, Help for the Children (Serbia) and Child Rights Centre (Serbia)

[171]Examples of round tables and conferences organized by the NGOs working with children in Bulgaria and Serbia can be found in Appendix 4

founded in the 1990s through a top-down approach with donor funding to act as watchdogs and as capacity building organizations (Fagan, 2005), rather than as public representatives. The only NGOs interviewed for this thesis that mentioned public campaigns and the media as part of their advocacy work were the parents' associations. In both countries, these associations had a certain level of membership and a more direct relationship with the groups they claimed to represent. This finding provides support for Steel's view (1996) that advocacy strategies employed by civil society organizations were related to their level of organizational membership, and that public advocacy was more typical of organizations with stronger member support.

In order to increase their political leverage, the NGOs working with children in both countries advocated through their national networks, NMD in Bulgaria and MODS in Serbia. These peak bodies united a large number of NGOs and thus had higher credibility and representative legitimacy. The NGOs also formed purpose-specific coalitions such as the Child Rights Monitoring Coalition in Serbia and the Coalition Childhood 2025 in Bulgaria in which the member organizations worked together and issued joint statements. According to the CPD, coalition work raises the monitoring capacities of individual organizations, strengthens their position in the policy process and allows them to have more influence on decision-makers.[172] Other benefits of national umbrella organizations include the dissemination of information to member NGOs and the combining of the advocacy capacity of the network with the fieldwork expertise and knowledge of member NGOs for more effective participation in the policy-making process.[173]

As suggested in the literature, particularly in Lang (2013), NGOs often prefer to engage in institutional advocacy instead of public advocacy because the former has less opportunity costs and provides insider status that can help organizations bring issues on the governmental agenda. Furthermore, NGOs in Bulgaria and Serbia are professional, non-membership organizations which, according to Steel et al. (2007), makes NGOs

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[172]CPD. (n.d.). Coalition for Monitoring Child Rights in Serbia [website section]. Child Rights Centre (CPD). Accessed 15 September, 2014 from http://www.cpd.org.rs/en/home/koalicja.html

[173]Data obtained from interviews with the representatives of Parents Association (Serbia), Center for Youth Integration (Serbia), Child Rights Centre (Serbia) and Lumos (Bulgaria).

more focused on influencing decision-makers directly in their advocacy work. In institutional advocacy, in order to gain access to policy-makers and institutional leverage, NGOs rely on providing expertise and on their reputation of being effective project implementers. The interaction between the state and the NGOs in these cases is conducted in non-public or semi-public contexts, such as government commissions and expert consultations through the sharing of expert knowledge and insider debate (Lang, 2003, p. 22). In Bulgaria and Serbia, this takes the form of working groups.

The involvement of the NGOs interviewed for this research in institutional advocacy is reflected in their mission statements, which emphasize the development of informed policies for children and families as a key priority. One of the NGOs, SOS Children Villages Bulgaria, stated that the aim of their advocacy work was to improve the general framework for children in their target group through seeking changes in policies and practices and through reminding the government, as the key responsible authority, of its obligations. The National Network for the Children in Bulgaria and other Bulgarian NGOs also defined the development of policies as their key priority, to be achieved through advocacy and monitoring activities.

In Serbia, the importance of institutional advocacy is well presented in the current strategic plan for development of the Child Rights Centre (CPD), one of the most active organizations in the country, engaged primarily in advocacy. The Centre's top strategic aim for 2012-2016 was to improve its work in policy and legislation pertaining to child rights, followed by child rights monitoring and informing, research and education on child rights, networking and capacity building. In the list of their priority programs/areas of activity the first place was for "the promotion of the legal framework in the domain of child rights in Serbia, by complete harmonization with international standards and norms" and "the promotion of mechanisms for a full implementation of laws in the domain of child rights through participation in the

creation of laws, by-laws and protocols on cooperation, public advocacy and lobbying."[174]

Acts of public advocacy are performed by the organization in addition to their work on directly targeting policy-makers, professionals in various fields and children themselves. In their strategic plan, the CPD notes that they have been addressing the general public through campaigns in various forms of media, in public statements, interviews in the press, guest appearances on television or radio, and through marking the anniversaries of the adoption of international documents in the domain of human rights. This reliance on sporadic media communication as the main vehicle for public advocacy shows that the engagement of the NGOs working with children in these countries with the general public is still limited. The general public is mentioned last in the CPD's list of secondary target groups, whereas the National Assembly of Serbia and the government are at the top because "child rights cannot be implemented without a strong systemic mechanism and close involvement of decision-makers." Nevertheless, the CPD also targets "the Child Rights Council, independent bodies, professional institutions working with children [and other] civil society organizations, networks and coalitions active in domain of the implementation of child rights" including academics and professionals.[175]

The NGOs working with children interviewed for this research perceive institutional advocacy as their main opportunity to influence policy-makers and the legislative framework.[176] Given their limited ability to rely on large popular support for political causes, direct communication with governmental representatives is seen by them as the most efficient way to promote the needs and interests of children. This lack of a wide popular support base may be one of the reasons for NGOs in Bulgaria and Serbia to rely on professional expertise as leverage in the policy-making process. They

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[174]CPD. (2011). *Strategic Plan of the Child Rights Centre's Development for the Period 2012-2016.* Child Rights Centre (CPD). Retrieved 10 September, 2014 from http://www.cpd.org.rs/Data/ Files/Strateski_plan_CPD.pdf, pp. 25-26

[175]CPD. (2011), p. 21.

[176]Data obtained from interviews with the representatives of the National Network for the Children (Bulgaria), Foundation for Our Children (Bulgaria), Association Child and Space (Bulgaria), the Network of Civil Society Organizations for Children in Serbia, Help for the Children (Serbia), Centre for Interactive Pedagogy (Serbia) and Child Rights Centre (Serbia).

prefer cooperation and collaboration with the government and working together on the development of policies, and not the tactics of confrontation and opposition. This tendency can be attributed to the desire of NGOs to be considered respected partners in the policy-making process and they may not be willing to risk jeopardizing their institutional leverage with too much critical public voice. Furthermore, the NGOs working with children in both countries see themselves as experts who have in-depth knowledge of the needs of children obtained through their work on the ground and who can propose innovative, informed and evidence-based approaches for meeting these needs. In a way, the NGOs perceive themselves as policy entrepreneurs who are better equipped than the state to propose good practices aimed at improving and modernizing the existing systems of education, health care and social support which are seen as backward and inadequate.

The state administration in the two countries is often perceived as inefficient, corrupt and stuck in the past. These perceptions are mentioned in the interviews with the representatives from the Centre for Youth Integration in Serbia and the Foundation for Our Children in Bulgaria. They are reflected in the low levels of public trust towards the national governments, especially in Bulgaria. The Standard Eurobarometer 81 for Spring 2014 showed that only eighteen percent of respondents in Bulgaria tended to trust the national government. Although a direct comparison with Serbia cannot be made because Serbia was not part of the Eurobarometer survey, a survey conducted by the Centre for Euro-Atlantic studies in June 2014 showed significantly higher trust in the Serbian government (fifty-four percent).[177] Due to persistent issues with judicial reform and the fight against corruption and organized crime, Bulgaria is still subject to EC monitoring even after its accession to the EU, through the Mechanism for Cooperation and Verification (CMV) for Bulgaria and Romania. The CVM is a safeguard measure invoked by the EC when a new member or acceding state of the European Union has failed to implement commitments undertaken in accession

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[177]EC. (2014). *Standard Eurobarometer 81: Public Opinion in the European Union*. European Commission. Retrieved form: http://ec.europa.eu/public_opinion/archives/eb/eb81/eb81_first_en.pdf and CEAS. (2014). Serbian Citizen' trust in the Government of Serbia [Public Opinion Poll]. Center for Euro-Atlantic Studies (CEAS). Retrieved from: http://ceas-serbia.org/root/images /CEAS_public_opinion_poll_-_June_2014_1_1.pdf

negotiations in the fields of freedom, security and justice or internal market policy. As a consequence, in post-communist countries in general, international donors often rely on NGOs to assist with the democratization of state institutions and to act as substitutes for state agencies when the governments fail to perform in relation to infrastructural projects, programs for state agency capacity building, and provision of basic services (Matveeva, 2008). Therefore, the role of NGOs working with children in Bulgaria and Serbia in policy-making becomes not only to pluralize the policy process but also to assist in bringing national institutions, regulations and strategies in line with international practice and European standards.

NGO monitoring and policy work

Due to the general willingness of the national governments in Bulgaria and Serbia to adopt EU recommendations and to present themselves as reform-oriented, NGOs often refer to the EU framework in their advocacy work.[178] Given the lack of popular membership, their stronger source of support in terms of political leverage is the use of international policy documents and the possibility for communication with international bodies such as the European Commission and different UN committees. In the interviews, two NGOs working with children mentioned cases when they contacted the European Commission to signal the irregularities with projects conducted by national authorities, and consequently the funding for these projects was stopped.[179] In this sense, the NGOs also function as monitoring agencies of the international donors.

Furthermore, some of the NGOs interviewed for this study were members of transitional European networks for child rights, e.g. Eurochild and Child Pact, and attend network meetings in Brussels where they learn about relevant policy developments and initiatives, and exchange knowledge and ideas with NGOs from

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[178]Data obtained from interviews with the representatives of Child Rights Centre (Serbia), Network of Civil Society Organizations for Children in Serbia, National Network for the Children (Bulgaria), Parents Association (Bulgaria), Association Child and Space (Bulgaria).
[179]Data obtained from interviews with representatives of Disability Rights International (Serbia) and Lumos (Bulgaria).

across Europe.[180] National NGOs also participate in the development of reports on the issues of children in Europe prepared by the European networks and presented to the EU institutions for consideration. One example is the analysis of the implementation of EU recommendations on fighting child poverty on a domestic level drafted by the National Network for the Children in Bulgaria.[181]This analysis formed part of a Eurochild report aimed at informing the EC country-specific recommendations issued once the EC reviewed the annual national programs for reforms.[182] In Serbia, two of the interviewed organizations, MODS and CPD, also regularly submitted opinions for the annual Progress Reports on Serbia drafted by the European Commission.[183]

Monitoring of state policies and the preparation of reports is thus another activity described by the NGOs interviewed for this study as part of their advocacy work. In the literature on the third sector, monitoring is usually associated with the watchdog function of civil society organizations, in which CSOs check state power in order to enforce public performance standards and accountability (Howard, 2003). The watchdog function is listed as one of the activities involved in NGO policy work besides the preparation of submissions to government inquiries, sitting on government committees, participation in consultation and encouraging public debate (Keen, 2006). Therefore, even though monitoring is a separate activity from institutional advocacy or lobbying aimed at influencing legislation directly, it is part of the policy work of NGOs and is thus related to their advocacy activities.

In Bulgaria and Serbia, the NGOs working with children use monitoring reports as a tool for indirect advocacy aimed at prompting national governments and

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[180]Data obtained from interviews with the representatives of Network of Civil Society Organizations for Children in Serbia, Child Rights Centre (Serbia) and the National Network for the Children (Bulgaria).
[181]NMD. (2013). National Network for the children with contribution to the analysis of the National programs for reforms done by Eurochild [press release]. Accessed 17 August, 2014 from http://nmd.bg/natsionalna-mrezha-za-detsata-s-prinos-kam-analiza-na-eurochild-na-natsionalnite-programi-za-reformi-za-2013-g/
[182]Euro child. (2013). *The 2013 National Reform Programs from a child poverty and wellbeing perspective.* Eurochild. Retrieved 20 August, 2014 from http://www.eurochild.org/fileadmin/public/ 05_Library/Thematic_priorities/02_Child_Poverty/Eurochild/Eurochild_NRP_2013_analysis.pdf

international organizations to act on issues that need improvement.[184] In the interviews conducted for this thesis, the NGOs themselves mention monitoring reports as examples of their advocacy work. The representatives of UNICEF from the local offices in Bulgaria and Serbia interviewed for this research mentioned the importance of monitoring of the implementation of policies and programs for child rights and protection, and emphasized the monitoring role of NGOs. In the current program for Serbia, UNICEF has a pillar for the inclusion of important partners in decision-making, implementation, and monitoring of the advancement of child's rights.

NGOs monitor the development and implementation of state policies in the area of children, and develop reports which they submit as contributions to the reports of European networks to be presented to the European Commission (as mentioned above with Eurochild) or to the local office of the European Delegation as a contribution to the country's Progress Report, or to UN agencies or national governments. Examples of monitoring reports submitted to the UN are the Alternative Reports to the Convention on the Rights of the Child and its Optional Protocols initiated by the CPD and compiled by the Child Rights Monitoring Coalition.[185] These were presented to the UN Committee for the Rights of the Child in 2008 and 2010.[186]

For the CPD in Serbia, monitoring is very closely related to advocacy. The two activities are put together in one category in the strategic priority programs of the organization as stated in its Strategic Plan of the Child Rights Centre's Development for

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[184]Data obtained from interviews with the representatives of National Network for the Children (Bulgaria), Network of Civil Society Organizations for Children in Serbia and Child Rights Centre (Serbia).

[185]This Coalition was established at the initiative of the CPD in 2007. It is composed of the following organizations: ASTRA — Anti trafficking action; the Society for the Development of Children and Youth— Open Club; the Association "Parent", Group 484; the Forca-Požega Forum of Civilian Action; Familia; the Centre for the Prevention of Deviant Behaviour in Youth; Atina; Human Rights Council Valjevo; Amity; the Užice Child Rights Centre; the Centre for Interactive Pedagogy; Initiative for Inclusion VelikiMali; the Belgrade Centre for Human Rights; the Centre for the Integration of Young People; the Pestalozzi Children's Foundation and the Centre for Child Rights. More information is available at CPD's website: http://www.cpd.org.rs/en/home/koalicja.html

[186]The reports are available on the CPD's website: http://www.cpd.org.rs/en/home/prava_deteta_u_srbiji.html

the Period 2012-2016.[187] In the plan, the organization has defined monitoring as an essential part of their influence on changes to legislation, and under it, the Centre continually monitors and analyzes the legislative framework and proposes changes of regulations. In this activity, as per their Strategic plan, the organization is guided by the existing standards of international law and the best solutions in the national legislation of other countries. The Centre has been very active in monitoring and reporting on the situation of child rights and working on the development of indicators for each individual area of child rights. It has prepared a comprehensive analysis of the legislation in Serbia for the purpose of using it as a reference point in the adoption of new laws and policies or the amendment of existing ones and conducted research. It publicizes the results of its activities and compiles comprehensive reports on the situation of child rights in the country.[188]

A good example of the kind of on-going monitoring reports presented to the national government is the annual Report Card drafted by the National Network for Children in Bulgaria, evaluating the performance of the government in the area of child rights and protection.[189] This is issued in two versions, one for the general public and one for state authorities. The report is prepared by experts from different member organizations of the Network and external experts, and is presented to the general public and the government annually at two separate events. The presentation for the general public is covered by national media and brings together representatives of the NGO sector and the state administration, as well as representative of the country office of UNICEF and UNDP, and young people.[190] The aim of this event is to create a space and opportunity for dialogue and comments on state policies for children, and their implementation. The expert version of the Report Card is then presented to the government at a separate event at the Council of Ministers. The report is an interesting combination of public and institutional advocacy: on one hand, young people from

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[187]CPD. (2011). *Strategic Plan of the Child Rights Centre's Development for the Period 2012-2016.* Child Rights Centre (CPD). Retrieved 10 September, 2014 from http://www.cpd.org.rs/Data/Files/Strateski_plan_CPD.pdf

[188]The large number of reports, researches and documents prepared by CPD can be found under the Publications section on the organization's website: http://www.cpd.org.rs/en/gallery.html

[189]NMD. (2015). Report card [website section]. National Network for the Children (NMD). Accessed 20 August, 2014 from http://nmd.bg/?campaigns=belezhnik

[190]More information about the presentation for the general public can be found in Appendix 4.

across the country are consulted in its development, and it aims to raise awareness on children's issues among the general public; on the other hand, the state authorities are also asked for input to the report via their comments on a draft version of the document. Furthermore, the final expert version of the report is used to raise a discussion with the government on the areas that need improvement, and is therefore aimed at policy change.

Most of the NGOs interviewed for this research monitor state policies and their implementation, and issue reports and opinions which they publish on their websites. Many of the NGOs also have an online section for opinions and positions. The NGOs working with children in Bulgaria, while engaging extensively in service provision, also provide information to the national networks or coalitions for their reports and prepare monitoring reports themselves as well. For example, the Institute for Social Activities and Practices (SAPI), which focuses on the development of community services in Bulgaria, has conducted an analysis and evaluation of the communication and coordination of the implementation of the national strategy on the deinstitutionalization of children at municipal level.[191] The monitoring reports prepared by the NGOs working on child rights and protection in Bulgaria and Serbia are comprehensive, detailed, professional and of high quality. Furthermore, these reports are critical which shows that despite their significant involvement in institutional advocacy and service provision, the NGOs working with children in these countries are not co-opted in the policy process. They do not suggest just marginal changes or structural modifications which would benefit their organization or the third sector. On the contrary, their reports and opinions identify serious issues in regards to education, health care, children in institutions, and social protection and services which require significant reforms across sectors.

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[191]Petrova-Dimitrova, N. et al (2012). *Evaluation and analysis of the communication and coordination of the various activities in the implementation of the national strategy "Vision for deinstitutionalization of children in the Republic of Bulgaria at municipal level".* Institute for Social Activities and Practices (SAPI). Retrieved 20 August, 2014 from http://www.sapibg.org/publications/1583-ocenka-i-analiz-na-komunikaciyata-i-koordinaciyata

In their reports, analyses and policy opinions, the NGOs also provided specific recommendations and information on the actions to be taken to address the identified problems. The NGOs interviewed for this research did not merely support the state institutions providing assistance for the implementation of reforms. They problematized and challenged existing state policies, using the formal institutional frameworks for participation in policy-making and the opportunities for communication with inter-governmental organizations.

However, there is a lack of information on the outcome and effectiveness of the monitoring efforts of the NGOs beyond the presentation or submission of reports to international organizations or national authorities. It is difficult to establish whether the reports had produced any actual policy change and if so, to what extent. Even though the monitoring reports identified areas for improvement and policy change, they were primarily related to the watchdog function of the NGOs and to the promotion of accountability in policy-making in CEE countries (Howard, 2003; Rose-Ackerman, 2007). Monitoring is important part of the advocacy work of NGOs working with children in Bulgaria and Serbia, as described by the NGOs interviewed for this thesis, but it is not a mechanism for dialogue between policy-makers and NGOs. Monitoring is a one-way assessment and the NGOs themselves did not express expectations of any governmental response to their monitoring reports in the way they expected responses to their suggestions in consultation forums. For the NGOs interviewed in this study, monitoring activities were aimed at evaluating state policies, measuring the compliance and implementation of international standards and recommendations, introducing issues to the policy agenda and gaining more leverage through the interaction with external actors such as the EU and UN, not dialogue.[192]

Monitoring is an important process that enhances NGO legitimacy as expert organizations independent from the government through the provision of informed evaluations of state policies and problems to be addressed. The significance the NGOs in Bulgaria and Serbia placed on informing international organizations of the situation

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[192]Data obtained from interviews with representatives of Child Rights Centre (Serbia), MDRI (Serbia), Lumos (Bulgaria), National Network for the Children (Bulgaria), UNICEF (Bulgaria), UNICEF (Serbia).

of children in their countries is also important for understanding their reliance on external support as a political resource and source of leverage in the policy-making process. However, monitoring for these organizations was a sporadic and ad-hoc activity that was not integrated into the policy-making process or into the consultations with NGOs, and therefore could not provide information about the interaction between the NGOs and the state.

Conclusion

The NGOs working with children in Bulgaria and Serbia interviewed for this thesis identified advocacy as important part of their work. It was through advocacy that they hoped to achieve better policies and environments for the children and families in their countries, and to ensure the observance of child rights and protection as defined in the UN Convention on the Rights of the Child. The NGOs engaged in advocacy through the submission of policy opinions, through liaising with parliamentary representatives and sitting on government committees and councils, and through monitoring relevant policies and participating in consultations.

In both countries, NGOs engaged mostly in institutional advocacy. They had limited public outreach, attributable both to the prioritizing of their profiles as professional expert organizations and to their lack of popular membership. Their credibility and legitimacy in the policy process stemmed from social representativeness, based on their expertise and knowledge of the needs and problems of their target groups: children and families. The NGOs working with children in these countries also used communication with EU and UN agencies to promote their agenda through the leverage these international organizations have on national governments. The NGOs in Bulgaria and Serbia also relied on external funding for their projects, and their activity orientation to a large extent followed the areas funded by international donors. As deinstitutionalization and the development of community-based services in Bulgaria had been identified as a central issue by the World Bank, the EU and the national government in the last decade, and as the level of donor funding for other civic initiatives decreased with EU accession, most of the NGOs working with children in Bulgaria were involved primarily in service provision. In Serbia, the involvement of

NGOs in service provision had just recently been introduced and the NGOs working with children had a slightly different orientation, focusing their projects on social inclusion, minority rights, inclusive education and capacity building.

Nevertheless, in both countries, the NGOs promoting child rights and protection were working towards the development of an effective, separate, long-term policy in relation to children and families, encompassing and bringing together different areas such as education, health care and social support.[193] As they were generally non-membership organizations, their legitimacy as participants in the policy process was based on social representativeness (Buth, 2011) stemming from their professional expertise and familiarity with the needs of the target groups whose interests they pursue. The majority of the NGOs working with children in Bulgaria were engaged in service provision which had two implications for their advocacy work: on one hand the focus on service provision as core activity limited the resources available for advocacy but, on the other hand, the direct work with target groups enhanced NGO credibility in the policy process. In the words of one of the interviewees, the NGOs were not seen by the government as "lobbying just for the sake of it."[194] This finding supports Keen's suggestion that on-the-ground work gives NGOs more credibility when formulating and commenting on policy and also enhances their legitimacy. Keen believes that this, in turn, strengthens their advocacy (Keen, 2006), although this was not clearly the case for the NGOs studied for this thesis, at least at this stage.

There were no significant differences in the advocacy activities of the NGOs working with children in the two countries in terms of level and type of engagement. In both Bulgaria and Serbia, the NGOs working with children described their involvement in the policy-making process mostly through their participation in the working groups convened by their governments to develop or discuss draft legislation and policies. As working groups were thus the main mechanism identified by the NGOs for their inclusion in the policy process, the organization and specifics of working groups as

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[193]Data obtained from interviews with the representatives of National Network for the Children (Bulgaria), Lumos (Bulgaria) and Child Rights Centre (Serbia).
[194]Interview with the representative of Foundation for Our Children (Bulgaria).

forums for consultative policy-making must be explored. This exploration is the focus of the next chapter.

Chapter 8

Working groups as a Consultation Mechanism

Working groups are the main institutional channel for NGOs to access policy-making in Bulgaria and Serbia and thus need to be explored in greater detail in order to gain a better understating of the role of NGOs in that process. The practice of working groups as a venue for policy consultation is widespread and is to be found in other CEE countries such as Croatia and Hungary. However, in both Croatia and Hungary, similarly to Bulgaria and Serbia, the formation of working groups is not clearly regulated and is at the discretion of the state, which raises serious concerns about the effectiveness of working groups as consultation mechanisms.[195] This chapter elaborates on the specifics of working groups and their deliberative aspects as venues for policy development in Bulgaria and Serbia, and explores the characteristics of the interaction between the state and civil society organizations in these forums.

Working groups are convened by different governmental bodies in Bulgaria and Serbia for the purpose of developing specific legislation or a policy strategy. They are a form of institutionalized interaction between state institutions and domestic NGOs. This interaction mechanism is more participatory than the 'public consultations' the governments in both countries are obliged to organize in the form of publishing draft legislation on a dedicated portal and allowing the general public to submit comments on these documents. Working groups provide non-state actors with the opportunity to engage in discussions with state officials on the content of draft legislation. All NGOs interviewed for this study mentioned participation in these groups as their main advocacy activity. When asked in the interviews whether their organization engaged in advocacy, the representatives of all NGOs interviewed for this thesis answered

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[195] Data obtained via email correspondence with the Government's Office for Cooperation with NGOs in Croatia (www.uzuvhr.hr) and Okotars (Hungarian Environmental Partnership Foundation), a leading NGO in Hungary which manages the NGO Fund of the EEA Grants/Norway Funding Mechanism.

affirmatively and gave as an example the participation of their NGO in working groups.[196]

In both countries, working groups are convened by line ministries to discuss and develop a particular draft legislation, policy or strategy. The governments in Bulgaria and Serbia are the holders of executive authority, and are charged with policy formulation and implementation, adopting decrees and other general enactments required for the enforcement of laws, and proposing the adoption of laws to the national parliaments. Ministries thus have a central role in defining policies, and the working groups they organize function as a discussion forum that presents civil society organizations with an opportunity to engage in deliberation with the state over the content of strategic documents. Working groups are a main point of contact between the government and civil society in the decision-making process and show how policy consultation is carried out in practice. As this thesis aims to evaluate the role of NGOs in the development of policies and strategies that affect children in Bulgaria and Serbia, their participation in working groups occupies a central part in this research and is the focus of this chapter.

In accordance with the accounts of deliberative policy-making and micro discursive forums discussed in the theoretical framework (Chapter 3), this thesis emphasizes the importance of institutionalized mechanisms and clear regulations for the quality of policy consultations. It analyzes working groups in terms of their openness, transparency and reliance on argumentation and dialogue for the development of consensus-based informed decisions as a micro discursive venue. This chapter therefore examines in greater detail the procedures and conditions of communication in working groups, the main forum for policy consultations in Bulgaria and Serbia, and the way these affect the potential for deliberative decision-making in these forums. It also discusses the position of working groups in the EU integration process, the regulations that guides their work, and the tasks and roles of NGOs in these consultation forums.

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[196]See Appendix 3.

Working Groups and EU integration

There is a strong emphasis put on the wide consultation of stakeholders during policy formulation in the legislative procedures of the EU through the standards of the European Commission.[197] As the sole institution with the right to legislative initiative in the EU, the Commission can be seen as the example to be followed in domestic legislative practice in candidate countries, except where the Lisbon Treaty (the Treaty on the European Union-TEU and the Treaty on the Functioning of the European Union-TFEU) provides otherwise, for example in judicial concerns and police cooperation in criminal matters. The Commission's legislative proposals are the result of an extensive external consultation process, which may be conducted in various ways: via impact assessment; reports by experts; consultations with national experts; via international organizations and/or non-governmental organizations; and through consultation via Green and White Papers. An internal consultation process is also launched among the different Commission departments in order to ensure that all aspects of the matter in question are taken into account via meetings of thematic inter-service groups and inter-service consultation.

The Commission is further assisted in preparing legislative proposals and policy initiatives by two types of advisory bodies: *comitology committees*, which are set up on the basis of regulations, directives or decisions and *working groups*, which are established informally by the Commission services to assist it in proposing EU legislation or in exercising the tasks of monitoring and coordination/cooperation in relation with EU policies. These groups provide expert advice to the Commission and may consist of national experts but also experts or stakeholders from business, NGOs, trade unions, academia, etcetera. Furthermore, each Directorate General of the European Commission has a number of working groups, where the Commission works with experts from EU governments, other EU bodies, international organizations, professionals, academics, researchers, NGOs and the business community to promote

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[197]EC. (2002). *Communication from the Commission: Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission* (COM (2002) 704). European Commission. Retrieved from http://eur-lex.europa.eu/ LexUriServ/LexUriServ.do?uri=COM:2002:0704:FIN:en:PDF

its policies in various ways (drawing up national measures and action plans for implementing, consulting stakeholders etcetera). Thus, the consultation of interested parties, including NGOs, in the process of the development of draft legislation and policies through working groups is a well-established practice in the European Commission.

In both Bulgaria and Serbia, working groups have been part of the EU accession process since the very start of the negotiations. The requirement for stakeholder consultation in that process, even though not the sole factor, has played a significant part in the wide adoption of the practice. In 1999, before formally opening negotiations with the EU, the Bulgarian Councils of Ministers established a European Integration Council and thematic inter-institutional working groups through which to coordinate the process of EU accession.[198] Serbia started its formal negotiation process later, in 2007, but its government also formed an inter-administrative structure, the European Integration Office, with thirty-five working groups to complete the EC Questionnaire, a formal instrument through which the EU assesses the readiness of states to begin the process of accession.[199] Working groups have thus been an essential part of every stage of the EU integration process in both Bulgaria and Serbia.

Furthermore, the development of the priorities and programming for the use of the European Structural and Investment Funds in Bulgaria is performed in working groups. These, under the partnership principle, are required to include representatives of civil society. Different thematic working groups are convened by the government to develop the Operational Programs, and the Partnership agreement, the document that defines the goals and the priorities of the country when using the funds from the

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[198]Republic of Bulgaria (1999). *Regulation no 47 from 10 March 1999 for Optimization of the Dialogue with the European Union and the Mechanism for Coordination of the Activities for the Preparation of Republic of Bulgaria for EU Accession.* Retrieved 20 May, 2014 from the website of Ekspertis: http://ekspertis.bg/document/view/law/112401/19345/

[199]SEIO. (n.d.). Candidacy for membership and European Commission questionnaire [website section].European Integration Office (SEIO). Accessed 27 June, 2014 from http://www.seio.gov.rs/info-service/questions-and-answers.258.html. Based on the replies to these questionnaires, the Commission drafts an Opinion (Avis) on whether a country is ready for candidate status, and whether it is ready for the next phase - defining the framework date for accession talks, which is decided by consensus by the EU member states.

European structural and investment funds for a given programming period.[200] The representatives included in these working groups are defined on a national level in the Regulation of the Council of Ministers No.5 from 18.01.2012.[201] These working groups include representatives of NGOs from different sectors that are selected on the basis of pre-defined criteria and a selection mechanism, following a public call for participation issued by the line ministry coordinating the relevant Operational Program.[202] NGOs have also been included in the Committees for Monitoring of the Partnership agreement and the Programs funded by the European Structural and Investment Funds, for the programming period 2014-2020.[203] The use of these funds is monitored by different national institutions, and the EU has the right to conduct audits through the European Court of Auditors, which can conduct independent audits of the management and use of the funds provided by the European Union. The EC can also stop the payment of funds for Operational Programs in the case of mismanagement and lack of compliance with the procedures as part of the ex-ante conditionality of the EU.[204] This has been done on two occasions in Bulgaria in regard to payments for the OP "Regional Development" in 2014 and the OP "Environment" in 2013, due to mismanagement of the programs.

The peak body of child-welfare NGOs in Bulgaria, the National Network for the Children has participated (directly or through its members) in three working groups on the development of the Operational Programs in 2013 (OP Good Governance, OP

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[200]Ministry of the Economy of the Republic of Bulgaria. (n.d.). *Operational Program Development of the Competitiveness of the Bulgarian Economy 2007-2013, Annex 2: Partnership Principles.* Ministry of the Economy. Retrieved from www.mi.government.bg/library/index/download/lang/bg/fileId/235. The Operational Programs are discussed in Chapter 3.

[201]Council of Ministers of the Republic of Bulgaria. (2012), *Regulation No5 of the Council of Ministers on the development of the strategic and program documents of the Republic of Bulgaria on the management of funds from the Common Strategic Framework of the EU for the period 2014-2020.* Council of Ministers. Retrieved from www.eufunds.bg/document/2266

[202]Council of Ministers of the Republic of Bulgaria. (2012). Invitation for participation of NGOs in the selection of NGO representatives for the working group for development of the Partnership agreement of the Republic of Bulgaria for the programming period 2014-2020 [Press release]. Accessed from http://www.eufunds.bg/bg/pubs/1627

[203]Republic of Bulgaria. (2014). *Mechanism for selection of non-profit legal entities acting in public benefit for whose representatives to participate in the Monitoring Committees of the Partnership agreement and the programs co-financed by the European Structural and Investment funds for the period 2014-2020 (Deputy Prime minister of Bulgaria, 2014).* Retrieved from the Ministry of Education website: https://www.mon.bg/?h=downloadFile&fileId=5991

[204]See EC. (2014). *Guidance Fiche: Guidance on Ex Ante Conditionalities for the European Structural and Investment Funds – Part II.* European Commission. Retrieved from http://ec.europa.eu/regional_policy/index.cfm/en/information/publications/guidelines/2014/guidance-fiche-guidance-on-ex-ante-conditionalities-for-the-european-structural-and-investment-funds-part-ii

Human Resources and OP Science and Education for Intelligent Growth) and the Partnership agreement. According to the National Network's representatives interviewed for this thesis, there has been an improvement in the working group process since the introduction of working groups as a forum for the development of the Operational Programs. This has been because the working groups developing the Operational Programs have been required to show the comments and suggestions received. The grounds for the acceptance or rejection of particular suggestions made in the discussions have also sometimes been provided in the working documents, and a lot of relevant information is published online on the portal for the EU Structural Funds in Bulgaria (http://www.eufunds.bg/).[205] The findings of this research also show that the working groups convened by the line ministries in Bulgaria for the development of the priorities for the Operation Programs are organized in a more transparent way than the working groups convened by the ministries for the development of domestic strategies and legislation. The information provided online by the line ministries on the activities of the thematic working groups for the Operational Programs is much more extensive. It includes the documents and drafts being discussed and the protocols of the group meetings, and in some cases (e.g. OP Good Governance), a summary of the suggestions of the participants in the working groups has been accompanied by the response from the state administration.

In Serbia, NGOs have also been included in the negotiation process for the accession of the country to the EU through the monitoring of explanatory screenings, participation in the preparation of the bilateral screening for some negotiating chapters and participation in the briefing meetings that have followed bilateral screenings.[206] As specified in the Report on the participation of CSOs in the negotiation process for the accession, NGOs working with children, including the National Network for Children in Serbia (MODS), participated in these activities in 2013-2014 as part of the negotiation process. According to a representative of UNICEF Serbia interviewed for

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[205]The protocols of all meetings of the thematic working group for the development of OP "Good Governance" and a table with the suggestions of the participants and a reply of the state administration can be found at http://www.eufunds.bg/bg/page/999.

[206]OCCS. (2014). *Report on the participation of CSOs in the negotiation process for the accession of the Republic of Serbia to the European Union.* Office for Cooperation with Civil Society (OCCS). Retrieved from http://civilnodrustvo.gov.rs/en/highlights/report-participation-csos-negotiation-process-accession-republic-serbia-european-union/#more-6525

the thesis, with the beginning of negotiations for EU membership, the role of NGOs has increased since the involvement of NGOs in the accession process has been required by the EU.[207]

During the accession negotiations, it is the duty of the Head of the Negotiating Team and the presidents of all thirty-five negotiating groups to present to the public crucial elements of Serbia's negotiating position for each chapter. All positions are based on the National Plan for Adoption of the Acquis (NPAA) but the positions themselves are confidential as they are part of the negotiations.[208] In regard to the distribution of EU funds in Serbia, the country received accreditation for independent use of the pre-accession IPA funds just last year and it is not yet clear whether representatives of the NGO sector will be included in the development of funding programs and priorities through thematic working groups.[209]

Working groups in the legislative process

Despite the example set by the involvement of NGOs in working groups indicated above, and although the purposes, functions and tasks of the working groups are set in the relevant government decree or ordinance issued for their establishment, there is currently no normative regulation that requires the calling of a working group for the development of national draft laws or strategies in either country.[210] It is left to the discretion of the government. According to the Bulgarian *Law on State Administration*, Article 45 (amendment from 2012), a minister may convene working groups for the

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[207]Data obtained from interviews with representatives of UNICEF Serbia and SIPRU Serbia

[208]The NPAA and the National Program for Integration (NPI) in Serbia are developed by the government. After adoption, these documents are published on the web site of SEIO and made public. There are annual revisions of these documents and the public has the opportunity to comment on them and to send its opinions to the Presidents of all negotiating groups that are responsible for creating the NPAA (data obtained through both email correspondence and an interview with representatives of the European Integration Office, Government of the Republic of Serbia (SEIO)

[209]SEIO. (2014). Serbia receives accreditation for independent use of IPA funds [press release]. European Integration Office (SEIO). Accessed from http://www.seio.gov.rs/news.101.html?newsid=1668. An email inquiry was sent to SEIO requesting further information but no response had been received at the time of writing of this thesis.

[210]Information confirmed through email correspondence with a representative of the administration of the Council of Ministers in Bulgaria, and Professor Milovanovic from the Faculty of Law, University of Belgrade, Serbia.

development of draft legislation or policy falling within the competency of their institution.[211] The composition of a working group may also include officials from other administrative units, and representatives of NGOs may be invited to these working groups as observers or participants.

In Serbia, the government can also form law-drafting working groups. These can also include experts and NGOs as well as representatives of the state institutions. Working groups are mentioned in the Decree on the Principles of the Internal Organization and Classification of Jobs in Ministries, Separate Organizations and Government Services which describes four types of groups that can be established by the line ministries through separate enactments: coordinating bodies, project groups, joint bodies and special working groups.[212] As already discussed in Chapter 5, none of these types of working groups are a compulsory part of the legislative process, but each has a different characteristic, depending on the task to be performed. A project group may be established for a task requiring the cooperation of a number of authorities or bodies within an authority that the civil servants cannot perform within their regular duties. A joint body may be established for tasks the nature of which requires the participation of several authorities. A special working group may be established by a head of department, a director of a body within an authority or a director of a government service who is accountable to the Government Secretary-General. In each case, experts in the relevant fields may be appointed to the group to provide it with professional assistance in the fulfillment of complex project tasks, but need not occur. Although law-drafting most often calls for establishing a working group with a mixed composition, i.e. a combination of civil servants from different state administration authorities and external experts, there is also no such a model provided for in the regulations, and there are no provisions governing the decision-making and working methodologies of the working groups that are formed.[213] The legislative framework in both Bulgaria and Serbia thus shows that the establishment of law-drafting working

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[211]Republic of Bulgaria. (2014). *Law on Administration.* Retrieved 15 September, 2014 from the Bulgarian Law Portal (LexBG) website: http://www.lex.bg/bg/laws/ldoc/2134443520

[212]Articles 25-28 of the Decree on the Principles of the Internal organization and Classification of Jobs in Ministries, Separate organizations and Government Services (official Gazette of the RS nos. 81/07 and 69/08).

[213] Survey on the Improvement of the Legislative Process in the Republic of Serbia, GIZ, 2012.

groups has not yet been normatively regulated. Rather, they have been left to the initiative of the ministry in charge of developing specific draft legislation. Working groups are mentioned as a possible forum for consultation and development of legislation and strategies but they are not a compulsory part of the legislative process, and there is no legal requirement in both countries for the government to convene them as part of the consultation process on national legislation.

Therefore, as the calling of a working group, and the tasks and composition of that working group in Bulgaria and Serbia are at discretion of the line ministry, the decision to establish a working group is a political decision, not just a procedural issue. In practice, the competent minister either appoints a working group charged with drafting a regulation/ public policy document, or a regulation/public policy document is drafted by an expert unit within the ministry and no working group is formally set up. Draft documents are then uploaded onto the internet portals of the government for a short public discussion consisting of the submission of written opinions on the draft document by individuals or organizations which access the portal.

This lack of clear regulation and institutionalization of working groups as a mechanism for consultation in Bulgaria and Serbia can be considered problematic for the quality of the democratic process in terms of the involvement of non-state actors in policy-making. According to Habermas (1994), it is *procedures* that secure the bargaining processes and the communicative pre-suppositions that allow better arguments to come into play in the various forms of deliberation that bring legitimacy to democratic will-formation. The deliberative mode of legislative practice as it is seen by Habermas is intended to allow competing interests to find a compromise. It is therefore dependent on the prior regulation of fair terms for achieving results that are acceptable to all parties, despite their differing preferences. The lack of institutionalization of clear procedures and conditions of communication in the consultative process in Bulgaria and Serbia must inevitably have an effect on the deliberative quality of the policy consultations in the legislative working groups in those countries. These effects are discussed in the following sections of the chapter.

Tasks and selection of working group participants

The working groups convened for the purpose of developing draft legislation, policy, strategy or project in Bulgaria and Serbia are organized in very similar ways. They are convened by line ministries in order to develop and discuss a draft document. They comprise of representatives of the state administration and, in many cases, also include external stakeholders invited by the institution. Non-governmental organizations are often called to participate in such working groups but the selection mechanism is not clear and varies greatly among the institutions. The decision as to whether or not to invite representatives of NGOs, and which organizations to include in this invitation, is at the discretion of the ministers and their administration. The working groups are also not open to the public. In some cases, specific selection mechanisms for the choice of participants are used by the ministry for particular working groups, for example, the working groups convened for the development of Operational Programs and the expert working group on deinstitutionalization in Bulgaria.[214] However, this is more of an exception than the general rule, according to the interviews conducted for this study.[215] In general, the criteria for selection of participants for the working groups are unclear in both countries and a transparent and systematic mechanism for their organization is lacking. The procedure for convening working groups and designating the tasks and responsibilities within them is rather ad hoc and dependent on the decision of individuals in the ministries, and where working groups are convened, the decision on their appointment also governs the technical issues related to their work, such as their tasks and appointment term. NGOs are well aware of this:

> There is no standard practice for convening working groups; they are usually convened to develop a specific document and the members are determined by the decision of the chairperson of the

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[214]SACP. (n.d.). *Selection mechanism for participants from the NGO sector in the interinstitutional working group on assisting the coordination of the implementation of the action plan of the national strategy Vision for deinstitutionalization of the children in Bulgaria.* State Agency for Child Protection (SACP). Retrieved from sacp.government.bg/media/cms_page_media/439/DAMehanizum_NGO.doc

[215]Data obtained from interviews with representatives of the Centre for Youth Integration (Serbia), Help for the Children (Serbia), the National Network for the Children (Bulgaria), MODS (Serbia), the Parents Association (Bulgaria) and the Association for Child and Space (Bulgaria).

> relevant institution – they include representatives of other relevant
> state agencies and if they decide, they invite NGOs, the bigger ones
> with more expertise (NGO, Serbia).

This elusiveness provides government officials with the opportunity to selectively invite to the working groups NGOs that they perceive as more compliant and supportive of state policies. Furthermore, the lack of clear regulation in regard to the organization of working groups as part of the legislative and policy-making processes allows the government to convene working groups later in the process of policy development, when a draft proposal has already been prepared by the state institutions. In this way, the working groups become forums for commenting on and discussing government proposals rather than for co-drafting these proposals, which not only makes it more difficult for non-state actors to promote their views but also skews the deliberative process.

The number of meetings of the working groups and their frequency will vary in accordance with the type and significance of the document being prepared, and when a draft law or policy has been prepared in advance by the line ministry for discussion in the working group, the quality of the document and the expertise of the state officials who drafted it can be questionable. This is of great concern to NGOs who may, in the end, be tasked with implementation as it is likely to impact on their ability to do the job well:

> There are consultants (internal or external) selected by the
> government to prepare draft laws and sometimes the qualities of
> these people are questionable, there are cases when different laws
> which require different expertise are prepared by the same person
> (NGO, Serbia).

Typically, participants in working groups provide written comments and oral suggestions in the discussions at the meetings which are protocoled by the group's coordinator. The meetings are held at the premises of the relevant ministry and the coordinator of the group, who is a public servant from that ministry, is responsible for

organizing the submissions into one document. The coordinator then sends the text of the draft document to the participants via email for notes and comments. This may occur several times until a final version is agreed on by the group's participants. The exchange of information between the participants in the working groups is usually done in electronic form via email with track changes in the working documents. At a later stage, a harmonization table that contains the suggestions for changes and the submitted options in separate columns may be sent by the coordinator to participants for internal distribution within the working group.

After the task of the working group is complete, a final version of the document drafted by the working group is submitted to the ministry, which decides what part of it will be incorporated into the official draft to be sent to other ministries and to the government for harmonization. However, the line ministries have no obligation to send the official draft to members of the working group for any further comments, or to provide any justification for the adoption of certain proposals and the rejection of others. The only obligation the governments of Bulgaria and Serbia have by law in regard to public consultation is to publish the final version of the draft document on the website of the line ministry and/or the government web portal for public discussion before submitting it to the National Assemblies. After the draft is sent to the parliament, NGOs can try to advocate their position through members of parliament but the interviewees in this study, although they mention this advocacy approach, did not put much emphasis on the use of this advocacy tool, suggesting that it was either not efficacious or was beyond their capacity.

Clearly, the design features of the working groups in both Bulgaria and Serbia do not provide for distortion-free communication. Good facilitation, procedures ensuring the fair representation of affected communities, and equal access to the process are all absent. The mechanisms for the exchange of information and communication in the working groups, as micro discursive forums, are neither well defined nor well-structured. The discussions in the working groups are also not recorded, so that data about the problems, alternatives and solutions discussed are impossible to obtain, and there is no professional facilitation of the deliberations and record-keeping. In the research conducted for this thesis, no working documents from

the working groups, such as the harmonization tables containing the proposals of the participants, could be obtained from the line ministries: they either did not keep these documents or did not want to provide them for this research.[216]

Furthermore, the NGOs interviewed for this thesis had not been consulted by their government on possible methods of interaction or mechanisms for consultation and the current deliberative practices in the working groups do not reflect their preferences. Yet, according to Habermas, this is an essential factor for the development of adequate deliberative forums. As identified in the interviews conducted for this thesis, NGOs working with children in both countries would like clearer regulation and better institutionalization of the consultation process in order to ensure clear mandates with regard to the participants for working groups and with regard to the provision of feedback by the state on policy proposals. NGOs have emphasized this in a report prepared by Bulgarian NGOs on the implementation of the UN CRC, where they state that the mechanisms for inclusion of NGOs in policy-making need to be improved substantially, and joint rules for cooperating with the civil sector in order to achieve dialogue and a wide consultative process need to be developed (NMD, 2009).

The role of NGOs in working groups

The status of NGOs in the working groups convened by the governments in both Bulgaria and Serbia is not clearly defined. Both NGOs and government officials interviewed for this study in the two countries identified the technical expertise of NGOs and their familiarity with the needs of their target group as the main determinant for them being invited to working groups, and their professional knowledge of the respective field as the source of their potential contribution to policy-making. However, NGOs were not seen by the governments as disinterested experts. This was not just because their requests and recommendations were perceived by state officials in some

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[216]The line ministries contacted in both Bulgaria and Serbia with the request to provide documentation on specific working groups convened by them did not advise whether they keep these documents or not, they either did not answer the emails or replied by sending links to webpages with generic information as explained in further detail in Appendix 3. Only the Ministry of Youth and Sport of Serbia provided documentation about the consultation process on the Law on Youth.

instances as neither objective nor realistic. Rather, NGOs were characteristically seen by the governments as organizations that were engaged in promoting not only the interests of their target groups but also the interests of the organization or, more problematically, its donors. In short, NGOs were viewed as interest groups in addition to being sources of expertise. This perception among state officials of NGOs performing a dual role of expert and interest group in policy-making was apparent across a range of levels of government:

> Sometimes NGOs' suggestions are seeking facilitation for their work or services – but this cannot be done at the expense of the health or other rights of the beneficiaries (Line ministry, Bulgaria).

> The NGOs shouldn't come just for prestige and to defend only their own methodologies because they have funding ... documentation and facts are needed (State agency, Bulgaria).

It is true that it is not always quite clear who NGOs do represent. As discussed in the previous chapter, the NGOs that work in the area of children's rights and protection are largely professional organizations that do not have a membership base or large public support. From the point of view of the government, then, they are primarily professional implementers of projects and programs. As such, they can assist in improving the quality of the services and policies for children through their on-the ground experience and external funding, provided their own agendas can be kept in check. Because of this, their role in the working groups is primarily to be a provider of information to the government. As far as the government is concerned, it is within the state's responsibility, and authority, to make the decision on policies and strategies, having evaluated the input from different stakeholders. From the point of view of the government, then, as suggested by Colebatch (2002), policy-making rests on the endorsement of authorized decision-makers such as the minister and executive committees. This is what brings legitimacy to policy decisions, not the questionable representations of NGOs:

> For participation in discussions of policies is necessary not only
> professional expertise but representativeness as well – which
> groups does this NGO represent (Line ministry, Bulgaria).

The government must take into account many aspects of a problem, not only the views of particular non-state actors which may be one-sided; it must reconcile diverging and sometimes competing interests. For this reason, consultation generally refers to the drafting stage of the policy-making process, where policy is being developed and discussed with various stakeholders, rather than the next stage of the policy process, decision-making. There are various forms of political decision-taking based on national legislative frameworks and "[c]onsultation is central to informed decision [but] [t]he final power of choice lies with the public authorities, unless the decision is taken by a public vote, referendum or a co-decision mechanism."[217] Habermas' theory, however, does not seem to account for major differences between the parties in their responsibilities and therefore does not distinguish between, on the one hand, the deliberation aimed at developing informed and consensus-based draft policies, and, on the other hand, the actual decision-taking of state authorities with the authority to finalize the content of these documents. Ideally, of course, this would occur after taking into consideration the suggestions made in the deliberative forums, and providing justification for the selected solutions. However, Habermas' (1996) account of bargaining in the policy system assumes shared decision-making responsibility between state and non-state actors in deliberative policy-making. This is not common in consultation practices, probably due to legitimacy and representativeness considerations, and issues of scale and effectiveness.

The NGOs themselves, with the exception of the Parents' Associations in both countries, do not mention the representational aspect of their organizations in the interviews. These NGOs are not citizens' associations in the sense of large organized publics. They communicate and further the needs of children to the policy-making arena on the basis of their knowledge and field expertise. The NGOs working on

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[217]Council of Europe. (2009). *Code of Good Practice for Civil Participation in the Decision-making Process.*

children's issues interviewed for this study regarded themselves as organizations with professional expertise and experience on the ground, well acquainted with the needs of their target groups through their direct work with them. This can be seen from the following statements made in the interviews conducted with the NGOs:

> Analysis is needed on which actor contributes what, what roles the actors have – looking at it as an equal partnership, seeing what the NGOs bring to the table – they have field experience and field knowledge – the government needs as much information as possible to make informed decisions about the betterment of children (NGO, Bulgaria).

> We have done some pilot projects on deinstitutionalization and demonstrated how things can be done; this is direct influence on the type of new services to be developed (NGO, Bulgaria).

> Upon the suggestions from NGOs, ideas coming from their practice, the state realizes that something has become obsolete (NGO, Bulgaria).

As can also be seen from these statements, the NGOs often see themselves as innovators who advocate for the development and establishment of new models of social support, inclusive education, community services, prevention programs and a more comprehensive approach to children's rights and needs. This provides some evidence for Colebatch's view (2002) that organizations can claim a place in the policy process on the basis of expertise and the knowledge they have of their constituencies' needs and not on the basis of representation.

For the government, the role of NGOs in the policy process is to provide technical and professional expertise so that the state can make informed decisions. The state is thus more willing to consult NGOs on technical matters or in areas where it lacks sufficient knowledge and needs practical insight rather than on the formulation of

the essential core of policies and strategies. This is because the government sees working groups as just one stage of the legislative process:

> The state has its obligations and tasks, state officials think they know well what they do and don't think they need somebody else. In working groups everything is alright but when the NGOs are critical or give some suggestions that are another way in which an issue can be seen – the state closes (Line ministry, Serbia).

For NGOs, however, working groups are a major avenue for advocacy and they would like to have more dialogue with the state. Unfortunately, this perception of working groups as an avenue not only to contribute to policy discussions on specific issues through technical expertise but to promote their agenda more broadly may have the opposite effect on their interaction with the government: state authorities may think that NGOs cannot be fully trusted not to push an agenda in the working group discussions. This is suggested by the following statements:

> The government in general doesn't trust that NGOs can understand their side of things, as if there isn't any overlap of perspective. Lack of comprehensiveness of all this – people working on the ground and people in the administration – a mechanism for information sharing is needed (NGO, Bulgaria).

> Overall, the Bulgarian government works well formally with the NGO sector, the NGO sector is a desired partner if the things they propose are narrow expertise on problems which they encounter; the government listens to NGOs when they are not familiar with the technology of the process (NGO, Bulgaria).

There is, therefore, a certain ambiguity in regard to the role of NGOs in the working groups. They are perceived as organizations that hold expert knowledge, and also speak on behalf of their target groups (and perhaps their donors). In the working group process, NGOs provide both technical information on aspects of the implementation of

current policies, obtained from their experience on the ground, and make suggestions for improvements or future policy change, even though, as is evident in the remarks above, NGOs think that the government just sees the consultation process as a formality.[218] The NGOs, on the other hand, take their role in the process seriously and participate in the working groups even when this stretches their capacity, because they see them as an opportunity to also promote informed policies and to advocate for the needs of their target groups.[219]

Attending consultations in response to government requests, as Keen (2006, p. 38) notes, takes a lot of time and requires strong policy analysis skills in the relevant area. On the other hand, she argues, if NGOs ignore consultation they may be affected by the consequences of poor government decision-making from bureaucrats who are far from the realities on the ground. The NGOs working with children in Bulgaria and Serbia interviewed for this thesis acknowledged the lack of resources and skills among the organizations in the sector to participate more actively in advocacy, and state that the preparation and participation in working groups required significant time and effort for uncertain and limited outcomes. At the same time, they try to participate in as many forums and meetings as possible, and to keep a collaborative relationship with the state going in order to be able to raise awareness and inform decision-makers of the needs and problems of the target groups they work with when the opportunity arises. The policy positions developed by the NGOs interviewed for this thesis – where available on their websites – show their desire as well as their ability to produce detailed and reasoned proposals in this regard.[220] Nevertheless, in the working groups their role is

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[218]Data obtained from interviews with representatives of NGOs working with children in Bulgaria and Serbia as specified in Appendices 1 and 3, and a policy brief prepared by MODS (Serbia) on Financial assistance to families with children and used as their position in the working group on Financial support for families. This policy brief is the only document provided by the NGOs interviewed for this thesis to exemplify their contributions and suggestions in the working groups. The document is available at MODS' website: http://www.oknis.org.rs/wp-content/uploads/2013/03/Financial-Assistance-to-Families-with-Children.pdf

[219]Data obtained from interviews with National Network for the Children (Bulgaria), MODS (Serbia), Parents Association (Bulgaria), Parents Association (Serbia), Association Child and Space (Bulgaria), Centre for Youth Integration (Serbia), Centre for Interactive Pedagogy (Serbia), Foundation for Our Children (Bulgaria).

[220]The only NGOs interviewed for this study that had a Policy/Positions section on their website and had published policy positions as such, rather than reports, were the National Network for the Children (Bulgaria: http://nmd.bg/en/policies/cat/news_en/), the Foundation For Our Children (Bulgaria: http://www.detebg.org/bg/items/view/4516/Koalitziya-Detstvo-2025-s-otvoreno-pismo-do-mediite--

more as technical advisors on policy implementation issues rather than recognized partners in policy development. The agenda of the policy discussions or policy problems to be considered in the working groups is set by the government and although the participants can propose policy alternatives and deliberate on policy solutions, the solutions themselves are not decided in the working group.

This raises serious questions about working groups as a venue for deliberative and participatory policy-making. Rather, the working group practice in these two countries can be considered an example of *incomplete* deliberation. The output of the working groups is developed through a deliberative process, but it is not aimed at decision-making. Its function is to provide information for future decision-making in which NGOs are not included. Decisions on the final draft of a policy/strategy or draft law are totally at the discretion of line ministers and their advisors. Therefore, NGOs in the policy-making process can only be described as providers of expertise and information on technical matters and policy implementation, not partners of the government in agenda-setting and decision-making.

Consultation on technical matters versus advocacy for policy change

The discrepancy between the perceptions that the government and non-governmental organizations have of the role of NGOs in the working group process leads to dissatisfaction on the side of the participants from the civil sector. It is clear from the interviews conducted with NGOs in both Bulgaria and Serbia for this study that they saw the deliberation in the working groups as a channel for advocacy or "deliberative advocacy" (Dodge, 2014), with the ultimate aim of changing policies and exerting influence on the policy-makers. This is exemplified in the comments below. NGOs are not satisfied with just sitting at the table at working groups meetings. They want to use the opportunity to influence the decision-making process, although being included in a limited fashion is recognized as being better than nothing:

.html), MODS (Serbia: http://www.zadecu.org/en/publications.php#polpaps) and the Parents Association (Bulgaria: http://www.roditeli.org/index.php?option=com_content& view=category&id=6&Itemid=2&Itemid=2).

> The state tries to include NGOs in discussions as a formality to show to the EU; still, participation in a working group provides a better opportunity for exerting some influence (NGO, Bulgaria).

> [S]ometimes it's just participation without much influence, just to follow the obligation, but anyway it is a good opportunity to be there, to try to advocate at personal level (NGO, Serbia).

Nevertheless, there is dissatisfaction amongst the NGOs with the lack of feedback from the government to their proposals, as is expressed in the next remarks. This points to their desire to participate more fully in the policy-making process. The NGOs would like to have some influence on the decision over the content of the final documents, to be able to see what parts of their proposals had been accepted and what impact their input had had beyond discussion in the working group:

> There is good cooperation but no outcome and no feedback to see the impact and what has really been done, there is no synergy. The government has to work with NGOs because of the EU, because of the reports at the end of the year. I don't think that the government is doing enough to encourage NGOs to participate in policy-making – only meetings and consultations, and papers are not enough (NGO, Serbia).

The NGOs would like to have some recognition not only for the provision of technical expertise and policy proposals in the working groups, which requires time and resources, but they would also like to have their suggestions incorporated into final policy documents in ways that showed that they had had an impact on existing practices and were instrumental in achieving change:

> NGOs can give expertise but they have no impact on policies, it is like a waste of time to take part in these groups (NGO, Serbia).

> The government encourages the participation of NGOs and the provision of expertise but the question with the participation is slippery – because it is a different thing to be heard. NGOs are not worried about not being included – but what difference does it make (NGO, Bulgaria).

The governments in Bulgaria and Serbia, on the other hand, do not seem to be seeking partners in regard to political decisions on the legislative process, or on the development of priorities for political strategies and measures. They simply see themselves as needing expert advice on more technical issues concerning the specifics and implementation of strategies, especially in areas that require direct work with beneficiaries, such as deinstitutionalization, social inclusion and the development of methodologies for new social services.[221] Even though this was never stated directly by the government officials in their interviews conducted for this thesis, these implications are apparent in the following comments:

> The government values cooperation, it doesn't know everything, it only has statistics but lacks touch from the terrain, and the state agencies believe they don't know everything (State agency, Serbia).

These findings support the pattern identified by Keen (2006) and discussed in the theoretical framework chapter, that while the production of evidence and expertise by NGOs in policy development is seen as legitimate and even helpful by the government, advocacy is not well received. According to Keen, there is dualism in the attitude of the government towards NGOs. On the one side, the technical contributions of NGOs in policy-making are welcomed. On the other, their advocacy proposals are not. The government invites NGOs to participate in the policy process through consultation based largely on the expertise NGOs have developed in relation to their target

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[221]Data obtained from interviews with For Our Children Foundation (Bulgaria), Child and Space Association (Bulgaria), Foundation Cedar (Bulgaria) Lumos Foundation (Bulgaria), Parents Association (Bulgaria), Parents Association (Serbia), Centre for Youth Integration (Serbia).

constituents, but does not welcome the advocacy of NGOs in the consultative forums (Keen, 2006).

This ambivalence is reflected in the disappointment among the NGOs interviewed for this thesis. The limited opportunity working groups provide for quality deliberation does not allow them to pursue their goal of more significant policy change, especially when the necessity for such change has not been recognized by the government. The NGOs interviewed for this thesis would like to be accepted as both activist and deliberator, and to be allowed to use institutional advocacy both for working in cooperation with the state and for their advocacy in the promotion of their agendas. Various authors have identified this NGO stance elsewhere (Barnes, 2002; Montpetit et al., 2004 both as cited in Hendriks, 2006) and this is yet another case that reflects this position. Numerous examples were given by the NGO interviewees in both countries of how their suggestions for more serious policy reforms had been disregarded by their government, especially in the area of social reform and inclusion.[222] Their statements in this regard illustrate this view:

> The responsiveness is not a constant, it depends on the situation, it is ok when the suggestions concern problems related to foster care but not regarding the quality of social services – then working groups are not induced (NGO, Bulgaria).

> There is no change in the Labour Code even when something is not just, policies which do not work are not changed, and this is discouraging (NGO, Bulgaria).

This finding supports the view of Kingdon (2010) that the survival of policy proposals and alternatives depends not only on their technical feasibility, but on their value acceptability, the anticipation of future constraints, and the willingness of the

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[222]Data obtained from interviews with representatives of the Parents Association (Bulgaria), Child and Space Association (Bulgaria), For Our Children Foundation (Bulgaria), Centre for Interactive Pedagogy (Serbia), Parents Association (Serbia), Cedar Foundation (Bulgaria).

government to listen to alternative proposals. Governments are the authorized decision-makers and they are generally reluctant to pursue policy changes that would bring negative reactions among the public and implementation difficulties. In such cases, when the suggestions of NGOs fall outside the priorities of the government, as described by one of the interviewees in the quote below, the state officials agree vaguely to the necessity of reforms but do not engage in any action to pursue difficult reforms:

> If NGOs' suggestions are in tune with the priorities of the ministries, they (proposals) are supported. If they are not in tune, their work receives pro-forma support and is not incorporated in polices (NGO, Serbia).

A similar issue was pursued by one of the NGOs in Bulgaria on the question of state support for families, especially large families. Currently these payments are distributed through the system of welfare benefits and some families have many children in order to receive more payments but do not necessarily take good care of them. The NGO had proposed tax concessions for working parents and had submitted that proposal to the last three governments but the attitude it had faced was the following:

> This is very good, we will see, it is very complicated and requires restructuring, there is no money and no one wants to get involved with that (NGO, Bulgaria).

Such a scenario is discussed and explained by Kingdon (2010). When there is no significant support behind a policy alternative or a problem is not ready for airing and/or is not critical for the general public, a government is not likely to pursue a proposed solution. In such cases, non-state actors may have a higher chance of having their preferred solution accepted when a new policy window opens. This can happen following a change in state administration or when a focusing event such as the scandal with Mogilino or when another indicator pushes the problem to the attention of policy-makers (Kingdon, 2010). Typically, the advice offered by NGOs on the technicalities of

a policy is welcome, but not their suggestions for reform such as a new family policy or work on the prevention of child abandonment. Requests for more significant reforms in the system of social care and support made by NGOs are generally disregarded. A plausible explanation for this is found in Boswell (2014 as cited in Wesselink et al., 2014) who argues that the lower hierarchical position of NGOs in policy deliberations affects the way evidence presented by them is received in policy debates. Although Fischer (2003) has argued that professional discourses can be seen as a way to bring reason, in particular technical reason, to bear on the play of power, the investigation conducted for this thesis provides no evidence for any enhanced influence of experts in the decision-making process. On the contrary, it points to the opposite: NGOs that provide technical expertise in the decision-making process have limited leverage on policy decisions, despite their access to consultation forums. This is clear from the following statements:

> We have been talking with the government about the conditions in the Family Type Centres (DST) – if we suggest to provide some training, this is ok, but when we criticize the insufficient funds and personnel which brings the danger of these centres becoming like institutions again, then the government replies they do not have money which is not true, we are not talking millions, only 3000 children. When it comes to more serious reforms, the audibility decreases (NGO, Bulgaria).

> Work needs to be done on prevention of child abandonment, to change the system of social assistance – poverty is the main reason for children entering the institutions, when we speak about assistance for families the audibility is almost zero (NGO, Bulgaria).

> We have influence on some topics – if they are related to professional expertise. But on other topics nothing is heard (NGO, Bulgaria).

Serbian NGOs interviewed for this study also found that few of their proposals for reform were taken seriously. One such NGO had participated in the development of the chapter for preschool education for the Strategy for Development of Education (2020) in Serbia that had to be in tune with the Development of Serbia and EU Goals 2020.[223] Their experience was that many NGOs made comments but many of these were not adopted.

> NGOs can only give professional knowledge and suggestions on an initiative but cannot impact policy-makers afterwards (NGO, Serbia).

Nevertheless, NGOs believe that they are often in a better position to see what needs to change from their direct work with target groups and their awareness of more modern approaches, and consider that this should translate into a capacity to influence policy-making. One of the NGOs in Bulgaria has been working towards the promotion and establishment of a Centre for Children's Mental Health as there is none of that kind in Bulgaria, and there are very few child psychiatrists in the country. According to them, the issue has been discussed at many meetings by many NGOs, but there has not been any answer so far or a decision from the government, only a general acknowledgement of the issues discussed. For example, there are no medical personnel in the Family Type Homes where children with severe physical and psychological problems are also placed. This type of care is also not applicable for some children. The NGO has stated that they have proposed, in written form and in discussions, the establishment of a new category of health centers, centers for mental health, providing concrete examples of likely benefits with specific children and showing in detail what was needed in practical terms. In spite of the effort, there has been no response to the proposal.

Kingdon (2010) suggests that such cases of government inertia or resistance are likely to have come about because the government has built a clientele in favor of the

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[223]Republic of Serbia. (n.d.). *Strategy for development of education in Serbia 2020*. Ministry of Education. Retrieved 20 July, 2014 from the National Program for Knowledge Triangle in Serbia (KNOWTS) website: http://knowts.elfak.ni.ac.rs/the-project/creation-of-national-platform/2020.pdf/view

existing program. The government will therefore protect the program on which the existence of this clientele is based. One way of countering this problem, Kingdon suggests, is to develop a constituency favoring change. Less popular policy proposals fail to get consideration for lack of such a constituency, because they are perceived as being a cause with no supporters. The NGOs interviewed for this study lack this kind of constituency, so to speak, because they lack popular support and membership. This negatively affects their communicative power and political leverage.

Many NGOs perceive the working group process as 'pro forma', organized mostly for the purpose of satisfying the European Union expectation of consultation in policy-making. The NGOs interviewed in Bulgaria often felt used by the state to legitimize and validate governmental decisions and strategies, and they often felt co-opted in the development of strategies and draft laws. As a consequence, the NGOs were worried that their involvement in working groups may also be used by the state to suggest NGO support for certain policies and legislation that the NGOs did not necessarily agree with. For example, the strategies and policies developed by the government in Bulgaria often mention that they have been developed in consultation/cooperation with civil society or NGOs, although they do not provide any reference to a consultation process. In many instances, it is hardly possible to trace which NGOs had been consulted, what format the consultations had been in, and what the position or proposals of the NGOs had been:

> [S]ometimes we are invited in working groups with the purpose to create visibility of partnership, not so much to take into consideration the opinion of NGOs – legitimization of administration's decisions, without any change happening (NGOs, Bulgaria).

As a result, "we are more cautious about participating in these groups now" (NGO, Bulgaria). Similarly:

> Our NGO is often invited to different formats to formalize strategies, they have been repeating the same thing in the last 5-6

> years; the state uses the NGOs to validate government decisions
> without really listening to our voice – limited state apparatus and
> administration (NGO, Bulgaria).

> Our organization has considered not taking part in working groups,
> we feel used, the state picks what it likes from the working groups
> and the important things are not heard – validating shameful
> methodologies and wrong decisions – one thing is to participate,
> another is to have some influence (NGO, Bulgaria).

These concerns have been clearly expressed by Serbian NGOs as well.[224] Furthermore, the NGOs interviewed for this thesis in Serbia were worried by the lack of action plans and the limited implementation of the strategies and laws developed in the working groups. They mentioned the lack of continuity in state policies and the frequent changes of cabinets as well as the lack of political will for reform as some of the reasons why many proposals remained on paper rather than being put into practice.[225] The dissatisfaction of the NGOs with the lack of implementation of the documents developed through their work and participation in working groups is reflected in the following quotes:

> Many strategies are developed but not funded and implemented,
> such as the Unemployment and Social Policy reform: it is supposed
> to be a document with priorities for the government which has to be
> followed by all relevant ministries. This is a good approach – to
> prioritize what needs to be done and reformed in the area – but it
> needs to be really implemented (NGO, Serbia).

> The working group on revision of the baby friendly programs
> produced twelve renewed standards but they stay on paper; the

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[224]Data obtained from interviews with representatives of MODS (Serbia), Parents Association (Serbia) and the Child Rights Centre (Serbia).
[225]Data obtained from interviews with representatives of the Parents Association (Serbia), Centre for Interactive Pedagogy (Serbia), MODS (Serbia).

> ministry likes to have a meeting, to cooperate, to say civil society is important and it appreciates the opinion of NGOs but the motivation is external – pushed by UNICEF (NGO, Serbia).

The limited implementation of policy strategies on child rights and protection in Serbia has been identified as a problem in the peer review of child rights commissioned by the EU and conducted by Ms Ankie Vandekerckhove as an independent children's rights advisor. The report states that:

> While this plan (National Action Plan 2004-2015) on children's rights is an important first step, providing a clear view on the most urgent children's rights issues to deal with, there is no clear view on the overall level of implementation even though the plan contains clear indicators and timeframes. The National Action Plan on children's rights does not seem to have been subject to any implementation reviews or reports whatsoever… we asked who would be the accountable minister to monitor the progress on these plans and strategies, but this as well remained unanswered. Drafting plans is an important first step; not being able to drive forward and keep track of their implementation, however, is a matter of serious concern (Vandekerckhove, 2014).

Conclusion

Why are NGOs working with children in Bulgaria and Serbia unable to exert significant influence in the policy-making process on matters beyond technical expertise or pressure the governments to implement the strategies or legislation developed in the working groups? On the basis of the research for this thesis, the answer, at least in part, can be found in their lack of political leverage and communicative power. They rely extensively on institutional advocacy. This means that they attempt to use the working groups, which are consultation mechanisms controlled by the government, as their main avenue for advocacy and policy change. However, they do not appear to have sufficient advocacy skills and capacity, and most of all they do not have sufficient public support,

to make the government take their suggestions into serious consideration. In both countries, NGOs would like to have a more significant role at the policy-making table, to be considered an equal partner, but they do not have the political resources to establish themselves as such, or to overcome bureaucratic inertia or reluctance on the side of the state.

However, the NGOs themselves did not specify in the interviews any reasons for the government to include them in working groups other than the need of state officials for expert information on technical issues and the need to comply with the recommendations of strong international organizations such as the EU or UNICEF. The NGOs would like these international organizations to monitor more closely the implementation of policies and strategies, and the actual outcomes of various programs and projects. Some of the NGOs interviewed for this study also acknowledged the need to engage the community more in their activities and to inform the public better of their initiatives in order to have broader support for their advocacy. However, with the disillusioned and disengaged societies of Bulgaria and Serbia facing significant economic and social problems, this would not be an easy task for NGOs, and would require time and resources they cannot spare:

> Attention should be paid to informing society, there are no information campaigns on the European projects but they are obliged to provide reporting. Informing the public means empowering the citizens. The EC, UN and WB need to keep exerting pressure as well. A change in monitoring is needed too; an independent form is needed, not the government writing the report itself without including even the NGOs which were implementing some of the projects (NGO, Bulgaria).

> Grants are needed to make wider campaigns...NGOs need to mobilize the community more to have an impact (NGO, Serbia).

Nevertheless, it should be acknowledged that the inclusion of NGOs in the policy-making process and in consultation has been gradually improving.[226] Government officials do acknowledge the contribution of NGOs to the policy-making process and, at times, express a willingness to consult them in order to develop better informed policies:

> NGOs have to participate in the process of decision-making, they have a more flexible approach, different from the approach of the state administration, only when the problems are discussed from all viewpoints there is real added value for the beneficiaries of the policies (Line ministry, Bulgaria).

> [D]ialogue must be sought, respect for the opinion of the partner, discussion of the processes in their entirety (Line ministry, Bulgaria).

Still, it is clear that the current practices for the involvement of NGOs in the policy-making process do not currently meet the expectations of the third sector for partnership and dialogue or the standards for effective consultation as defined in the literature and the Code of Good Practice by the Council of Europe. The next chapter discusses the positioning of working groups in the ladder of political participation as per the framework of Bridgman and Davis (1998), and the consultation guidelines of international organizations such as the EU and the Council of Europe. The level of the involvement and the role of non-state actors as participants in working groups defined in these documents are compared to the reality of the current working group practice in Bulgaria and Serbia.

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[226]Data obtained from interviews with National Network for the Children (Bulgaria), MODS (Serbia), Child Rights Centre (Serbia), Parents Association (Serbia), UNICEF (Bulgaria), UNICEF (Serbia), Association Child and Space (Bulgaria).

Chapter 9

Working groups as a one-way channel of communication

The limited political leverage of NGOs working on children's rights in Bulgaria and Serbia is related to the main drawback of the working group process identified by the NGOs interviewed for this study in both countries: the lack of acknowledgment and feedback from the government on the suggestions made by NGOs. The NGOs, as organizations that have substantial knowledge of the needs of children and families, would clearly like to have a more established role in this consultation process and a more recognized status in policy-making. They would like to move beyond the one-way consultation practice that is prevalent at this time towards a more partner-like relationship with the government. Overall, the NGOs in Bulgaria and Serbia seek more formality and obligation on the side of the state towards their policy recommendations and requests. In Colebatch's framework, the NGOs would like to have a better interaction between the vertical and horizontal planes of the policy process (Colebatch, 2002), with the line ministries acknowledging and implementing the shared understandings achieved in deliberative forums rather than taking a purely instrumental view and downward transmission of authorized decisions:

> The policy-making process is definitely not very participatory, there is lack of transparency and not enough information – one thing is said in the working groups and another document is produced in the end (NGO, Bulgaria).

However, no clear idea emerged in the interviews with the NGO representatives that the NGOs knew how to achieve such a change in their positioning in policy-making or how to make the government more accountable to working group participants in the legislative process. This may be attributable to their relatively limited advocacy experience and limited advocacy capacity. Most of the NGOs working with children in Bulgaria and Serbia, with the exception of the national networks, have difficulty devoting time and human resources to advocacy. Another major limitation for exertion

of political leverage by the NGOs in these countries was the general lack of substantial public interest and support for civil society organizations that would allow them a strong position vis-à-vis the state. For this reason, the support of intergovernmental organizations like UNICEF and the EU is very important to NGOs in Bulgaria and Serbia as both a political resource and a reference point in their advocacy.

Nevertheless, it is clear from these interviews that NGOs in both countries would like to have a more recognized role in the policy-making process, and more influence and a stronger political impact that would allow them to advocate effectively for the needs of their target groups and fulfill their organizational goals. They perceived their organizations as entrepreneurs. They were often preferred to the state by international bodies and donors to execute projects that promoted reforms in the social sphere and to promote a more modern and comprehensive approach to children's issues. They saw this as giving them additional political clout, and they wanted to be able to use this in their interactions with the state.

Still, the NGOs interviewed in Bulgaria and Serbia for this study did not emphasize the question of their impact as such, nor did they suggest alternative models of interaction with the state besides the working groups. They were concerned with the lack of feedback in the established practice of communication with the government but did not suggest other possible arrangements for the process. They had not attempted to address the government or the European Commission specifically on the issue of the consultation process and the lack of clear and institutionalized procedures for working groups, either. Rather, they had focused on trying to keep open any constructive relationship with the ministries that they had established in order to be able to use that institutional venue to advocate for the needs of their beneficiaries, largely because they did not have the capacity and resources to work on the development of better mechanisms for policy deliberation as well. Instead, they tried to find ways around the shortcomings of the consultation process:

> So far, we have not insisted on the provision of feedback or
> justification of decisions, we do not have responsibility for the
> process; we have to defend our demands and hope they will be

accepted by the other participants; it is difficult to do advocacy in
Bulgaria the traditional way; there are no clear rules and a lot
depends on personal contacts (NGO, Bulgaria).

In regard to policy impact, only the NMD, the national network in Bulgaria, mentioned
having a system in place for the monitoring and evaluation of their activities in order to
assess their impact and to provide information to donors on their effectiveness, although
MODS, the national network in Serbia was planning to develop such a systematic
mechanism. Again, this indicates that the NGOs in Bulgaria and Serbia working with
children still had not developed sufficient advocacy capacity, and that their resources
were directed primarily towards the execution of projects and the provision of services
on the ground. This finding provides support for the view of Keen (2006) that attending
consultations in response to government requests is time-consuming and demands
policy analysis skills. NGOs will put in an effort to participate in consultations so that
their work does not suffer from the consequences of ill-informed government policies,
but generally do not undertake the work of developing a more systematic or pro-active
approach.

From the point of view of the governments in both Bulgaria and Serbia, the
consultative process is well developed and NGOs have access to policy-making at
different levels and on various policies. According to state officials from the different
ministries interviewed for this study, NGOs were a valuable partner in the development
of policies and strategies, and working groups were being convened on all important
policy issues. The officials expressed acknowledgment of the contributions of the
NGOs to the legislative process, but also stated that their requests could not always be
reconciled with other demands as the sector was not homogenous. Furthermore, in their
view, the recommendations of the NGOs in some instances could not be incorporated
into a particular policy because they were not realistic or were impossible to implement
at that stage, or because they pursued the interest of only one side when there were
many stakeholders involved. As far as the governments in Bulgaria and Serbia were
concerned, "[t]he consultation process is very well defined; a period of minimum ten
working days is specified for consultation/comments, invitation of stakeholders, there
were three big public consultation events around Serbia – this is a formal mechanism"

(State agency, Serbia) and there was "sufficient transparency and the projects for normative acts are uploaded in time on the portal, NGOs are included at many levels" (Line ministry, Bulgaria).

Nevertheless, the NGOs in both Bulgaria and Serbia were frustrated with the process. They described the process as highly politicized and characterized by a lack of clear and strategic direction on national priorities, a lack of political will to execute substantial reforms, and a lack of continuity in political priorities because of frequent changes of cabinets.[227] The NGOs interviewed for this study gave numerous examples of draft laws and policies, some of which were drafted as part of the governments' commitments to the alignment of legislation with international requirements, that were developed in working groups through extensive debates, but that were never implemented.[228] This has reinforced the feeling among NGOs that working groups were a consultation exercise of no consequence, a one-way communication that was costly in both time and resources.

Working groups in the ladder of political participation[229]

It is clear in the excerpts from the interviews cited above that the involvement of non-state actors in the policy process is now expected as part of the process of legitimating policy decisions. Government departments in both Bulgaria and Serbia frequently make statements about the importance of consultation and participation, but it also clear that NGOs are not satisfied with the level of consultation and participation they are allowed. To evaluate the level of participation of NGOs in national decision-making in Bulgaria and Serbia through the mechanism of working groups, the framework set up in the Council of Europe's Code of Good Practice for Civil Participation in the Decision-

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[227]Data obtained from interviews with the National Network for the Children (Bulgaria), MODS (Serbia), Parents Association (Serbia), Lumos (Bulgaria), Foundation Cedar (Bulgaria), Association Child and Space (Bulgaria), Parents Association (Bulgaria), Foundation For Our Children (Bulgaria), Child Rights Centre (Serbia), Centre for Youth Integration (Serbia), Centre for Interactive Education (Serbia).

[228]The examples given in the interviews with NGO representatives included the draft *Law on Children* (Bulgaria) – not adopted, the draft *Law on Preschool and School Education* (Bulgaria)- not adopted, the renewed standards for the baby friendly programs (Serbia) – not implemented, the Strategy for Development of Education 2020 (Serbia) – no action plan, Bylaw for preschool education (Serbia) – not yet adopted), Bylaw on discrimination (Serbia) – not yet adopted.

[229] The metaphor of participation as a ladder comes from Arnstein (1969).

Making Process (hereto the Code) is used in this section of the study. This Code was developed by the Conference of International NGOs (INGOs) at the Council of Europe – the only assembly of NGOs to play an institutional role in an international intergovernmental organization – following a call from participants at the Council of Europe's Forum for the Future of Democracy, held in Sweden in June 2007, for a code of practice that would cover subjects such as the mechanisms for NGO participation in decision-making processes and civil society involvement in public policy. The Code lays out the rationale, framework and means for enhanced civil participation and, after being tested and commented on by national and international NGOs, is now being used by both activists and representatives of authorities. The Code has been selected for use in this thesis because it is the only formal document by an international European organization that provides specific guidance and detailed information on the levels and forms of NGO participation in policy-making. Furthermore, the Guidelines for inclusion of civil society organizations in the regulation adoption process adopted by the Serbian government in 2014 have the same structure and identify the same principles of participation (participation, trust, accountability and transparency and independence) and four levels of involvement in policy-making as the Code of Good Practice, indicating a broad acceptance of the ideas presented in the Code.[230]

According to the Code of Good Practice, the involvement of NGOs in the different steps of the political decision-making process will vary based on the intensity of the participation. Similar to the framework of public involvement in decision-making presented by Bridgman and Davis (1998) and discussed in the theoretical framework chapter (Chapter 2), the Code identifies four graduating levels of participation, from the least to most participatory: information, consultation, dialogue and partnership. These are briefly described as follows:

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[230]Other CEE countries such as Croatia also use the same principles and levels of involvement in its Code. See Government of the Republic of Croatia (2009). *Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Act.* Retrieved from the Office for Cooperation with NGOs website: http://www.uzuvrh.hr/userfiles /file/code%20of%20practice%20on%20consultation-croatia_final.pdf

1. *Information* – a relatively low level of participation that usually consists of a one-way provision of information from the public authorities and where no interaction or involvement with NGOs is required or expected.

2. *Consultation* – a form of initiative where public authorities ask NGOs for their opinion on a specific policy topic or development. Consultation usually includes authorities informing NGOs of current policy developments and asking for comments, views and feedback. The initiative and themes originate with public authorities, not with NGOs.

3. *Dialogue* – the initiative for dialogue can be taken by either party and can be either broad or collaborative. A broad dialogue is a two-way communication built on mutual interests and potentially shared objectives to ensure a regular exchange of views. It ranges from open public hearings to specialized meetings between NGOs and public authorities. The discussion remains wide ranging and is not explicitly linked to a current policy development process. A collaborative dialogue is built on mutual interests for a specific policy development, usually leading to a joint recommendation, strategy or legislation. Collaborative dialogue is more empowered than broad dialogue as it consists of joint, frequent and often regular meetings to develop core policy strategies and often leads to agreed outcomes.

4. *Partnership* – partnership implies shared responsibilities in each step of the policy process from agenda setting, drafting, decision and implementation of policy initiatives. It is the highest form of participation. At this level NGOs and public authorities come together for a close cooperation while ensuring that the NGOs continue to be independent and have the right to campaign and act, irrespective of a partnership situation. Partnership can include activities such as the delegation of a specific task to an NGO, for example delivery of services, as well as participatory forums and the establishment of co-decision-making bodies, including for resource allocation.

The Code of Conduct also distinguishes between six stages in the political decision-making process, and the above mentioned levels of participation can be applied to each of the stages: 1) agenda setting; 2) drafting; 3) decision; 4) implementation; 5) monitoring; and 6) reformulation.

<p align="center">Matrix of Civil Participation[231]</p>

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

<p align="right">17</p>

The categorization presented in the Matrix of Participation places working groups at the highest level of participation across three of the six steps in the political decision-making process; in the drafting stage, the highest level of participation is called "co-drafting" and it can be assumed that this is a function of the working groups for that stage. However, the findings of this research show that working groups in Bulgaria and Serbia cannot be described as co-drafting venues because this suggests a

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[231] Council of Europe (2009). Code of Good Practice for Civil Participation in the Decision-Making Process

partnership level of involvement for non-state actors in the drafting of policies which is not the case in these countries.

The drafting stage of the policy process is of the highest relevance for the present study since this is the stage where NGOs have most formal involvement in the policy-making process. It is described in the Code as follows:

> Public authorities usually have well-established processes for policy drafting. Here NGOs are often involved in areas such as identifying problems, proposing solutions and providing evidence for their preferred proposal with, for example, interviews or research. Facilitating opportunities for consultation should be a key element in this step as well as various forms of dialogue to collect input from key stakeholders.[232]

The contributions of NGOs at this stage of the policy-making process include guaranteeing that consideration is given to the needs and interests of the stakeholders affected by the draft policy (advocating), and providing analyses and research on issues under consideration or raising additional priorities in the drafting process (expertise and advise). This view of the role of NGOs in policy development supports the view of Dodge (2014) of "deliberative advocacy" where NGOs are expected not only to provide expertise in policy deliberations but to advocate for the needs of their target groups. The responsibilities of the public authorities, on the other hand, include the provision of timely and comprehensive information, adherence to minimum consultation standards such as clear objectives, rules for participation and timelines, and last but not least, responsiveness. Responsiveness is defined in the Code as ensuring the active involvement of relevant public authority representatives in listening, reacting and giving feedback to consultation responses. The importance of the responsiveness of public authorities is reiterated for each of the stages of the decision-making process.

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[232]Council of Europe (2009).*Code of Good Practice for Civil Participation in the Decision-Making Process.*

A very important aspect of the Matrix of Civil Participation presented in the Code of Good Practice for this study is that it shows working groups as the form of interaction with the *highest* level of participation for most stages in the policy-making process. Working groups are presented in the Code as an example of *partnership* between NGOs and public authorities. However, the research findings of this study indicate that working groups in Bulgaria and Serbia are not examples of partnership in the policy-making process between the state and NGOs. They are instead a form of consultation, not even dialogue – 'consultation' here meaning the second level of participation as defined in the Code of Good Practice. There is no actual co-drafting of policies, draft laws or strategies taking place in the working groups, based on consensual agreement. The working groups only develop a document that is considered by the line ministry in their preparation of a legislative proposal to be submitted to the parliament where the final decision-making takes place. The working group process is entirely controlled by the line ministries, from the decision on the necessity of a working group, through to the selection of participants and the content of the final version of the draft law or strategy. The initiative and the themes of discussion originate with the public authorities, and NGOs are simply asked for their comments and opinions. The Code of Good Practice defines such requests for contributions from the state towards NGOs as examples of consultation, a lower level of participation than either dialogue or partnership. If the Matrix of Participation of the Council of Europe is applied to the consultation forums in Bulgaria and Serbia, they need to be classified as ad-hoc multi-stakeholder committees for drafting legislation, and not as working groups.

Another document issued by a European institution that also discusses consultation principles and standards and the issue of responsiveness is the "General principles and minimum standards for consultation of interested parties by the Commission" of the EC. These standards concern the interaction between European institutions and civil society but can be used as an example of the vision of the European Commission on consultation practices in general. On the matter of provision of feedback the Commission states that:

> [T]he main mechanism for providing feedback to participants in
> consultations will be through an official Commission document to
> be approved by the College of Commissioners, i.e., in particular,
> the explanatory memoranda accompanying legislative proposals.
> The idea of providing feedback on an individual basis (feedback
> statements), as requested by some contributions, is not compatible
> with the requirement of effectiveness of the decision-making
> process. Moreover, interested parties should keep in mind that the
> Commission's decision-making is based on the principle of
> collegiality, that is to say only the College of Commissioners is
> entitled to weigh up the pros and cons put forward in a consultation
> process and to adopt a final position in the Community interest
> (EC, 2002).

Still, Standard E of the Commission's minimum standards on consultations states
that:

> Depending on the number of comments received and the resources
> available, acknowledgement can take the form of: 1) an individual
> response, or 2) a collective response… The Commission will
> provide adequate feedback to responding parties and to the public
> at large. To this end, explanatory memoranda accompanying
> legislative proposals by the Commission or Commission
> communications following a consultation process will include the
> results of these consultations and an explanation as to how these
> were conducted and how the results were taken into account in the
> proposal (EC, 2002).

From the position of the EC on the provision of feedback in its own consultation
practices, it cannot be expected that the Commission would emphasize the provision of
individual feedback by national governments to contributions in domestic
consultations due to concerns about the effectiveness of the process. But, as is evident
from Standard E in the Commission's minimum consultation standards, recognition of

contributions and provision of feedback is in fact required, and feedback is to be provided in explanatory memoranda accompanying the legislative proposal and should show the results of the consultations and how they have been incorporated into the proposal.

According to a study on the EU Dialogue with Civil Society commissioned by the Civil Society Contact Group, an alliance bringing together eight large rights and values-based NGO sectors acting in the public interest, NGOs that have participated in consultation organized by the EU institutions have expressed similar concerns in regard to the provision of feedback to those of their Bulgarian and Serbian counterparts at national level. The study argues that there is typically limited feedback on the effects of NGO engagement in dialogue, on whether the institution involved accepts or rejects NGO input, and the reasons behind such decisions. The authors of the study point out that even when institutions are bound to consult they are not bound to listen. In regards to Standard E of the EC consultation standards, they pose the question of whether civil dialogue is actually concerned with impact and the ability to achieve policy change, or merely serves as a "window dressing exercise" (Fazi and Smith, 2006). The findings of this study show that the imperfections of the participatory process are not limited to Bulgaria and Serbia:

> A serious obstacle to NGOs' commitment to civil dialogue appears to be the lack of relevant feedback and accountability. This concerns primarily public consultations and might result, in the longer term, in NGOs' disenchantment and disengagement from a time-consuming process as they have no guarantee that their voices will be heard (Fazi and Smith, 2006).

The provision of feedback is an important issue in the consultation process and raises questions about the definition and characteristics of effective consultation. In the progress reports on Bulgaria and Serbia, the EC uses the terms "public consultation" and "participation" in decision-making when discussing the need for increased involvement of NGOs in the policy process. However, it is not clear whether consultation in this case means only "the authorities informing NGOs of current policy

developments and asking for comments, views and feed-back" as defined in the Code of the Council of Europe or whether it entails the higher level of involvement defined in the Code of the Council of Europe as "dialogue". The title of the Commission's document on its own standards for public participation, "Towards a reinforced culture of consultation and dialogue," and the emphasis of Standard E on providing feedback to participants in the consultation process indicates that by consultation the EC means largely what is defined as dialogue in the Council of Europe's framework. What may cause confusion is that the term 'consultation' is often used as a synonym for all levels of public involvement in the policy process, all of which are just different points on the continuum for consultation rather than just the level where the government provides the public with draft documents and requests for comments (as consultation is defined in the Code of the Council of Europe). Even in the Code of the Council of Europe there is certain ambivalence to the term consultation. Point IV.ii.2 of the Code states that it is a responsibility of the state authorities to "ensure active involvement of relevant public authority representatives; listen, react and give feedback to consultation responses," despite describing consultation earlier as a flow of comments from the stakeholders consulted to the state, not the other way around. In any case, working groups are presented as an example of dialogue and partnership in the Code of Good Practice of the Council of Europe, and the provision of feedback to participants in these working group discussions is essential for the effectiveness of the groups as policy co-drafting venues. The EC consultation standards also state that feedback needs to be provided on the input of stakeholders in the consultation process in general. For these reasons, the provision of feedback and the existence of dialogue between the state authorities and other participants in the working groups are considered essential features of their structure.

However, these criteria are not satisfied in the consultation process in Bulgaria and Serbia, leading to poorly designed consultation practices that do not meet expectations of good governance in terms of quality and legitimacy of policies, consensus, transparency, accountability and opportunities for participation in the policy process. Although working groups in Bulgaria and Serbia officially serve the purpose of including stakeholders such as NGOs in the policy-making process by giving them the opportunity to co-draft legislation and national strategies together with state authorities,

the actual role of NGOs in the drafting process is far from clear. NGOs are being consulted through their participation in working groups, but there are no shared responsibilities in the drafting of legislation between them and the state, and the outcome of their proposals cannot be determined. The line ministries do not provide feedback to the NGOs on their submissions, and do not announce the results of the consultation process or provide any explanation of the acceptance or rejection of certain proposals.

Thus, working groups in Bulgaria and Serbia at present satisfy only the minimal consultation requirements, and therefore lack the characteristics of dialogue and partnership as they do not provide for reciprocal interaction between NGOs and the state. Nevertheless, the working groups do provide the NGOs interviewed for this study with access to the policy-making process and, through that, an opportunity to advocate for their goals in the area of child rights and protection. In the years to come, they thus may well be positioned to push for a more participatory involvement through changes in legislative frameworks that will allow the development of a more influential NGO sector with a higher advocacy capacity. The increasing involvement of NGOs in service provision may also provide opportunities to gather more public support, and improve the dialogue between the state and the third sector by building more trust and cooperation between the two. This may establish a more cooperative and equal relationship in the long-run that can be transferred to the area of policy-making as well.

Conclusion

The analysis of the involvement in policy-making of NGOs working on child rights and protection in Bulgaria and Serbia that has been presented here shows that the consultation process in these two countries is neither systematic nor transparent. There is lack of well-established deliberative institutions in both countries, and the participation of NGOs in the policy-making process is defined to a large extent by the willingness of the government to include them in consultative forums such as working groups.

From the perspective of deliberative theory as developed by Habermas (1994), two major structural problems can be identified in the functioning of working groups as micro discursive spheres. The first problem relates to the design features of the working groups as a deliberative practice. There is no clear regulation of fair terms for achieving results with well-defined roles for participants in these forums that are acceptable to all parties. There is also a lack of good facilitation, of procedures ensuring the fair representation of affected communities, and of equal access to the deliberation process. The ministries not only are not obliged to organize working groups on all legislation and policies, but when they do, it is up to them to decide which organizations to invite, as there is no established selection mechanism. All stages of the working group process are entirely controlled by the government, from agenda setting through to the selection of participants and the decision on the final content of draft documents.

Second, the communication between state officials and participants from the non-profit sector is distorted because one side, the officials in the ministries responsible for adopting the final version of draft policies, is not communicating. The state officials in the working groups are situated hierarchically higher than the other participants and do not find it necessary to provide argumentation or reasoning on their proposals or on the adoption or rejection of others' suggestions. The NGOs are perceived as providers of technical information rather than equal partners by the governments, which believe that policy-making is solely their responsibility. Most importantly, the final versions of policy documents adopted by the government and presented to the parliament often differ from the drafts developed in the working groups and are therefore not based on rational argumentation and consensus among participants – an essential requirement for deliberative policy-making. Working groups therefore are not venues for co-drafting of legislative proposals and policy documents, and in this way joint decision-making on the content of policy drafts; they are only venues for collection of information from stakeholders including NGOs in a discussion which may or may not have any impact on the particular policy document.

The reasons for the government avoiding the provision of reciprocal information to stakeholders and interested parties are not clear but are likely to include higher costs, time limitations and an unwillingness to be held publicly accountable for policy

decisions. It is important to note here that the NGOs working with children in Bulgaria and Serbia also do not have the political leverage to make their national governments satisfy their requests for feedback. This stalemate raises broader theoretical questions about the accountability of national governments, the transparency of the policy process and the legitimacy of state and non-governmental actors in the decision-making process. The inability of NGOs in Bulgaria and Serbia to make their governments more accountable to participants in the policy process and to the general public presents a puzzle for discursive theorists on the nature of policy deliberation in practice because the present consultation mechanisms fall short of the deliberative ideal for a consensus-based policy-making that includes all stakeholders as equal participants. It also highlights the need for NGOs to complement their participation in institutionalized micro discursive forums with a higher engagement in macro discursive forums in order to enhance their political power in the policy-making process. The working groups in their present form are a forum for one-way consultation and not a forum for joint decision-making, as would be expected of committees or working groups convened for policy drafting according to the Code of Good Practice. Although both NGOs and the government officials interviewed for this thesis perceived working groups as a forum for the participation of non-state actors in policy-making, from the government's point of view this was not only a one-way process, but a sufficient level of NGO involvement in the policy process. For the NGOs, however, participation in the policy-making process should have encompassed two-way communication and dialogue, which required the provision of feedback and argumentation from the government. They are, however, unlikely to achieve this without some kind of power base. As suggested by Kingdon (2010), policy proposals and alternatives especially when demanding significant reforms, require sufficient public support in order to counteract the clientele in favor of the existing framework.

Furthermore, even though working groups are presented in the Code of Good Practice for Civil Participation in the Decision-Making Process developed by the Council of Europe as a form of partnership, the highest level of participation, the practice in Bulgaria and Serbia shows that they are instead a form of consultation that do not even meet the criteria for that level of participation. The working groups therefore lack an essential feature of democratic dialogue: two-way communication to

ensure a regular exchange of views. They simply serve as an avenue for the governments in Bulgaria and Serbia to consult NGOs in the policy-making process without sharing their legislative power. However, NGOs in Bulgaria and Serbia also recognize that their relationship with the state has improved in recent years and progress has been made towards a more inclusive policy-making process, partially as a result of EU requirements. Their hope is that their current level of involvement will translate to more extensive, two-way interaction in the future.

Chapter 10

Conclusion

As discussed in the first chapter of this thesis, civil society organizations have been identified as an important factor in the process of the democratization and Europeanization of Central Eastern European countries (Ekiert et al, 2007; Kutter and Trappman, 2010; White, 1994; Green, 2002). The inclusion of civil society organizations in the policy process is viewed as enhancing the transmission of public interests to the government and pluralizing the decision-making arena (Diamond, 1999; Howard, 2003). The participation of civil society organizations in policy-making has also been emphasized by the European Union as part of the EC Enlargement strategies and recommendations towards CEE countries in the accession process. However, it has been noted in the literature and various studies and reports that the participation of civil society organizations in the policy-making process in post-communist countries is still limited. This thesis addresses the puzzle of the unsatisfactory involvement of civil society organizations in policy-making by exploring the role of child-welfare NGOs in the policy process in Bulgaria and Serbia.

To establish the opportunities available to NGOs working with children in these countries to access policy-making, the thesis examined the formal mechanisms for participation through a review of the legal and institutional frameworks in Bulgaria and Serbia (Chapter 5). This review served two purposes: first, it analyzed the laws and national strategies that concern non-profit organizations and their development in order to evaluate their legal status and the activities that they can pursue. Second, it analyzed the regulations that defined the legislative process and the requirements for conducting public consultations as part of this process in order to clarify the current formal mechanisms for the inclusion of NGOs in policy-making. These legal and institutional frameworks were also considered from the perspective of EU accession, drawing a parallel between the EC requirements presented in Chapter 4 and the establishment of consultation mechanisms in Bulgaria and Serbia.

After discussing the legal provisions for the inclusion of stakeholders in the policy process, the thesis also explored the advocacy activities of NGOs working with children in Bulgaria and Serbia (Chapter 7), and the involvement of these NGOs in the policy-making process through participation in working groups (Chapter 8). The findings of this research on the specifics of the process of interaction between the NGOs and the state in the working groups, the main channel for consultation with NGOs, and on the role of the NGOs in policy-making were presented in Chapter 9. Finally, the effectiveness of working groups as a consultation mechanism and a forum for policy deliberation was evaluated using the theoretical perspectives on deliberative policy-making in micro discursive spheres presented in Chapter 3, and the consultation standards defined in the Code of Good Practice of the Council of Europe.

Summarizing the research findings

There is no actual legal obstacle to non-profit organizations engaging in advocacy in either Bulgaria or Serbia. NGOs are entitled to advocate for the needs of their target groups in the national legislature and meetings with the government without being threatened with the loss of their non-profit status or state funds for service provision. Legislation defining the activities of non-profits in this regard has been adopted in both Bulgaria and Serbia in line with EU requirements. The EU has put significant emphasis on civil society development and the inclusion of civil society organizations in policy-making in its recommendations regarding the legislative practices in both Bulgaria and Serbia. These issues have been mentioned numerous times in the EC Progress Reports on both countries and their importance has been stressed in the EC Enlargement strategies. However, civil society development and the inclusion of civil society organizations in national policy-making are not part of the *acquis communautaire* and therefore they are actually not subject to EU conditionality. Despite the numerous communication documents issued by the EC on good governance and consultation with civil society in the policy process, the mechanisms for consultation on the national level are left to the discretion of the nation-state. The governments in both Bulgaria and Serbia have adopted or were in the process of adopting strategies for supporting the development of civil society organizations that emphasized their participation in the policy process. Significant achievements have therefore been made in both countries

towards the recognition of the third sector, the definition of its legal status, the conceptualization of strategies for the support of its development, and establishing channels of communication between state institutions and NGOs.

The inclusion of civil society organizations in the policy-making process is not clearly specified in the regulations defining the legislative process in the two countries and is not obligatory. Although the Bulgarian government has been obliged to include civil society organizations in working groups engaged in drafting the Operational Programs for the distribution of EU funds, in general, the only obligation of the governments in both Bulgaria and Serbia in terms of public consultation is to make draft legislation available online for comments from the general public. They are not obliged to provide responses or feedback on the comments received on the designated web portals and there are hardly any cases when the comments were summarized and published on the portals. Public consultations are a one-way form of interaction between the government and the public, a top-down provision of information by the state. Although consultation standards that are more comprehensive and include a requirement to provide feedback have been adopted by the governments in both countries, these are non-binding and are not widely applied.

Nevertheless, the governments in both countries do engage in working groups, a more interactive form of consultation convened by line ministries to develop or discuss draft legislation, national strategies or policies. Working groups were the main mechanism for inclusion of the NGOs working with children in the policy-making process in both Bulgaria and Serbia. Even though the line ministries are not obliged by law to convene working groups as part of the legislative process, they do use them to consult NGOs and other stakeholders on many legislative projects. The NGOs interviewed for this study gave numerous examples of working groups to which they had been invited.

However, the consultation process is largely controlled by the government, which sets the agenda and, in most cases, selects the participants. Working groups did not provide NGOs with independent or even adequate access to policy-making, although they did provide opportunities for institutionalized advocacy. The appointment, agenda and tasks of the working groups are neither regulated nor fully

institutionalized and the access of NGOs to these forums and thus to the policy-making process must be considered both ad-hoc and limited. The government also did not provide feedback on the proposals made by NGOs in the working groups which is a requirement for effective consultation. Communication therefore remains a one-way process.

Nevertheless, the NGOs interviewed for this thesis in both Bulgaria and Serbia did engage systematically in institutional advocacy as part of their activities, apparently without penalty. They communicated with members of Parliament, sat on different advisory councils and committees, and most importantly, took part in working groups that developed or discussed draft legislation and strategies. These activities of the NGOs appear to support the view expressed in the literature that NGOs can act as a transmission belt between citizens and the state by bringing the issues of their target groups into the policy-making arena through their interactions with the government. Other advocacy activities of the NGOs interviewed for this thesis included monitoring of government policies and implementation, preparing alternative reports for international organizations and the EU, and engaging in advocacy initiatives through participation in networks, domestic and transnational.

However, public advocacy through the use of media and public campaigns was not well developed, largely because of the limited resources of the NGOs. Under these circumstances, the NGOs relied mostly on institutional advocacy because it provided them with a channel to access and potentially influence decision-makers that they would not have otherwise had. The interviews conducted for this thesis certainly suggested that the NGOs found the collaborative relationship with the government more likely to produce policy change and they did not wish to jeopardize it with engagement in more confrontational activities, although this may have been because they were attempting to make the best of the situation they were in. Nevertheless, the preference for institutional advocacy over public campaigns was noted among the NGOs in both Bulgaria and Serbia despite their different levels of engagement in service provision.

Child-welfare NGOs in both countries engage in service provision but not to the same degree. The NGOs in Bulgaria have been active service providers since the late 1990s while NGOs in Serbia have just recently been allowed to be service providers.

There are different factors relevant to the engagement of NGOs in service provision but one of the explanations identified in the research for this thesis is the availability of international funding. In Bulgaria, the international community focused on deinstitutionalization as a main issue in the area of child welfare and provided funding for projects in that area, but as the country moved closer to EU accession, these contributions from international donors decreased. Most of the Bulgarian NGOs interviewed for this thesis stated that currently there was no funding for advocacy or civic activities in Bulgaria, and the only way for them to continue to exist was to provide services using small delegated state budgets and co-funding from international organizations. In Serbia, child-welfare NGOs still had access to international funding for advocacy and awareness raising projects. This can be attributed to the different focus of the international community in terms of civil society development in Serbia. Serbian NGOs functioned as opposition to the regime in the 1990s and were mainly active in the areas of human rights and democracy promotion. This allegedly slower democratization in Serbia is reflected in the USAID CSO Sustainability Index which has continuously ranked the legal and political environment for civil society development in Serbia as less advanced than in Bulgaria.

However, the organizations interviewed for this study stated that there was a shift towards engagement in service provision among Serbian NGOs as well since the level of funding for civic activities had decreased as the country progressed in its EU accession negotiations, and was assumed to be moving closer to a consolidated democracy. Although this engagement in state-funded service provision can relieve some of the negatives of reliance on international support (for example, the distrust it engenders about NGO motivations) it also raises the danger of co-optation as well as impinging on the ability of NGOs to engage in advocacy. On the other hand, the NGOs' direct work with parents and children on the ground enhances their professional knowledge and their awareness of the needs of these groups, and informs their policy work. This technical expertise of NGOs is the main reason for governments to consult NGOs in the policy process through their inclusion in working groups. The governments in these two countries are not obliged to convene such forums for consultation.

The findings of the research underpinning this thesis show that the NGOs working with children in Bulgaria and Serbia see advocacy as an important part of their work. They engage in advocacy to promote the development of better and more informed policies and to improve the well-being of children. However, the NGOs interviewed in both countries were professional non-membership organizations that did not have a large support base. They were not financially self-sustainable, largely due to the difficult economic conditions in these countries and the lack of interest in associational membership among the general public, and were funded primarily by external donors. Although this relationship provided NGOs with a certain leverage and independence from the state, at least while international funding was forth-coming, it also had significant drawbacks in terms of legitimacy: it could make governments suspicious of NGO agendas and lead them to disregard their claims. If NGOs are perceived by the state as actors promoting the interests of foreign organizations, this will no doubt increase the disconnection between the views NGOs and state agencies hold about the policy making process.

The findings of the present research point to a dualism in the attitude of state officials towards the suggestions made by NGOs on draft proposals in the working groups. The interviews conducted for this thesis indicate that government representatives tend to welcome expert contributions from NGOs on technical issues on which the government does not have sufficient information. The state appreciates the collaboration with NGOs in the policy-making process when the policy proposals of the latter do not require difficult changes or significant reforms that are not in line with the policy orientation of the government. NGOs are perceived by the state as one of many stakeholders in the policy process who are useful for providing information because of their work on the ground with different groups, and for the legitimation of policy discussions. However, their advocacy in the working groups is not well received and the role child-welfare NGOs currently have in policy-making in Bulgaria and Serbia is limited to that of providers of expertise. The NGOs, on the other hand, would like to have a more influential position in the policy process but they still lack the capacity and public support to promote their solutions in the consultation forums. Some of the NGOs interviewed for this thesis acknowledged that they needed to develop stronger connections with the broader public in order to have more leverage in the policy process.

Addressing the key themes of the research

The findings of this research are relevant for three different but inter-related areas of scholarship: 1) NGO advocacy activities, 2) Europeanization and the role of the EU in civil society development in CEE, and 3) Non-state actors in the policy process.

With regard to NGO advocacy activities, this thesis shows that child-welfare NGOs in Bulgaria and Serbia actively engage in advocacy, with a clear preference towards institutional advocacy. Nevertheless, decpite their involvement in institutional advocacy through participation in discussion forums convened by the government such as working groups, NGOs were not co-opted in the policy process. The NGOs interviewed for this thesis could still be critical of the government, and express positions different to the stance of state officials. Their main source of support, both politically and financially, were international and inter-governmental organizations and the NGOs often prepared monitoring reports critical of the developments in certain policy areas which they submit to EU or UN agencies. The NGOs also used transactional activism and participation in transnational networks in their attempts to promote their policy proposals and to obtain external support for them.

Another important finding of this thesis was that child-welfare NGOs in these countries engaged in both advocacy and service provision. This supports the argument that these two activities are not mutually exclusive but can co-exist and complement each other. However, this can could if NGOs become exclusively dependent on state funding for service provision as their core activity when international funding decreases further. The availability of sufficient NGO funding from diverse sources is therefore essential for their independence and their ability to pursue policy change through advocacy. Nevertheless, service provision has another important implication for the advocacy activities of NGOs: it provides them with better access to forums for institutional or "deliberative" advocacy. NGOs are invited by the government to participate in policy consultations due to their technical expertise and knowledge of the needs of their target groups. However, it is difficult for the NGOs to translate this better access into stronger influence on policy-making because of their limited connection to the broader public beyond their direct beneficiaries. This thesis shows, therefore, that the focus of child-welfare NGOs on service provision and institutional advocacy allows

them a seat at the policy-making table but not much voice. For NGOs in these countries to gain more political leverage, they may need to enhance their public advocacy, as technical knowledge alone can only grant them the role of providers of expertise in policy development.

The access and role of NGOs in the policy process in Bulgaria and Serbia is also linked to the process of Europeanization and EU accession. The thesis shows that the institutional and legal frameworks related to civil society development and participation in policy-making in Bulgaria and Serbia have improved in parallel to EU requirements. Mechanisms and standards for consultation with NGOs in policy-making have been established in both countries, and the EU emphasis on civil society participation in the policy process has contributed significantly to the enhanced access NGOs have to forums for policy development. However, the findings of the thesis also indicate that these standards are rarely followed in the policy process, and the consultations are often pro-forma discussions where the proposals of the NGOs are either rejected without justification or the adopted policy documents are not implemented. This practice raises questions about the purpose and effectiveness of policy consultations and the extent to which they allow for deliberative policy-making and accountability in the policy process. The EU, however, only has limited influence on the specifics of domestic legislative processes as these are not part of the *acquis communautaire*. They are left to sovereign states, and are therefore not subject to conditionality and strict monitoring.

On the one hand, this lack of clear requirements and guidance by the EU may reflect a view of NGOs as simply an instrument for facilitating the accession and democratization of CEE countries (Pridham, 2007). It is assumed that institutions with participatory structures will be governed by a logic of mobilization but that may not always be the case, especially in relation to the European Union where legislation is proposed by a non-elective supranational Commission. The possession of expertise and lobbying skills may be more important than the mobilization of opinion (Marks and McAdam, 1999 as cited in Petrova and Tarrow, 2006). Therefore, the lack of guidance and monitoring on public involvement in policy-making beyond minimum consultation standards may be reflective of the focus on professionalism and expertise in the EU's own decision-making processes. This emphasis on expert knowledge in policy-making is in line with the developmental trajectory of NGOs in Bulgaria and Serbia as

professional organizations which assist with state capacity building and reforms as part of EU accession. Nevertheless, the EU has played an important role in increasing the organizational capacity of NGOs in these countries by promoting the establishment of more inclusive policy making processes, and providing NGOs with the opportunity to use formal EU procedures and sanctions or "invoke Europe" in their advocacy work (Dimitrova and Buzogany, 2014).

On the other hand, the EC itself specifies in its own consultation standards that the development of better consultation practices should not be based on an over-legalistic, command and control approach but rather be a process of on-going learning. It cannot, therefore, be expected that the EC will provide prescription and monitoring of the consultation process in candidate or member states as such expectations are beyond the current role and conditionality of the EU. The EU supports the participation of civil society in policy-making but does not define the framework it should take. It provides guidance and recommendations for improvement but cannot substitute for a strong and active third sector and an effective and reform-oriented state administration through which to negotiate working consultation forums. In any case, changes in policy-making processes require changes in norms and practices, which in turn, require domestic pressure. Child-welfare NGOs in Bulgaria and Serbia, however, do not have the political leverage to make their governments adopt more transparent and inclusive consultation practices. This is evident in the inability of NGOs to challenge one of the main sources of their dissatisfaction with the consultation process identified in the interviews: the lack of feedback on their proposals and suggestions made in the working groups or sent to the government. According to the requirements for effective consultation identified by Bridgman and Davis (1998), and according to the placement of working groups at a high level of participation in the Code of Good Practice of the Council of Europe, the provision of feedback and the clear definition of roles and potential for influence of the participants are essential elements of satisfactory engagement. In the case of Bulgaria and Serbia, the NGOs did not have sufficient leverage to make the government answer their requests for feedback. Furthermore, they did not consider the development of procedures for NGO participation in policy-making and the improvement of the policy process to be one of their tasks. They preferred to rely on external factors and international organizations to promote changes in the legislative framework and keep a less confrontational relationship with the state in order

to be able to advocate for the needs of their beneficiaries, which are usually disadvantaged groups. To some extent, this tendency reflects the limited public engagement of these NGOs, which makes them reliant on institutional advocacy and cooperation with the government to promote their goals.

This reliance on institutional advocacy, however, holds limitations for the participation of child-welfare NGOs in the policy process and makes their access and influence in policy-making largely dependent on the institutional framework for consultation. The findings of this thesis show that the current mechanisms for inclusion of non-state actors in policy development in both Bulgaria and Serbia do not provide for effective consultation and deliberative policy-making. The inadequacy of the consultation practices can be attributed to the limited institutionalization of consultation as a part of the legislative process, the absence of clear rules of procedure and participants' roles, as well as the total lack of responsiveness on the side of the government to policy proposals made in the consultation forums such as working groups. This limited regulation and institutionalization of working groups as a main mechanism for consultation with non-state actors in policy-making in Bulgaria and Serbia has implications for the ability of NGOs to access and influence the policy process. Due to their reliance on institutional advocacy as the major vehicle for promoting the needs of their target groups and pursuing their agendas, the ability of NGOs to exert pressure on the government on policy issues is limited to micro discursive forums which, however, do not provide participants with clear roles and access to actual decision-making.

The findings of this research support the view that deliberative forums require well established, institutionalized and agreed upon rules of procedure for well augmented, justified and consensus-based policies to be made. They show that, without these, the status of non-state actors in the consultation process is not clear, and draft policies are not subject to consensual agreement since the final version of policy drafts is decided by line ministries outside the consultation forums. These conditions bring dissatisfaction and disenchantment with the existing mechanisms for engagement in policy-making among the NGOs.

The extent to which venues for institutionalized consultation can serve as a micro discursive forum that allows for deliberative discourse to take place, depends on

the procedures that secure fair bargaining processes (Habermas, 1994; 1996). However, working groups in Bulgaria and Serbia do not meet the requirements set by Habermas and other scholars for procedures that guarantee access to non-state actors, argument-based decisions and transparent discussions. The access to working groups in Bulgaria and Serbia is controlled by the government, with the line ministries selecting the participants. The discussions are not transparent as they are not open to the public, and there are no records from the meetings of the working groups that are available to the public. The communication in the working groups is not centered on reasoned argument either, the aim of which is to encourage more rational decisions, and fairer, public oriented outcomes. Even when there are discussions in the working groups, and attempts are made at evidence-based policy-making, the way evidence received is linked to the hierarchy of the actors that present it. State officials are not obliged to provide argumentation or justification for their decisions on the content of policy documents. The working groups therefore serve only as venues for obtaining information and providing legitimation to policy decisions by conducting consultations. These consultations, however, do not meet the essential criterion for effective consultation as set out in the literature (Bridgman and Davis, 1998) and in international standards (Code of Good Practice of the Council of Europe, 2009): responsiveness. NGOs do not receive any response to the proposals made by them in working groups. There are no documents that show the submissions made by the participants in the working groups or the response (if any) of state officials to these proposals.

The lack of any legal requirement to provide feedback on the proposals submitted or explain the rationale behind the final decisions taken by line ministries on the content of draft laws/strategies has a significant implication: it greatly diminishes the transparency and accountability of the consultation process. This in turn significantly decreases the quality of the consultation itself because the purpose of consultation, as defined in the literature and the various standards discussed in this thesis, some of which are endorsed by the two governments, is to enhance the transparency and accountability of policy-making and the public participation in it through a two-way channel of communication. This study shows that there is the possibility of a greater space for interaction and impact in policy-making for civil society organizations available, however, at the moment, the needs of the government determine the interaction in all its aspects, including frequency, form and participants.

The fact is that these venues for deliberation do not provide for effective consultation. They are a form of one-way communication and are not meant to include non-state actors in the actual decision-making where policies and draft legislation are defined. This raises important questions about the role of civil society organizations in policy-making in relation to the broader issue of what participation in the policy process means in practical terms for CSOs, and to what extent joint decision-making practices are feasible in the CEE context.

Clearly, the governments and NGOs have a different understanding of consultation and the role of NGOs in it. For the government, working groups are an instrumental means for collecting technical information on specific issues of governmental interest while for the NGOs they are a main avenue for advocacy. The government is satisfied with the consultation process and its outcome because it perceives decision-making as its sole responsibility and NGOs as a resource for information and policy implementation. It is not clear whether this perception is due to the lack of democratic tradition and good governance practices in the two countries considered in the thesis, or whether it is a structural feature of governments in general to not be willing to share decision-making power with other actors.

The fact that the actual decision-making on the content of draft laws and other strategic documents happens outside the forums for policy consultations raises questions about the feasibility of deliberative policy-making not only in CEE countries, but in general. This thesis has identified a gap between the expectations of civil participation in policy-making set by discursive scholars and international standards and the actual practice of policy consultations. It clearly shows that decision-making authority is not shared in the working groups in Bulgaria and Serbia, and that this indicates that there are significant power differentials that are not taken into sufficient consideration in deliberative theories of the policy process. Even if working groups met the conditions for effective consultation, e.g. responsiveness and transparency, decision-making power would still not be delegated to non-state actors. The working groups would become a venue for open discussion and argumentation over policy alternatives and solutions, which would enhance the accountability and transparency of the policy process, but they would still not meet the ideals of deliberative policy-making simply because the decision on the final policy draft would be made outside this

venue by government officials. The same condition exists in the policy-making process of the European Commission: consultations with non-state actors are conducted but the pros and cons of the proposals are weighed by the College of Commissions who then make the final decision.

The thesis shows that institutionalized consultation forums (at least in Bulgaria and Serbia) are venues for policy discussion and not for decision-making. They are not an example of partnership between the state and non-state actors through co-drafting of legislative proposals. This division between discussions and decision-making raises the question of how a potential better argument-solution developed in policy deliberations can be transformed into policy action. As Habermas (1994) notes, the supply of information and the rational choice of strategies are interwoven in legislative politics with the balancing of interests and the articulation of strong preferences, leading to interpenetration of "dialogical" and "instrumental" politics. Habermas argues that legally institutionalized procedures of democratic deliberation and decision-making are essential for discursive policy-making but does not specify how the potential consensual agreements achieved through deliberation to be transferred to decision makers, neutralizing power differentials. In the case of policy consultations in Bulgaria and Serbia, this lack of transmission of the policy proposal developed in working groups into official draft policy documents is the main source of dissatisfaction among NGOs with regard to their participation in the policy process. Habermas (1994) has not specified the procedures that can provide for the discursive rationalization of the decisions of the state administration either. The working groups in Bulgaria and Serbia currently allow child-welfare NGOs to participate in policy development by providing expert advice but give them limited opportunity to exert influence on policy decisions. These findings support the view that technical expertise can provide NGOs with access to the policy process and enhance their institutional advocacy but the ability to promote policy change and alternative solutions requires strong political leverage that comes from public advocacy and support from an active citizenry.

Some final considerations

This thesis advances understanding of the policy process in CEE countries through the identification of working groups as the most common forum for consultation with child-

welfare NGOs in Bulgaria and Serbia. Although the findings of this research are based on the experiences of a particular section of NGOs in just two CEE countries, there are indications that working groups are used as the preferred forum for policy discussion in other CEE countries and across policy sectors as well. The thesis thus contributes to the literature on the policy process in two ways. First, it fills a gap on the specifics of the mechanisms for participation of NGOs in formal policy-making in post-communist CEE countries, an area that has, to date, been largely unexplored, by providing an in-depth description of this process in Bulgaria and Serbia. Second, it identifies a pattern of consultation practice, the working groups, with almost identical features and limitations, and shows that there is lack of institutionalization of consultation mechanisms, and limited linkage between deliberations and decision-making. Since in both countries working groups do not meet the requirements for effective consultation set in the literature and international standards, this raises questions about the quality of the policy-making and the participation of non-state actors in the policy process in CEE countries which span beyond that specific geographical region and bring up broader issues of good governance, accountability, legitimacy and representation.

The inclusion of NGOs in policy-making beyond the provision of information in the consultation process is clearly seen as not a simple matter. It raises questions about the traditional role of the state as authorized decision-maker elected by the population to reconcile various and often divergent interests, and to act in the interests of the general public. This in turn requires a discussion on the nature of the policy process as authoritative decision-making or structured interaction (Keen, 2006). Future research may thus usefully explore the consultation practices and role of civil society organizations in the policy-making process of the pre-2004 EU member states with the aim of finding out whether they come any closer to the standards for public deliberation set by Habermas (1994, 1996) and the international codes of practice.

The thesis also informs students of Europeanization and democratization of the striking similarity of consultation practices in Bulgaria and Serbia despite the fact that the former has been a member state since 2007. The fact that both countries have the same institutional mechanism for inclusion of NGOs in policy-making despite their differences in political development in the first decade of post-communist transition and their different EU accession status indicates the importance of external EU pressure in

the pre-accession phase for the establishment of consultation practices. Another interesting point for consideration is that the Serbian government was more responsive and provided more information for this research in terms of consultation documents. There were also more consultation events in Serbia than Bulgaria at the time of the data collection, organized mostly by the Office for Cooperation with Civil Society. This difference may be attributed to the stronger influence of the EC in the pre-accession phase and the willingness of candidate countries to satisfy its requirements and recommendations, and/or to a difference in state capacity among other factors.

In the same time, the lack of clear guidelines and monitoring of the mechanisms for civil society participation in policy making on behalf of the EU provides an explanation to the similar limitations for inclusion of NGOs in the policy process evident in Bulgaria and Serbia. This thesis did not find evidence of EU membership impacting on NGO engagement in policy development in Bulgaria; the NGOs interviewed for this research indicated that the inclusion of civil society organizations in consultations was a gradual process which started before the EU accession, under the influence of the EC recommendations in the pre-accession phase. It will be interesting to see whether the degree and form of participation of NGOs in policy making in Serbia will change in relation to the stronger emphasis of the EC on civil society development in the accession negations with the candidate countries from the Western Balkans.

Last but not least, this thesis contributes to the scholarship on civil society organizations by providing empirical data on the activities of NGOs in CEE and more specifically, on their engagement in the policy process. The inability of domestic NGOs to make their governments follow the consultation standards, especially in regard to responsiveness shows the limited capacity of the sector in both countries to exert influence on the state and to promote more inclusive and transparent policy discussions. Although NGOs in Serbia have been more active as advocacy organizations and opposition to the state over the years than their Bulgarian counterparts, the similar way NGOs in these countries were founded as professional organizations with donor funding through a top-down approach now causes similar limitations in terms of popular support, but also provides them with similar opportunities to use the EU as a reference point and source of support in their policy engagement.

The findings of this research show that child-welfare NGOs in Bulgaria and Serbia are actively pursuing advocacy activities and are sincerely aiming at advancing the needs and interests of children and families in public policy. Their work as service providers and/or project implementers does not prevent them from engaging in advocacy; in fact, their direct work with parents and children on the ground enhances their expertise and access to policy consultations. However, their reliance on institutional advocacy to promote their agenda makes their participation in the policy process dependent on the consultation framework operating in Bulgaria and Serbia. Since the consultation mechanisms in these countries are not well regulated or institutionalized and are largely controlled by the state, NGOs are left with little opportunity for influencing policy-making. Without public support NGOs are not in the position to make their governments take their policy proposals into more serious consideration or to demand the establishment of a more transparent and effective consultation process. The NGOs, however, struggle to nurture wider publics as they are not grassroots organizations, have limited public advocacy and work in a challenging socio-economic context. Therefore, they do not have the political leverage to overcome the hindrances set in the current institutional framework on consultation and are obliged to rely on less confrontational tactics. All these structural and organizational limitations have contributed towards the inability of child-welfare NGOs in Bulgaria and Serbia to move beyond symbolic representation vis-à-vis the state and to enhance their role in the policy process beyond the provision of expertise in formal consultations.

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Appendix 1

List of Interviewed Persons and Organizations

A. Preliminary fieldwork (October/December 2012)[233]

Ms Violeta Stanicic, Head of Office, European Parliament Information Bureau – Bulgaria, Sofia

Dr Aleksander Stoyanov, Director of Research, Center for the Study of Democracy, Sofia

Ms Esen Alieva, Information and Communication Assistant, European Commission Representation – Bulgaria, Sofia

Mr Marin Lessenski, Expert European Policies and Civil Participation Program, Open Society Institute, Sofia

Ms Maria Zlatareva, Head of Office, UNDP - Bulgaria, Sofia

Dr Ognyan Minchev, Director, Institute for Regional and International Studies, Sofia

Ms Slaveya Hristova, Executive Director, Balkan Assist, Sofia

Ms Hermina Emiryan, Bulgarian Center for Nonprofit Law; Editor of the NGOs Info Portal, Sofia

Ms Radostina Angelova, Head of the Policy Cabinet of the Minister of EU Funds Management, Sofia

Ms Olivera Ivanovic, ex-employee of Argument Research Centre, Belgrade

Mr Srdjan Djurovic, Program Coordinator, Fund for an Open Society, Belgrade

Ms Pavlina Filipova, Balkan Trust for Democracy (German Marshall Fund of USA), Belgrade – Bulgarian team

Ms Biljana Dakic Djordjevic, Balkan Trust for Democracy (German Marshall Fund of USA), Belgrade – Serbian team

Mr Aleksandar Bratkovic, Director, Center for the Development of the Nonprofit Sector (CRNPS), Belgrade

Ms Dubravka Velat, Executive Director, Civic Initiatives, Belgrade

Mr Dragan Sreckovic, Monitoring & Evaluation and Program Manager, Institute Sustainable Communities (ISC), Belgrade

Mr Vladimir Radojicic, Policy Program Manager, Balkan Community Initiatives Fund , Belgrade

Ms Selena Tasic, Advisor, Office for Cooperation with Civil Society, Belgrade

Dr Vladimir Medjak, Assistant Director, European Integration Office, Belgrade

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[233]In chronological order. Data from these interviews is not used directly and is not quoted in this thesis.

Prof. Nebojsa Vladisavljevic, Faculty of Political Science, University of
Belgrade

Mr Dobromir Zhivkov, Business Development Manager/Sociologist, Market
Links, Sofia

Ms Zinaida Zlatanova, Head of Office, European Commission Representation in
Bulgaria, Sofia

B. Core fieldwork (January/May 2014)[234]

Representatives of 16 child-welfare NGOs and UNICEF:

> *Anonymous, National Network for the Children (Sofia, Bulgaria)*
> *Anonymous, For Our Children Foundation (Sofia, Bulgaria)*
> *Ms Lindsey Saltsgiver, Executive Director, Cedar Foundation (Sofia,
> Bulgaria)*
> *Ms Anguelina Daskalova, Member of the Management Board, Child and
> Space Association (Sofia, Bulgaria)*
> *Anonymous, SOS Children's Villages Foundation (Sofia, Bulgaria)*
> *Anonymous, Social Activities and Practices Institute (Sofia, Bulgaria)*
> *Anonymous, Parents Association (Sofia, Bulgaria)*
> *Ms Nela Vamporova-Peters, PR Manager, Lumos Foundation (Sofia,
> Bulgaria)*
> *Anonymous, UNICEF Bulgaria (Sofia, Bulgaria)*
> *Mr Sasa Stefanovic, President, Network of Civil Society Organizations for
> Children in Serbia (Nis, Serbia)*
> *Anonymous, Association for Development of Children and Youth
> (Belgrade, Serbia)*
> *Anonymous, Child Rights Centre (Belgrade, Serbia)*
> *Ms Ljiljana Vasic, Director, Help for Children (Belgrade, Serbia)*
> *Anonymous, Centre for Youth Integration (Belgrade, Serbia)*
> *Anonymous, Centre for Interactive Pedagogy (Belgrade, Serbia)*
> *Anonymous, Parents Association (Belgrade, Serbia)*
> *Anonymous, Disability Rights International (Belgrade, Serbia)*
> *Ms Aleksandra Jovic, Programme Specialist, UNICEF Serbia (Belgrade,
> Serbia)*

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[234]The names of the interviewees from NGOs and state officials who indicated they would like to remain
unidentified are not provided due to confidentiality considerations as per the Macquarie University Ethics
approval for this thesis.

Interviews with academics and state officials:

Prof. Dobroslav Milovanovic, Faculty of Law, University of Belgrade, Serbia

Ms Tamara Luksic Orlandic, ex-Deputy Ombudsman on Child rights in Serbia

Ms Snezhana Klasna, Deputy Minister for Youth, Ministry of Youth and Sports, Serbia

Anonymous, Council on Child Rights, Ministry of Labour and Social Policy, Serbia

Anonymous, School Administration, Ministry of Education, Serbia

Anonymous, Ministry of Education, Serbia

Mr Zarko Sunderic, Team Manager, Social Inclusion and Poverty Reduction Unit (SIPRU), Office of the Deputy Prime Minister for European Integration, Serbia

Ms Branka Andjelkovic, Team Leader, Project "EU Support for the Office for Cooperation with Civil Society", Serbia

Anonymous, Ministry of Labour and Social Policy, Bulgaria

Ms Eva Zhecheva, Chairperson, State Agency for Child Protection, Bulgaria

Ms Annette Marinova, Advisor, Ministry of Education, Bulgaria

Appendix 2

Ethics Approval

Ethics Application Ref: (5201300491) - Final Approval

Dear A/Prof Pavkovic,

Re: ('Non-governmental organisations and public policy in transition
countries: a case study of Bulgaria and Serbia')

Thank you for your recent correspondence. Your response has addressed the
issues raised by the Faculty of Arts Human Research Ethics Committee.
Approval of the above application has been granted, effective (13/08/2013).
This email constitutes ethical approval only.

This research meets the requirements of the National Statement on Ethical
Conduct in Human Research (2007). The National Statement is available at
the following web site:

 http://www.nhmrc.gov.au/_files_nhmrc/publications/attachments/e72.pdf.

The following personnel are authorised to conduct this research:

A/Prof Aleksandar Pavkovic
Miss Denitsa Filipova
Mr Tobia Fattore

NB. STUDENTS: IT IS YOUR RESPONSIBILITY TO KEEP A COPY OF THIS
APPROVAL
EMAIL TO SUBMIT WITH YOUR THESIS.

Please note the following standard requirements of approval:

1.   The approval of this project is conditional upon your continuing
compliance with the National Statement on Ethical Conduct in Human Research
(2007).

2.   Approval will be for a period of five (5) years subject to the

provision of annual reports.

Progress Report 1 Due: 13th August 2014
Progress Report 2 Due: 13th August 2015
Progress Report 3 Due: 13th August 2016
Progress Report 4 Due: 13th August 2017
Final Report Due: 13th August 2018

NB: If you complete the work earlier than you had planned you must submit a Final Report as soon as the work is completed. If the project has been discontinued or not commenced for any reason, you are also required to submit a Final Report for the project.

Progress reports and Final Reports are available at the following website: http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics/forms

3.   If the project has run for more than five (5) years you cannot renew approval for the project. You will need to complete and submit a Final Report and submit a new application for the project. (The five year limit on renewal of approvals allows the Committee to fully re-review research in an environment where legislation, guidelines and requirements are continually changing, for example, new child protection and privacy laws).

4.   All amendments to the project must be reviewed and approved by the Committee before implementation. Please complete and submit a Request for Amendment Form available at the following website:

http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics/forms

5.   Please notify the Committee immediately in the event of any adverse effects on participants or of any unforeseen events that affect the continued ethical acceptability of the project.

6.   At all times you are responsible for the ethical conduct of your research in accordance with the guidelines established by the University. This information is available at the following websites:

http://www.mq.edu.au/policy/

http://www.research.mq.edu.au/for/researchers/how_to_obtain_ethics_approval/human_research_ethics/policy

If you will be applying for or have applied for internal or external funding for the above project it is your responsibility to provide the Macquarie University's Research Grants Management Assistant with a copy of this email as soon as possible. Internal and External funding agencies will not be informed that you have approval for your project and funds will not be released until the Research Grants Management Assistant has received a copy of this email.

If you need to provide a hard copy letter of approval to an external organisation as evidence that you have approval, please do not hesitate to contact the Faculty of Arts Research Office at ArtsRO@mq.edu.au

Please retain a copy of this email as this is your official notification of ethics approval.

Yours sincerely

Dr Mianna Lotz
Chair, Faculty of Arts Human Research Ethics Committee
Level 7, W6A Building
Macquarie University
Balaclava Rd
NSW 2109 Australia
Mianna.Lotz@mq.edu.au

Interview Guidelines

A. Interviews with child-welfare NGOs

Part One: Organizational Specifics

1. What is the primary focus and activity of your organization?
   (a) How long has your organization been in operation?
   (b) Has your primary activity changed in the last 7-8 years?
2. Does your organization engage in service provision? If so, what motivated you to enter that field? If not, what deters you from this type of activity?
3. How do you develop the organizational agenda and priorities for the year? (prompt: following major topics from the international scene or the government)
4. How do you keep informed of the needs and issues of children in order to incorporate them in your projects?
5. Is your organization a member of a larger European or international NGO network?

Part Two: The Policy-making Process

1. How much priority have the different governments given to the issues of youth and children in the last 6-7 years?
2. Which specific policy developments and government initiatives in the last few years do you think contributed most to the well-being of children?
3. Has your organization participated in the development of policies on children's issues in the last few years?
4. What types of advocacy activity does your organization engage in? (Submitting draft legislation, Providing policy expertise to state agencies, Participating in government working groups, Distributing press releases, Organizing information campaigns, Organizing protests and petitions)
5. Which are the most salient policy issues on which your organization has interacted with the government in the last three years? Why did you choose to get engaged in these particular issues?
6. In what ways does the staff in your organization get involved in the policy process? Can you describe some of the activities?
   a) Does the staff in your organization dedicate time to read draft governmental policy?
   b) Does your organization provide written feedback directly to the government about proposed policy? If yes, can you please provide some examples?
   c) Do you submit policy proposals in coalition with other NGOs?
   d) To what extent is that feedback incorporated in policy decisions, at least in your opinion?

7. Which state institution or representatives does your organization communicate most often with? How would you describe your relationship with these representatives?
    a) How often does your organization meet with state representatives?
    b) Who is the usual initiator of the communication – your organization or the state officials?

8. To what extent and how does the government encourage organizations like yours to participate in the policy-making process? Why or why not?

9. Does the government have standard procedures to consult organizations like yours on pending policy (prompt: round tables, working groups, calls for comments on draft legislation)?

10. Is that different on a regional/local level?

11. Have you participated in any working groups or round tables organized by the government in the last few years? Who initiates the participation?
    a) What may be the major drives for the government to organize such discussions?
    b) How often are such meetings held in one year?
    c) How are NGOs selected for participation in working groups? Does the government favor certain types of organizations over others?

12. Do you keep a record of the discussions from these meetings?

13. To what extent do you think your organization influences policy decisions?

14. What barriers do you identify to making a contribution?

15. How does your organization proceed when you want to bring up a topic which is not currently on the agenda and there is no call for comments?

16. How participatory do you consider the policy process?
    a) Do you consider it transparent; is the information available on participation in the policy-making process clear and sufficient?
    b) To what extent does the current government involve NGOs in its policy making and implementation?

17. Are you satisfied with your communication with government agencies and the established mechanisms for interaction (merits/drawbacks)?

18. To what extent have the consultation standards adopted in 2009 applied in your policy area? For Serbia – what do you think of the consultation standards recently developed by the Office for Cooperation with Civil Society?

19. Have you participated in one of the working groups on the Operational Programs/Partnership Agreements?

20. Since joining the EU in 2007 (or since starting official negotiations with the EU in 2007 for Serbia), have the government representatives been taking more effort to consult non-governmental organizations like yours? In what ways?
    a) Has there been any change in the mechanism available to NGOs for accessing the policy-making process?
    b) If so, what is a possible explanation of that change?

21.   What is your overall impression of the dialogue and the communicative process with the government? In your opinion, what could be done to improve links between NGOs and policy makers?

Part Three: Funding Sources

1.   How does your organization meet its operating costs? What part of your funding comes from the EU/the government/international organizations/ donations?

2.   Has your organization applied for funding to the EU, the national government or any other international donor?

3.   How would you describe the funding flow? Is it related to donor pre-determined project areas?

4.   In your opinion, what kind of activities or projects receives more funding? (Substantive area or issue: disability, health etc. and service type or function: advocacy, service delivery, research)

5.   Have you noticed any changes in the level or sources of funding that are available to your organization after the accession (opening official negotiations with) to the EU?

6.   What part of your projects is funded from EU programs or the Structural Funds/pre-accession funds? How was that different before 2007?

7.   Is your organization eligible for funding from any of the Operational Programs (Pre-accession programs for Serbia)?

8.   Would you say your organization needs additional funding? What do you think would be a good mechanism for funding NGOs in the country?

B. Interviews with state officials

1.   What are the main strategies and draft laws in the area of … developed in the last 6-7 years by the Ministry in cooperation with the NGO sector?

2.   What are the institutional mechanisms for cooperation with NGOs in the development and implementation of this legislation or programs?

3.   How would you describe this cooperation?

4.   Which NGOs does the Ministry cooperate regularly with? Who initiates the communication?

5.   How does the NGO sector contribute to or hamper the work of the Ministry?

6.   How would you evaluate the communication with NGOs working on child rights and welfare?

7.   To what extent does the Ministry encourage the participation of NGOs in the development of legislation and strategies? Are there any standard procedures for their involvement in policy-making?

8.   Are the discussions in the working groups and the suggestions made by NGOs and other participants being documented/recorded?

9.   What is the main contribution of NGOs in these discussions?

10.   How can the dialogue between NGOs and the Ministry be developed further?

C. Interviews with NGOs on working group specifics

Questions for the NGO umbrella organizations:

1.   Who approached you and invited you to participate in the working group? Did you know this person from before?

2.   Which institution was organizing the group and what was its purpose?

3.   Do you know how your NGO were selected to participate? Was that explained to you at all?

4.   What were the main goal and the more specific aims of the working group? Were you informed of this prior to the working group meeting?

5.   Were there other NGO representatives in the group? How were they selected?

6.   Were you informed what your NGO role is in the working group or what is expected from you?

7.   Were you told to prepare or to provide information or data for the working group?

8.   How did a meeting of the working group develop/proceed? Who chaired the meeting? Was there are time schedule and/or agenda given at the beginning of the meeting. Where was the meeting held?

9.   How many meetings did the group have? Did you participate in all of them?

10.   Was the text of the draft document given provided to you to comment on, or did you have to develop it in the group? If the document was pre-drafted, who was it written by?

11.   Did you have to discuss the draft orally or provide written submissions for the meetings of the working groups?

12.   Could you raise topics that were not in the draft document or on the original agenda? Did you get support or responses from other participants in the group?

13.   Do you think all participants in the group were treated equally and were given equal access to speak or to discuss the issues?

14.   What were the major issues discussed in the group? Which was the most important aspect for you?

15.   Were you sent the final version of the document for comments or consent?

16.   Was justification provided for the inclusion of certain proposals in the document and not others? If so, was that in written form?

17. Did you get any feedback from the ministry on your proposals?
18. Do you keep a copy of your proposals and/or the working documents of the group?
19. Is there a dedicated person at the ministry who is responsible for liaising with NGOs and is your contact point?
20. Do you think this working group achieved the objectives set for it?
21. Did it achieve anything else?
22. What is the main significance or impact of that working group for your NGO? What benefits if any did you NGO get from the participation?

Questions for the ministries:

1. Why did the ministry convene a working group on that issue? Is that a common practice?
2. What was the main goal for the work of that group?
3. Representatives of which NGOs participated in that particular working group?
4. How were they selected, is there a selection mechanism or criteria for the participants?
5. Who selected the NGOs to be invited to the group?
6. Is there a particular reason for selecting these NGOs and not others?
7. What was their expected contribution? What was the role of the NGOs?
8. Was their role clarified to them, and what is expected of them?
9. How many meetings did the group have and how did a meeting of the working group develop/proceed?
10. Was the text of the draft document given provided to the participants to comment on, or did they have to develop it in the group? If the document was pre-drafted, who was it written by?
11. Who managed the working process of the group?
12. Were the opinions expressed by the NGOs and the other participants in the group discussions recorded somewhere?
13. Do you keep a track of the written submissions of NGOs or any other working documents from the group?
14. How were the submissions of NGOs taken into consideration when finalizing the content of the draft document?
15. Who made the decision on what to be included in the document and what not, and was justification provided for this selection?
16. Was the final version of the document sent to the participants for   comments?
17. Is there a dedicated person at the ministry who is responsible for liaising with NGOs and being their contact point?

Appendix 3

Activities and projects of interviewed child-welfare NGOs

A. Bulgaria

National Network for the Children (NMD)

Website: http://nmd.bg/

Profile: In Bulgaria, the NGO that has been identified as the most active and visible in regard to advocacy on children's issues is the _National Network for the Children_ or _NMD_. This is an umbrella organization with approximately 120 member NGOs from across Bulgaria. It was established in 2003 with a focus on advocacy campaigns for the well-being of children. The member organizations pursue the well-being of children in different areas such as health, education, foster care, minorities and children with disabilities. They have annual meetings to discuss the areas and projects they work on, and to set the priorities of NMD, and they frequently issue joint statements. Beside the information obtained from its members, NMD uses national sociological research, focus groups with parents and external consultants for the development of its strategies.

The mission of the network is to strengthen and facilitate cooperation between NGOs and other stakeholders that work for the rights and well-being of children. NMD coordinates the advocacy activities and advocates on behalf of its member organizations, follows state policy strategies and draft legislation, and informs its members on the latest developments, aiming to provide regular and accessible information from its members and to them. The website of NMD provides comprehensive coverage of the policies and events in the field of families, education, health care and juvenile justice. Its representatives often take part in round tables and conferences organized by other NGOs or the state administration on issues relevant to children. In April 2014 in Sofia, the Network hosted the 7th European regional meeting of child rights coalitions that involve experts and practitioners in monitoring the implementation of the UNCRC and children's rights in their countries. It also engages

children and youth in discussions, and is a member of two international networks, EuroChild and ChildPact.

Projects and funding: Through its projects, NMD works for the establishment of effective social inclusion policy with a special focus on children and families, and supports civil society organizations working on child protection so that they can influence state policy. Some of its main projects are: "Citizens campaign for a better regulatory framework on child rights in 2012;" "Procopil" (an international project fighting the abuse of children, co-financed by the Ministry of the Exterior of France); "Child at the center" (a UNICEF project aimed at placing the issues of children on the governmental agenda); "Focus on the child" (OAK Foundation project supporting civil society organizations in Bulgaria that work on child protection so that they can advocate more effectively for better policies on children); and "Foster a child, create a future" (a project initiated by Mobiltel, a major mobile network operator, to support and popularize foster care; the project is performed in partnership with state agencies). Most of its funding is provided by various international organizations such as the OAK Foundation on a project basis.

Advocacy: Another important project performed by the Network on an annual basis is the Report Card which provides an evaluation of the performance of the government and the state administration in terms of the fulfillment of their commitments towards the children in the past year. The Network engages extensively in institutional advocacy through the submissions of opinions and proposals, and also through participation in working groups. It participated in the development of the National Strategy for the Child ('08-'18) in 2007 and in a recent working group set up to operationalize the priorities of the annual national program developed by the State Agency for Child Protection. It has also played an active role in the development of the recent draft *Law on Preschool and School Education*, and the draft *Law on Children*. Recently, the Network has taken part in a working group on children with disabilities to review the National Program for Safeguarding the Rights of Children with Disabilities, 2010-2013, and to develop a framework for a new program. It is also a member of the expert working group on deinstitutionalization. Other working groups in which the Network participated in 2013 included four working groups for the development of the

partnership agreement and three operational programs (OP Human Resources, OP Education, and OP Good Governance) for the next programming period of EU funds.

The other NGOs working on children issues in Bulgaria which are active and visible and were interviewed for this research are presented below and are all members of NMD.

For Our Children Foundation (FND)

Website: http://www.detebg.org/bg/

Profile: The Foundation works extensively for the promotion and development of foster care and is a successor of EveryChild, which operated in Bulgaria between 1992 and 2007. The main identity of the organization has been defined by its director as a capacity building organization that develops local capacities for child rights protection, with a focus on the right of children to grow up in a family environment. This includes direct work with the Bulgarian government. The foundation has done pilot projects on deinstitutionalization that have provided information on the needs of children living in state homes in specific municipalities and recommendations and assistance with the development of community based services in order to meet those needs. The organization works on two levels. First, it works in the field with families in its Centers for Social Support, supporting foster parents and the re-integration of children from state homes into their families, the prevention of the abandonment of newborns and early intervention. Second, it works on the development of policies for children and proposes changes in the regulatory framework.

Projects and funding: The foundation is funded from three different sources: the OAK Foundation, the Open Society Institute and the EU (only from the pre-accession funds). They are partners with two municipalities in the city of Plovdiv working together on a project funded by the EU for the replacement of two centers for babies with new integrated social services.

For Our Children has established four centers for community support and foster care in the country that provide education, evaluation and support for foster parents. In

2014, the foundation was partnering with two municipalities on establishing two complexes for social and medical services for children 0-3 years of age and their families (development and establishment of innovative integrated services for deinstitutionalization and prevention of abandonment of children 0-3 years of age). The complexes will have centres for family consultation, maternal and child health, daily and residential care for children with disabilities etcetera. The foundation also runs one Children's House in Sofia - a small home for between 6 and 8 children.

Its "Children's House" project (2001-2005), funded by EveryChild foundation has demonstrated a model of good practice for children 3 to 12 years old who are at risk and need to be placed in a setting with a family atmosphere until a lasting solution for their up-bringing and socialization problems are found. The "Children's House" project was implemented in the city of Plovdiv and supported the work of the Department for Child Protection, Directorate "Social Assistance", Plovdiv. The project was conducted in partnership with the municipality of Plovdiv, the Ministry of Labour and Social Policy, the Social Assistance Agency and the State Agency for Child Protection.

Advocacy: The director of the foundation evaluates their influence in policy-making as significant. The organization has maintained its advocacy and lobbying activities despite its increased engagement in service provision, and has kept participating in working groups on draft legislation. Its team keeps regular contacts with the State Agency for Social Protection, the Ministry of Labour and Social Policy, and recently with the Ministry of Health, the communication being weaker with the Ministry of Finance and the Ministry of Justice. According to its Director, the foundation supports the pro-active approach in advocacy and the management of the organization considers re-establishing a lobby program in their activities but they may not have the necessary resources for it at this stage.

Cedar Foundation

Website: http://www.cedarfoundation.org/bg/

Profile: This organization was founded in 2005 and focuses on deinstitutionalization. It is a member of the State Council for Child Protection and the expert working group on

deinstitutionalization. The foundation worked for three years on the process of closing down the institution for children in the village of Gorna Koznitsa, and the transition of the children and young adults who lived there to community-based services. It also supports the social integration of children with disabilities through the provision of liaison for children and young adults to go to schools, day care centres, community centres and town events.

Projects and funding: The Cedar foundation manages the family-type homes Sianie in the town of Kustendil since their establishment in 2010. These are the home of 24 children with intellectual or physical disabilities. The premises and the land are the property of the municipality and the funding for the management of the homes comes from the state budget. However, the amount of state funding is not sufficient to provide adequate care for the children and the foundation needs to find additional funds through fundraising. The foundation is supported by business and individual donors and some international organizations and embassies as well as the Cedar Foundation in Switzerland, a charity formed in 2012 to support the work of the Cedar Foundation in Bulgaria.

Advocacy: Another project the Cedar foundation has executed was funded by the EU and focused on the empowerment of people with disabilities, aiming to provide an opportunity for children and adults with intellectual disabilities to perform a more significant role in the decision-making processes that have a direct impact on them. The foundation is part of the expert working group on Deinstitutionalization and the Council for Child Protection, and they have also participated in the development of the service-specific methodologies for community based services organized by the Ministry of Labour and Social Policy.

<u>*Child and Space Association (SDP)*</u>

Website: http://www.childandspace.com/

Profile: The SDP was established 10 years ago. It started initially in 1994/5 when the Ministry of Health began closing down all "Mother and baby" centers (for 0-3 year olds) that were then converted into Homes for Medico-Social Care. These are in turn

being closed down now with the aim of establishing social services through which to prevent the abandonment of children from that age group. The French organization Doctors of the World came to Bulgaria in 1994 to support this reform process through its program "Growing up without parents", supporting the personnel in changing their perception of abandoned children and performing numerous meetings and trainings in different centers with their own funding. In 2001, Doctors of the World left Bulgaria after a long process of local capacity building on specific approaches for work with children and adults.

Projects and funding: Child and Space currently manages three family-type homes for children and works towards the development of professional service provision and an interdisciplinary approach in the work with children. The buildings are the property of the municipality and the funding comes from the state (a budget is given from the state to the municipality and then funds are delegated to the NGO). However, the funds are not enough to cover the expenses of the homes. Child and Space secures additional financial support through fundraising campaigns and donor organizations.

Advocacy: The organization is active in advocacy, and has submitted a proposal to the State Agency of Child Protection for re-calculation of the state budgets for family-type homes. Its employees are often invited to government working groups, mostly because of their long experience and work on the ground, especially when the issue concerns specific cases. The organization is also a member of the National Council for Child Protection.

SOS Children's Villages Foundation (SOSBG)

Website: http://sosbg.org/

Profile: Established in 1990, the SOSBG is a branch of an international organization, Kinderdorf, but is registered as a separate legal entity in each country and deals mainly with service provision through the establishment of family-type homes for abandoned children. The organization manages two family-type villages for children, four family-type homes for adolescents, and four centers for social support.

Projects and funding: The family-type villages for children are located in Triavna (founded in 1993) and Dren (founded in 1995) and consist of 12-13 family houses, in each of which five to six children live with an SOS parent. Thus, these villages provide a family-type home for approximately 150 children at the age 0-18 years. The four homes for adolescents in Veliko Tarnovo and Sofia provide a home for the children after they leave the SOS villages in their transition to professional realization. The centers for social support provide services to families and children such as psychological and social counseling, psychological, pedagogical and legal support.

SOS Children's Villages Bulgaria is financed by a state subsidy for delegated services. This is not sufficient to cover the expenses of the family-type homes so the organization needs to provide additional funds. Its sources of funding are individual and corporate donations, and donations from organizations in the Kinderdorf network that are expected to cease in 2020 as Bulgaria is now considered to be part of a developed region. This NGO does not engage extensively in lobbying as most of its resources are directed towards fundraising and self-financing, and adaptation to changing conditions and restructuring within their international umbrella organization.

Advocacy: However, SOS Children's Villages still engages in advocacy through the development of various strategic documents with the National Network for Children (NMD) and through participation in the National Council for Child Protection, and the working group on deinstitutionalization at the State Agency for Child Protection. The organization is also involved in working groups at the Council of Ministers that define the distribution of EU funds in Bulgaria through several Operational Programs developed for different economic sectors for a pre-specified programming period.

The Social Activities and Practices Institute (SAPI)

Website: http://www.sapibg.org/

Profile: The Institute was established in 2001 and works on developing community-based services providing support to disadvantaged people including target families and children. It seeks to influence governmental policy in a way that will provide a greater number of community services and experts working for the social integration of socially

excluded groups. It is active on the issues of children, has been a member of the National Council for Child Protection, and has supported the Vision for childcare reform proposed by NGOs in 2008.

Projects and funding: The Institute provides social services but also participates actively in designing and developing social policy by organizing public discussions, round tables and campaigns dedicated to the social inclusion of isolated social groups, and by supporting the process of decision-making by providing research and assessment in the social sphere. Its work is funded by different donors and over the last two years it has been developing sustainable mechanisms for centrally and locally funded services and collaborating closely with governmental institutions for their implementation as a state policy.

Two of the recent programs of the Institute are the "Support to those in the helping professions" programme, which aims to provide national support to professionals in the helping professions in implementing the new concept of social inclusion and social change in relation to vulnerable groups of children, young people, families and communities, and the "Social services for individuals, groups and communities" programme, which has the strategic goal of supporting vulnerable groups to become actively involved in social life and targets families, young mothers, children victims of violence, young girls victims of traffic and children with asocial behaviour.

Advocacy: As part of their work on social inclusion and social change, SAPI participates in different working groups for the development of national strategies and policies, and methodologies for social services. The Institute also produces evaluative reports of the implementation of policies.

Parents Association (Roditeli)

Website: http://www.roditeli.org/

Profile: This organization was established in 2001, with the mission of encouraging good parenthood as a basic social value, and to support the family as the natural environment for bringing up children. Its focus is on education and the inclusion of

parents in the development of education strategies, change in the education system, violence prevention, the behavior of children on the internet, and state support for families.

Projects and funding: Roditeli works towards the development of national policies for education on volunteering and respect for the environment, children's engagement in sports and arts, child healthcare, education, abuse prevention, assistance for single parents and families with many children and the public control of foster care institutions. The organization is a member of the National Council for Child Protection. Its funding is project based and the OAK foundation is one of its main donors. Others include the EC, private donors, the business and UNICEF.

Advocacy: The association engages actively in advocacy. It sends letters, proposals and inquiries, and participates in working groups such as the one on the development of the draft *Law on Preschool and School Education*. Some of the issues they have advocated successfully for are a ban on "free classes" in schools (when the regular teacher of a unit is not able to take the class, the students are free to use that time as they like) and the introduction of substitute teachers for these classes, and the provision of additional points for admission in kindergartens for children from large families by the Ministry of Education. The association is still working towards the establishment of tax concessions for working parents and the indexing of pensions for retiring mothers which take into consideration the education level of their children.

Lumos Foundation

Website: http://bulgaria.wearelumos.org/

Profile: Lumos is an international organization found by J. K. Rowling in 2005. It works to support the children in institutions worldwide to regain their right to a family life and to end the institutionalization of children. Their office in Bulgaria was established in 2010, when they were asked by the government to provide expertise and technical assistance to help implement the national strategy for deinstitutionalisation with the aim of closing all its 137 large institutions for children by 2025.

Projects and funding: Lumos' work supports and advocates for the fulfilment of the deinstitutionalization goals set in the country and for the development of adequate community-based services for children. After the scandal with the BBC movie on the large institution for children in the village of Mogilino, the government of GERB began to develop a Vision and Action Plan for Deinstitutionalization which included a few big European projects.

Advocacy: Lumos assists the government with the process of deinstitutionalization and advocates for the development of effective and efficient social services, for prevention of child abandonment, for changes in the system of social assistance, poverty reduction strategies and assistance for families. They have participated in different working groups and are a member of the expert group on deinstitutionalization.

B. Serbia

Network of Civil Society Organizations for Children in Serbia (MODS)

  Website: http://www.zadecu.org/

Profile: MODS is the organization that is most visible in regard to advocacy on children's issues in Serbia. It is also a network organization similar to the NMD in Bulgaria. It was formed in May 2011 as an informal network and currently consists of 93 NGOs that work with children and child rights protection. The work of MODS was supported by UNICEF until the end of 2012 so that the Network could establish a secretariat and thematic groups and develop essential documents and recommendations as well as establish cooperation with state institutions and independent bodies.

Projects and funding: Currently, MODS is funded on a project basis by international donors such as USAID, the EU, and foreign embassies. It receives very limited financial support from the state. It is a member and a partner in the National Partner Network of the international network Eurochild for Serbia.

Advocacy: The mission of the Network is the realization of the rights and the improvement of the position and quality of life of children in Serbia. It has two major

thematic streams. The first thematic group *Children and family* deals with issues of poverty and the social exclusion of children, providing comprehensive support for the life of a child in a family environment. The second thematic group *Education and participation of children* deals with the issue of affordable, high-quality formal and non-formal education, the promotion of the concept of inclusion, the promotion of the importance of a participatory role for children and of issues relating to the early development of children. One of the main objectives of the Network is to increase the participation of civil society and children in the formation of policies for children. It advocates on the national level on behalf of its member organizations and provides them with relevant information on policy developments in their respective areas.

Open Club - Association for Development of Children and Youth

Website: http://www.oknis.org.rs/

Profile: Open Club is one of the founding organizations of the National Network of Civil Society Organisations for Children of Serbia (MODS) and hosts the network in its premises. It was founded by a group of experts and university professors in 1996 and since then it has continuously been working with children and youth.

In 2007, there was a project initiated by the government, more specifically by the Deputy Prime Minister and the Social Inclusion Unit (SIPRU) for the development of a Poverty Reduction Strategy. For that purpose, there was an open call for NGOs to create Focal Points of civil organizations for seven pre-defined groups of beneficiaries. Open Club submitted a proposal and was selected to establish the cluster of NGOs working with children to provide two-way communication with the ministries for the poverty reduction strategy as the government wanted to raise civil society participation. Open Club was also the focal point of the governmental Social Inclusion Unit (SIPRU) for children issues that organized the round tables in Nis for the public discussion of the new draft *Law on Social Welfare* in February 2010.

Projects: Open Club has three major areas of work. The first is "Education of children and youth and development of their social skills" where it works directly with beneficiaries, children and youth, organizing workshops on different issues related to

child rights, participation of children, education, citizens' roles, antidiscrimination and strengthening children activism. The organization also works on a policy level to improve the cooperation between institutions in the area of the protection of children from violence. Open Club's second major field of work is "Reinforcement and inclusion of marginalized groups of children and youth" where the centre runs a project with marginalized and "regular" children who play together in a theatre and musical band. The third area of its work is "Strengthening internal capacities and capacities of other CSOs in Serbia" and focuses on networking and international cooperation. Its projects include Internet Safety, Music for Inclusion, Youth Network for Inclusive Society, Bulgarian-Serbian Innovative Teaching Network, and Education for Child's Rights.

Advocacy: The group has been implementing projects supporting the development of civil society through networking and has been working on programs to strengthen the capacity of civil organizations and to establish channels of communication with government bodies. The organization has also advocated for the advancement of the legal and financial framework for civil society and has been involved in a number of initiatives that aimed at greater involvement of civil society organizations in the process of formulating public policies, policy analysis and policy implementation.

Child Rights Center (CPD)

Website: http://www.cpd.org.rs/

Profile: The Centre or CPD is the oldest and most well-known NGO working on child issues in Serbia. It was founded in 1998 and its main goal is the implementation of the Convention on the Rights of the Child in Serbia. The Centre's focus is very broad and covers improvement in the situation of children in all sectors and monitoring progress in these areas. Its activities are accordingly focused on the adoption and implementation of the laws, policies and practices enabling the promotion of the well-being of children, the protection of their rights and their full participation in society. CPD is primarily an advocacy organization. It does not have a counterpart in Bulgaria in the area of child rights and its projects deal with education for child rights, development of a new strategic framework for the realisation of child rights and child friendly justice.

CPD's projects are funded by the Delegation of the European Union in Serbia under the EIDHR program, the EC Commissioner for protection of equality, the EC Fund for Social Innovation, the Swedish International Development Cooperation Agency through Save the Children International, the Pestalozzi Children's Foundation, OSCE, and UNICEF.

Projects: CPD has organised a large number seminars in the domain of child rights for other civil society organisations and for professionals working in justice, social protection, police, media, and education. The Centre has also implemented numerous projects with the aim of introducing changes in legislative practice, disseminating the notion of the protection of the rights of the child, researching the situation of children and vulnerable groups of children. It participates in the preparation of the alternative reports on the rights of the child in Serbia for the UN Committee on the Rights of the Child in Geneva and submits an opinion for the EU Progress Reports on Serbia.

Advocacy: The organization is extensively involved in advocacy and uses the following strategies:

- Meetings in the parliament, round tables, and hearings related to some draft laws: when they are invited to send comments they use the opportunity in the breaks to talk to government officials about some changes, to bring up some issues.
- Lobbying through some members of the Parliament who are members of the Committee on the Rights of Children because they see them as sensible people with knowledge on the issues of children so they try to reach them first in order for them to advocate then in the Parliament for some changes (if they see these necessary)
- Project-related advocacy: all projects are currently done in cooperation with a ministry and if something in the project requires improvement they approach the ministry, the centers for social work, and other institutions involved and in this way create a network of supporters in these institutions, people who are willing to work on child issues. Sometimes when the issues which need improvement are more

> complex, a new project is developed for that purpose which may involve additional or different institutions.
>
> - Advocacy through coalitions and networks: sending letters to the ministries as part of a network, for example when the UN adopted the third optional protocol of the Convention on the Rights of the Child, CPD and other organizations advocated successfully as a group for the signing and ratification of the protocol.

According to the interviewee from CPD, it is important for the Centre to participate in working groups, round tables, conferences, and hearings in order to give comments and to use the opportunity to meet people from other NGOs and professionals from the government to exchange ideas and lobby, so they do their best to participate within their time and human resources constraints.

Help for Children (Pomoc Deci)

Website: http://www.pomocdeci.org/sr/

Profile: Pomoc Deci was founded in 2004 and focuses its work on the provision of support for vulnerable children to access better education, the promotion of children's rights, and youth activism. It started as a branch of an American NGO but according to its employees the funding from the USA has greatly diminished.

Projects and funding: the main sources of funding for the organization currently are the Swiss government, the Caritas foundation, EU pre-accession funds, and local government funds. The main areas of activity for the organization are: 1) Support for vulnerable children to get better education – from preschool to adult education; 2) Promoting children's rights – registering invisible children, minority rights, right to education; and 3) Youth Activism.

Advocacy: The organization is actively involved in advocacy, especially in the area of inclusive education and the registration of legally "invisible" children, children who are not registered at birth and do not have identification documents. It has also taken a central part in the process of establishing the position of "teacher's assistants" in

schools as a recognized profession in the law, together with the Ministry of Education in 2005, by proposing the concept and testing it through its projects in a number of schools. Also in 2005, Pomoc Deci signed a partnership agreement with the Ministry of Education for the joint implementation of the Millennium Goals on Quality Education for All. It has also participated in the working groups convened by the government for the development of the Strategy of Education Improvement for the Roma Children. The organization was a member of the National team for anti-trafficking which was led by the Ministry of the Interior and included representatives of ministries, institutions, and national and international NGOs.

Centre for Youth Integration (CIY)

Website: http://www.cim.org.rs/?lang=en

Profile: The Centre for Youth Integration is a citizen's association founded in 2004 by a group of students from the Faculty for Special Education and Rehabilitation (former Faculty for Defectology) of the University of Belgrade. The organization focuses its work on establishing a system of support for street children to improve the quality of life for these children.

Projects and funding: Its main program is the management of a Drop-in-Centre for street children where they receive assistance and support. The Centre is run by CYI as a community service project and is not managed as a state-supported service. It is financially supported by one Austrian donor, one international foundation, the Prevention program of the Global Fund to Fight AIDS, Tuberculosis and Malaria, and the International Human Club. Some of CYI's other projects are: The eye of the street, Children speak out, Research on begging.

Advocacy: CYI employees consider their capacity to advocate as insufficient. Most of their efforts are directed towards their daily work in service provision. They try to participate in working groups and events as much as they can and to follow up the summaries of political decisions provided by the Network of Civil Society Organizations for Children in Serbia or in the press when they are related to the interests of the children they are serving. Despite the fact that they have proposed a few

legislative changes, they do not feel confident in their ability to suggest policy solutions. When the government asks them for suggestions on how something can be changed, they want to use the opportunity to improve the conditions for children but do not have the necessary knowledge, other than ideas and issues identified at their work on the field.

Centre for Interactive Pedagogy (CIP)

Website: http://www.cipcentar.org/en/

Profile: The Centre for Interactive Pedagogy was founded in 1998 following the implementation of the "Step by Step Kindergarten as a Family Centre" program which was supported by the Open Society Institute and Fund for an Open Society in Serbia. The Centre specializes in early education and inclusion.

Projects and funding: CIP has a wide network of associates and provides accredited training for teachers. This is a source of funding besides project-based funds. It has also been cooperating with the WHO and doing training in the town of Novi Pazar on a joint project. It has also been a partner with UNICEF and the Fund for Open Society on other projects. One of CIP's projects is "Parents have a say too." This is aimed at the improvement of education for all children, creating conditions for the active participation of parents in local government (municipal/city) parents' councils. The Fund for Open Society and the Ministry of Education are implementing partners for the project and CIP has a memorandum for cooperation with the Ministry for that initiative.

Advocacy: CIP participated extensively in the development of the Strategy for Development of Education 2020 in the period 2010-12, in particular in the chapter on preschool education. They follow policy developments as they need to be flexible and to know the new or deleted provisions in the regulations such as the chapter on cooperation with families, which they then try to implement on the ground, talking to the people in schools and developing training programmes to ensure effective implementation.

Parents Association

Website: http://www.roditelj.org/

Profile: The association was registered in 2006 by parents who used to discuss common problems through an internet forum and is a membership-based organization with groups in different cities. The purpose of the association is to provide support to families, both children and parents, and to advocate for their rights, especially in the area of social welfare for single mothers and poor families, and health care.

Projects and funding: The organization manages an Early Development Center for children not enrolled in kindergarten and for parents with a program to strengthen parents' competences, often for people from low socio-economic settings. It is funded by UNICEF, their main donor, but they intend to apply for government funds as well for social innovative services in the community. The Centre runs its activities in three places using community resources: the city provides them with an empty classroom in one school and they organize workshops there once a week; another workshop runs in the corner of a hall at the Mixer house (a cultural center in Belgrade).

Advocacy: The organization engages in both intuitional and other forms of advocacy. They have been part of a working group on the revision of the baby friendly programs and on the conditions in the maternity wards together with UNICEF and organized by the Ministry of Health. They participate in frequent meetings initiated by UNICEF with the Ministry of Health on breastfeeding and health care. The Ministry has started closed consultations on the standards that it wants to draft for early child development. Roditelj also took part in the development of the Strategy for Education in 2011.

Other advocacy methods that the organization uses are the submission of proposals to government bodies. They also publish these on their website, as well as seek media coverage for particular issues. They use some innovative approaches to attract the attention of the public and the politicians. For example, they put teasers such as nappies in different places in the city where they will be visible to people in the government and then organize a meeting in front of the government's building on the International Women's Day. They also visit the pre-election rallies of different parties

to seek answers to questions of importance to families. For them, advocacy is important in order to be able to achieve some improvement in the social conditions for parents and children in Serbia.

Disability Rights International/Mental Disability Rights Initiative, Serbia (MDRI-Serbia)

Website: http://www.mdri-s.org/

Profile: The international organization, Disability Rights International, was founded in Washington, D.C. in 1993. It documents human rights abuses, publishes reports on human rights enforcement, and promotes international oversight of the rights of people with mental disabilities. Its Worldwide Campaign to End Institutionalization of Children fights to protect children suffering today and seeks to stop the next generation of children with disabilities from being locked away in isolation. Disability Rights International trains and supports advocates seeking legal and service system reform and assists governments in developing laws and policies to promote community integration and human rights enforcement for people with mental disabilities. The Mental Disability Rights Initiative in Serbia (MDRI-Serbia) was established as a national group associated with DRI in 2008 as an independent advocacy organization dedicated to the human rights and full participation in society of children and adults with mental disabilities in Serbia.

Projects: MDRI-Serbia has involved parents of persons with intellectual disabilities in legislative processes, ensuring their participation in development of the _Law on Professional Rehabilitation and Employment of People with Disabilities_ and the _General Education Act_, both already adopted. MDRI-Serbia and its partners also provide professional and legal support to people with intellectual disabilities and their families, especially in two areas crucial for the prevention of institutionalization: inclusive education and legal capacity issues.

Advocacy: MDRI representatives have participated in the public discussions organized by SIPRU via round tables for the development of the new _Law on Social Welfare_. The organization is cooperating with and reporting to different national and international

agencies and human rights bodies, such as state authorities, the Serbian Ombudsman, EU and UN bodies. The organization has been monitoring the deinstitutionalization process and the development of adequate community-based services in the country and has published two reports (in 2007 and 2012) on conditions in the large institutions for children and adults with disabilities in Serbia.

C. **Working Group Documentation**

Many national strategy documents from both countries on children's rights and protection, education and social inclusion, state that strategies have been developed in collaboration with experts from non-governmental organizations. Examples include the National Strategy "Vision for the Deinstitutionalization of Children in Bulgaria" (2010), the National Strategy for the Child 2008-2018 in Bulgaria (2008), the Action Plan for the Implementation of the National Youth Strategy 2009-2014 in Serbia (2008), The Strategy for the Development of Education until 2020 in Serbia (2012), the National Youth Strategy in Serbia (2008), and the First National Report on Social Inclusion and Poverty Reduction in the Republic of Serbia (2010).

However, it is almost impossible to track which organizations had been consulted and what part of their suggestions had been included in the final versions of the strategies. More detailed information on the working documents of the working groups mentioned by the NGOs interviewed for this thesis was sought, but no such information was available online. There were also no draft documents/suggestions/summaries of opinions published, and no section on working groups on the websites of line ministries. For example, the latest working group in which they participated mentioned by the representative of the National Network for the Children (Bulgaria) interviewed for the thesis was established by the Ministry of Justice in September 2014 with the task, among other things, of developing a conception for special law on juvenile justice. A copy of the order for convening this working group was provided for this research by the NGO. However, on the website of the Ministry of Justice in Bulgaria, in the section on Strategic documents, including Strategies and Conceptions and the Archive, there were only three strategies and two conceptions published, two Positions of NGO representatives, three documents in the archive, and

no information on working groups (https://mjs.bg/107/). In Serbia, the situation is similar – the representatives of line ministries and state agencies interviewed for this thesis could not provide documents from working groups, although the Ministry of Youth and SIPRU were able to provide detailed information on three wide public consultations conducted for the development of the Law on Youth, the National Strategy for Youth and the Law on Social Welfare respectively, as well as the positions of NGOs on these draft laws submitted to the e-portal for public consultation.

The working documents of working groups are not made public, there is no official response provided by the ministry to the suggestions made by participants in the working groups, and the contributions to draft laws or policy strategies are not referenced in the final versions of the documents. There is no information on the stances of the participants in the working groups, their submissions and the draft documents on the websites of the line ministries – the only document publicly available in both countries in regard to the working groups is generally the order for convening the working group issued by the relevant minister, specifying the purpose and goal of the working group, and its members. Therefore, it is very difficult to determine to what extent the issues discussed in the working groups were being incorporated into draft laws and strategies. Efforts to obtain working group documents from either state agencies or NGOs did not come to fruition. The coordinators in the line ministries groups were difficult to identify, they often changed positions and the preliminary versions of various draft laws and strategies could not be traced. The representatives of the NGOs interviewed for the thesis could not remember the names of the coordinators of particular working groups, as the coordinator was not always the same person and the administrative personnel in the ministries changed positions. Email inquiries for information and documentation of the work of working groups were sent to the following ministries but no reply was received: Ministry of Education (Bulgaria), Ministry of Labour and Social Policy (Bulgaria), Ministry of Health (Bulgaria), Ministry of Justice (Bulgaria), Ministry of Education (Serbia), Ministry of Labour, Employment and Social Policy (Serbia), Ministry of Sports and Youth (Serbia) and Ministry of Health (Serbia).

There was also a systematic failure on the side of NGOs to provide copies of the comments or proposals they had submitted or of the responses they had received from

the government as part of their participation in working groups for this study. Data obtained from the interviews with UNICEF Bulgaria, National Network for the Children (Bulgaria), MODS (Serbia), Parents Association (Bulgaria), Parents Association (Serbia), Centre for Interactive Pedagogy (Serbia) indicates that this was partly because the document trail of the working group discussions was very limited, especially on the government's side. Although the NGOs interviewed stated that they did keep their formal submissions to the working groups, only MODs (Serbia), Parents Association (Bulgaria), Parents Association (Serbia) and the National Network for the Children (Bulgaria) provided documentation on the few policy positions they had issued. This information could not be found on their websites either. All these absences may indicate certain nervousness on the side of both the government and NGOs about any inquiry, distrust, or a desire to not reveal themselves as less professional than they would like to appear, as much as indicating a total absence of the material. Nevertheless, it has meant that the specifics of the communication between the NGOs and the state in the working groups presented in this study have had to be based on the information provided in the interviews.

Appendix 4

Major national institutions in the area of children's rights and protection

The extensive engagement of NGOs working with children in Bulgaria and Serbia in deinstitutionalization, community-based services and projects for social inclusion makes the Ministry of Labour and Social Policy one of the main institutions NGOs interact with. In Bulgaria, the Deputy Minister of Labour and Social Policy co-chairs together with the Head of the State Agency for Child Protection (SACP) the two-level inter-institutional working group on deinstitutionalization that was established in October 2013.[235] The co-chairs sit in both groups and act as the link between the two, the lower level being the expert group, which includes representatives of different ministries, UNICEF and five NGOs, and the upper level being the inter-institutional group where the participants are ministers and deputy ministers from different sectors.[236]

The State Agency for Child Protection (SACP), National Council for Child Protection (NCCP) and Child Protection Departments (CPD) were created as a prerequisite for the implementation of the Child Welfare reform project supported by the World Bank.[237] SACP plays a central role in policy development on child welfare/protection. The Agency develops unified and comprehensive state policies on children, devises framework standards for child protection services, monitors the observance of child rights and the quality of services provided to children, and licenses NGO service providers. SACP is also the coordinating body of the National Strategy for Deinstitutionalization in Bulgaria and as part of that strategy it currently implements the

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[235]SACP. (n.d.) Deinstitutionalization in child care [website section]. Accessed from http://sacp.government.bg/deinstitucionalizaciya/

[236]Foundation Cedar, Bulgarian Association for People with Intellectual Difficulties, National Network for Children, FICE Bulgaria, Lumos Foundation.

[237]World Bank. (2007). *Implementation completion and results report on a loan to the republic of Bulgaria for a child welfare reform project (IBRD-45960 JPN-24743 JPN-54221)*.World Bank. Retrieved from http://www-wds.worldbank.org/servlet/WDSContentServer/IW3P/IB/2007/ 05/03/000020953_20070503145835/Rendered/PDF/ICR0000222.pdf

project "Childhood for everyone," funded by the EU Operational program "Human Resources."[238]

The National Council for Child Protection is the advisory body of SACP and a mechanism for dialogue which brings together representatives of the main actors involved in child welfare and protection such as different ministries, UNICEF and civil society.[239] NGOs are elected as members of the NCCP through a pre-defined election mechanism. Currently, there are twelve NGOs elected by the third sector to participate in the Council: SOS Children Villages, Association Parents, Foundation For Our Children, Foundation Association Animus, Institute for Social Activities and Practices, Foundation Program Step by Step, Bulgarian Association for People with Intellectual Difficulties, Bulgarian Red Cross, Cedar Foundation, Foundation Applied Research and Communication, Foundation Fathers for Responsible Parenthood, Association Child and Space. Representatives of six of these NGOs were interviewed for this thesis. The Child Protection Departments are the main administrative structures dealing with issues of child welfare and protection at local level and are present in every municipality, under the central authority of the Ministry of Labour and Social Policy, Agency for Social Assistance. There is also a parliamentary Committee on the issues of children, youth and sport at the National Assembly but it does not seem to be very active and was not mentioned by any of the state or NGO representatives interviewed for this study.[240]

In Serbia, a main point of contact for the NGOs working with children, as identified in the interviews for this thesis, is the Social Inclusion and Poverty Reduction Unit (SIPRU) within the Office of the Deputy Prime Minister for European Integration.[241] The Unit was established in July 2009 as a programme-based body, marking the beginning of the development of an institutional framework for the drafting and implementation of social inclusion policies. The Unit provides support to the

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[238]SACP. (n.d.). About the agency [website section]. Accessed from http://sacp.government.bg/za-agenciata/
[239]SACP. (n.d.). National Council for Child Protection [website section]. Accessed from http://sacp.government.bg/konsultativni-organi/nszd/
[240]National Assembly. (2014). Parliamentary Committee on children, youth and sport [website section]. Accessed from http://www.parliament.bg/bg/parliamentarycommittees/members/2076
[241]Social Inclusion and Poverty Reduction Unit (SPIRU) website: http://socijalnoukljucivanje.gov.rs/en/

Deputy Prime Minister for European Integration in regards to coordinating, monitoring and reporting on the government's efforts in the field of social inclusion. It is mandated with strengthening the capacities of the government to develop and implement social inclusion policies based on European good practices, and with supporting the line ministries in defining and implementing social inclusion policies. It emphasizes regular consultation with civil society organizations. SIPRU is also responsible for maintaining the relationship with the NGO Focal Points discussed in the previous chapter which were established in 2008 for the implementation of the Poverty Reduction Strategy supported by the World Bank.[242]

Several other official bodies have been established recently. Since 2012, there has been a Parliamentary Committee on the Rights of the Child chaired by the speaker of the house, and comprising all the deputy speakers of the house and members of all other parliamentary committees; representatives of NGOs and UNICEF are members without a vote.[243] There is also a governmental Council for Children's Rights, which coordinates children's rights policies on governmental level and is chaired by the State Secretary in the Ministry of Labour and Social Policy.[244] The Council was inactive for several years but was reinstated in January 2014.[245] The role of the Council is to primarily increase the accountability of the state to fulfill its obligations in ensuring the full inclusion of children in Serbia and placing issues related to the realization of children's rights in the highest positions on the list of priorities when it comes to political commitment, strategies, resources and public focus.

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[242]Towards the end of 2002, the Government of the Republic of Serbia initiated the development of the Poverty Reduction Strategy Paper (PRSP) for Serbia. The initial platform, strategic options and the preparation process of this strategy and its implementation were all defined in the Interim PRSP, approved and adopted by the World Bank and the International Monetary Fund. IMF. (2006). *Serbia and Montenegro: Poverty Reduction Strategy Paper—Progress Reports (IMF Country Report No. 06/141).* International Monetary Fund (IMF). Retrieved from http://www.imf.org/ external/pubs/ft/scr/2006/cr06141.pdf

[243]National Assembly. (2011). Committee on the Rights of the Child [website section]. Accessed from http://www.parlament.gov.rs/national-assembly/composition/working-bodies/committees.53.492.html

[244]Council for Child Rights website: http://www.savetzapravadeteta.gov.rs/en/about

[245]In News. (2014). Council for Children's Rights established in Serbia [news]. Accessed 20 September, 2014 from http://inserbia.info/today/2014/01/council-for-childrens-rights-established-in-serbia/

Another important state agency is the Deputy Ombudsman Office for Children established in 2008 under the hierarchy of the Ombudsman.[246] This agency, however, does not have sufficient independence to bring children's issues onto the national agenda (Vandekerckhove 2014).[247] There are also local entities established on the municipal level that comprise of different experts and deal with various issues of child well-being and protection (the Centres for Social Work in Serbia, and Departments for Child Protection in Bulgaria). However, in both countries these entities are often described as over-stretched, not highly efficient, lacking sufficient capacity and professionalism, and relying on old approaches and ineffective methods.[248]

This brief summary of the institutional framework in Bulgaria and Serbia shows that in both countries there are state institutions designated to deal with child protection and well-being that are focal point for NGO interaction with the state. The institutional framework in the two countries is also very similar: there is an overarching advisory body coordinating the policy developments and initiatives on child rights and protection that includes representatives of different ministries and the NGO sector (State Council for Child Protection in Bulgaria, and State Council for Children's Rights in Serbia). In both countries, there are also parliamentary committees on the issues of children. In Bulgaria, there is a dedicated state agency that coordinates state policies on child rights and protection, the State Agency for Child Protection, which manages the process of deinstitutionalization together with the Ministry of Labour and Social Policy. In Serbia, NGOs also work closely with that country's Ministry of Labour and Social Policy as well as the Social Inclusion and Poverty Reduction Unit, and the Deputy Ombudsman for Children. There is a proposal for the establishment of a similar ombudsman position in Bulgaria too.[249] Finally, in both countries there are departments or centres on the municipal level that deal with various issues of child protection and well-being.

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[246]Ombudsman Office website: http://www.ombudsman.rs/index.php/lang-sr/o-nama/zamenici-zastitnika-gradjana
[247]Report provided by UNICEF Serbia.
[248]Data obtained from interviews with representatives of Centre for Youth Integration (Serbia), MDRI (Serbia), Association Child and Space (Bulgaria)
[249]NMD. (2012).We want an ombudsman on child rights [Policy position]. National Network for the Children (NMD). Retrieved 20 July, 2014 from http://nmd.bg/iskame-ombudsman-po-pravata-na-deteto/

The institutional framework also shows that the social reforms undertaken in both Bulgaria and Serbia have been promoted and supported by the World Bank and other international organizations. Representatives of UNICEF participate in all major domestic institutions on children's rights and protection through the inter-institutional working group on deinstitutionalization and the National Council for Child Protection in Bulgaria, and the State Council for Children's Rights in Serbia. This presence of UNICEF in institutional forums suggests that the states need assistance in the development of policies, reforms and projects that promote children's well-being and their implementation. UNICEF also provides support for the engagement of NGOs in the process of policy development and implementation as shown in the Country programs for Bulgaria and Serbia discussed in the section on UNICEF. UNICEF therefore assists with increasing the capacity of both the state and civil society organizations in Bulgaria and Serbia.

However, how the NGOs working on child rights and protection approach the various state institutions and the policy-making process through their advocacy initiatives is an important issue. It will be discussed in the next chapter.

Appendix 5

Events organized by child-welfare NGOs in Bulgaria and Serbia

1. *Round table "Development of the civil sector - is a strategic approach possible?"*
   – 25 April, 2014, Radisson Hotel, Sofia

The round table was organized by the Bulgarian Centre for Non-profit Law, the Program and Analytic Centre for European Law, the National Network for the Children, the Forum Citizen Participation and the Bulgarian Donation Forum. The aim of the round table was to discuss the specific commitments that the government needed to undertake for the development of conditions for independence and sustainability of the non-governmental organizations in Bulgaria. The measures set in the governmental Strategy for Support for the Development of Civil Society Organisations 2012-2015 were discussed, with NGOs concluding that eleven of the measures had not been met.

The round table was attended by the Ambassadors of Switzerland and France, and the First Secretary of the Embassy of Norway in Bulgaria. Representatives of the state administration included the Advisor to the President on Social Policy, Youth and Sport, experts from the Parliamentary group on European affairs and control of the European funds, the Parliamentary committee for cooperation with civil organisations and movements, the Ministry of Labour and Social Policy, and the Ministry of Finance's Operational Program "Good governance."

Representatives of the third sector included participants from over fifteen NGOs that had been most active in the development of the Strategy. However, the representatives of the NGOs expressed disappointment that there were no ministers or deputy ministers at the meeting and that key representatives of the government who had been invited and had confirmed their attendance did not come to the round table. There were no representatives of the Council of Ministers and the Ministry of Justice, the institution responsible for the implementation of the Strategy, which was identified as a problem for the implementation of any conclusions reached in the meeting. All the

participants in the event were representatives from either the NGO sector or the state administration, not the general public.

2. *Public debate "Perspectives of sustainable financial support to children and vulnerable groups-beneficiaries of social protection services"- 7 March 2014, National Assembly of the Republic of Serbia, Belgrade*

The public debate was organized by the Association for the Development of Children and Youth – Open Club, Nis in cooperation with NGO Educational Centre, Leskovac and the Office for Cooperation with Civil Society of the Republic of Serbia. The subject of the debate was the perspectives of sustainable financial support to children and vulnerable groups - beneficiaries of social protection services. The main aim of the debate was to establish consensus among decision makers, professional, public and civil society, on the need for more effective and efficient coordination and consumption of available local resources as well as future EU funds directed towards the social inclusion of vulnerable and marginalized groups.

Participants in the debate included representatives of the civil society organizations whose work was related to social policy (Konekta, Humans, Anti-Poverty Network, Network of Organizations for Children - MODS, Network of Centers for Independent Living of People with Disabilities), members of the state Committee on the Rights of the Child and of the Committee for Social Issues at the National Parliament, representatives of the Ministry of Labour, Employment and Social Policy of Serbia, the Office for Cooperation with Civil Society and the Standing Conference of Towns and Municipalities. Most of the representatives of NGOs interviewed for this thesis were present at the debate and were actively discussing the issues on the agenda, and posing questions to the state administration. The event was not open to the general public.

3. *Presentation "Report card 2014: what is the average mark of the state in child care?"- 24 April 2014, Credo Bonum Gallery, Sofia*

The National Network for the Children presented its annual report on the work of the government in the field of state policies for children and families. The report evaluates the realization of key governmental commitments in five thematic areas: child

participation, education, family, health and juvenile justice. There are two version of the report – a popular version aimed at engaging parents, teachers, doctors, social workers and the general public, and an expert version aimed at the state administration and experts working in the area of policies for children and families. The popular version of the mark-book was presented at this event and the expert version was presented to the state administration on 12 May at the Council of Ministers.

The presentation was attended by many NGOs working in the area of children, representatives of UNICEF and the Head of the State Agency for Child Protection. After a short video presentation on each of the five thematic areas, a discussion followed with active participation from the representative of NGOs on the issues of child poverty and well-being, care during pregnancy, health insurance for mothers, especially among the marginalized groups of the population, early childhood development (the lack of places and marginalization in kindergartens), and juvenile justice. The Head of the State Agency for Child Protection (SACP) noted that SACP worked together with the NGO sector and was only one part of a much overloaded child protection system working under hard conditions, but acknowledged the important steps Bulgaria had taken in regard to deinstitutionalization. The event was covered by national media. It was open to the general public but all the attendees were representatives of the NGO sector, inter-governmental organizations, the state administration and young people working with the National Network for the Children.

4.   *7th Regional Meeting of NGOs, Child Rights Coalitions in Europe –28/30 April 2014, Park-hotel Moscow, Sofia*

This event was organized by the National Network for Children – Bulgaria (host organization), Eurochild (European network of organizations working to promote child well-being), Child Rights Connect (a global child rights network), UNICEF Bulgaria and Child Pact (a regional coalition for child protection).

The European regional meeting of child rights coalitions involved experts and practitioners in monitoring the implementation of the UNCRC and children's rights in their countries. The meeting in Sofia was attended by more than 90 participants from over 35 countries, including the Network of organizations working with children –

Serbia (MODS) – indicating that there is high degree of international cooperation among the national networks and NGOs working with children.

The Head of the State Agency for Child Protection in Bulgaria, Ms Eva Zhecheva and the Deputy Minister for Labour and Social Policy, Mr Lazar Lazarov briefly attended the opening session on the first day of the event. Other attendees of the meeting included Mr Alexander Hoefmans from the Directorate-General for Justice at the European Commission and Ms Michaela Bauer from UNICEF's Office in Brussels.

The panels of the conference included discussions on the advancement of children's rights in Europe, the 3rd Optional Protocol to the UNCRC, engaging with the UN CRC Committee, engaging in the UN CRC Committee monitoring and reporting cycle, and current challenges for child rights in Europe.