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EXPERTISE FOR THE PROGRAMME OF INCLUSION OF NON-GOVERNMENTAL ORGANISATIONS IN THE PREPARATION, IMPLEMENTATION AND EVALUATION OF THE DEVELOPMENT STRATEGY DOCUMENTS OF THE REPUBLIC OF SLOVENIA

Summary

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INTRODUCTION

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The balance of economic, social and environmental objectives in strategies of sustainable development cannot be defined merely with the help of politics and science, even multi-disciplinary science. Decisions on developmental strategic orientations include evaluation, and this requires the cooperation of citizens. Many decisions, which will be adopted for the implementation of sustainable development, will require a change in the behavior of citizens and will only be able to be realized if the support of a broad circle of people is obtained. For this reason, the inclusion of various interest groups or participants is of key importance for the formulation of decisions and for all the tasks in the strategic cycle, from preparation to implementation. Early inclusion and cooperation of the public in the preparation of development strategy documents guarantees that these documents satisfy the needs of a broad number of people, create affiliation, reduce the risk of conflicts of interest and increase the incentive to put plans into effect.

The result of the cooperation of the public will be an implemental strategic development document that will contain a broader basis of knowledge, understanding and affiliation from all participating interest groups and will have better ties to actual needs and promising opportunities. Although the inclusion of the public appears demanding and expensive from the point of view of content and time, the rectification of mistaken decisions proves to be much more expensive.

Non-governmental organizations are a part of the public in an organized form. Although they cannot entirely replace the cooperation of the public, they are important actors that can make an important contribution to the preparation, implementation and evaluation of development strategy documents and are irreplaceable in this process. The inclusion of NGOs means an important step towards the realization of partnership, which is one of the fundamental principles of the European Union in the preparation of programmes of structural aid. However, just as in other candidate countries, the culture of civil dialogue in Slovenia is at a low level and there is a lack of knowledge, skills and experience.

The document entitled *Expertise for the Programme of Institutional and Substantive Inclusion of Non-Governmental Organisations in the Preparation, Implementation and Evaluation of the Development Strategy Documents of the Republic of Slovenia* was created for the purpose of filling this gap and giving NGOs the possibility to cooperate effectively in the programming and implementation of aid from the Structural Funds and the Cohesion Fund, and to take advantage of aid in order to strengthen the capacity of the non-governmental sector to cooperate as a partner in the implementation of regional policies through the preparation and implementation of projects.

The initiative and necessary funds for the preparation of the expertise were provided by the National Agency for Regional Development on the basis of the frequently expressed desire of NGOs to be included in the preparation of the country's strategic documents. By a tendering procedure a consortium consisting of the Centre for Information Service, Cooperation and Development of NGOs (CNVOS) and the Regional Environmental Centre for Central and Eastern Europe (REC) was chosen to implement the task.

The contents were written by:

- Primož Šporar (general descriptions of the non-governmental sector and editing of the document),
- Bojan Žnidaršič, Vida Ogorelec Wagner, Andrej Klemenc (environment and nature protection),
- Vesna Leskošek PhD (social inclusion),
- Tatjana Greif Msc (equal opportunities and the position of women),
- Zoran Maksimovič (employment),
- Milena Marega and Julija Škarabot (recommendations for the systemic inclusion of NGOs and editing of the document).

The first draft of the document was presented at a joint concluding workshop in January 2003 at which a document was formulated through discussion by 20 member NGOs and representatives of some State institutions.

The draft of the full document was posted on the CNVOS website and sent out to NGOs together with an invitation to submit comments and additions. On the basis of the replies received the final draft of the document was drawn up.

This publication presents a summary of the expertise. The full text, which also includes more detailed descriptions for the areas of environment and nature protection, social inclusion, equal opportunities and the position of women, and employment is available on the CNVOS website: www.cnvos.si.

Milena Marega and Primož Šporar

Part one:

Description of the development, situation and role of NGOs

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1. Description of the development of NGOs in Slovenia from the beginning of the 1990s

For the non-governmental sector, the period following Slovenia's achievement of independence meant a strengthening and continuation of development commenced in the early 1980s.

The relatively favorable conditions for founding NGOs had, in the 1970s, led to the development of numerous associations. In the 1980s these included associations working in the fields of the peace movement, the environment, human rights and others. In comparison to the other transition countries, independence thus meant merely a moderate growth in the number of newly founded NGOs.¹

Nevertheless, in the 1990s, Slovenia, like the rest of Eastern Europe, was seized by the phenomenon of 'NGO-isation' of civil society, or a gradual transformation of civil society groups into NGOs. This reflected a tendency to understand civil society as having the function of supervising and protecting the acquisition of a system of democracy. As a condition of the protection of the principles of democracy there was also a demand for the observing of democratic criteria of operation and decision-making within the NGOs themselves. This means demands for the formalization, professionalisation and institutionalization of NGOs.

On the one hand such trends led to greater transparency of the work of NGOs, the introduction of modern criteria of quality work (identifying the needs of users, the inclusion of users, evaluation), the development of dialogue with government structures, etc. On the other, it is linked to the adaptation of NGOs to service activities and a reorientation of their interests from specific spheres to the sphere of structural work and the acquisition of resources.

¹ For the needs of this document we consider as NGOs all organisations founded and operating in the form of societies, private institutions and foundations. The best evidence of the growth of these organisations since independence is the fact that between 1990 and 1995 the number of societies grew from 10,320 to 13,984 and that in 2002 there were already more than 16,000 of them. See also Kolarič, Meglič, Vojnovič in Private Non-Profit/Voluntary Organisations, FDV, 2002.

² Such a view can be found in the Report on Non-Governmental Organisations in Slovenia, 2000, PIC, in the draft Strategy of Systemic Development of Non-Governmental Organisations (CNVOS, PIC, ŠENT, Umanotera), 2003.

An important role was played in the non-governmental sector by the transition of individuals into political parties that began in the late 1980s, since a consequence of this was the transition of a large number of instigators and key persons from civil society into the state administration. The relatively modest role of NGOs in the period following independence was a consequence of this.

Another important element of the weakness of NGOs was conditioned by the lack of an integrated approach to development. NGOs were not recognized by the State as a strategically important partner and therefore development was dependent on how favorable conditions were in individual spheres. Despite this, the number of newly formed NGOs grew persistently. Particularly important was the development of certain new forms of NGO that had not previously existed.

Thus legislation on institutions introduced the possibility of founding NGOs for the purpose of obtaining and distributing funds, a possibility which had not previously existed. Likewise it was possible to note positive development in the growth of the activities of religious organizations, particularly in the field of charity work.

In the case of some organizations the transition from civil society organizations to NGOs led to a 'softening' of their activism, i.e. a neutralization of political pressure and demands. The cause of this was the institutionalization of NGOs, the appearance of market logic in the third sector, the dominance of stronger NGOs over weaker ones and the introduction of hegemony within the sector or between sectors, the phenomenon of 'parastatal' NGOs etc., which impedes the development of the non-governmental sector and has 'unhygienic' results.

In terms of development, then, the 1990s failed to produce solutions to the numerous difficulties faced by NGOs.² The key shortcomings remained the systemic definition of their role, the failure to establish an incentive/legal framework for their work, the failure to provide conditions for a more active transfer of the functions of the state administration to NGOs, etc. All of this meant an obstacle to the continuous and lasting strengthening of NGOs and of their stability in terms of human resources and funding. As a result - in the light of the organizations' struggle for survival - this narrowed their possibilities for the cooperation and interconnection that is normal practice in developed democracies. All of this also contributed to profound differences between the individual areas of work of the organizations (social work, environment, etc.), between individual organizations and between the positions of different organizations, especially between older organizations already installed in relatively closed systems of funding and newer ones whose position had still not been appropriately evaluated.

2. Description of the position of NGOs before Slovenia's entry into the EU

Terminological, constitutional and legal framework

In Slovenia there is no statutorily determined definition of the concept of non-governmental organization. Finding uniform use of the term in practice is even more difficult. In legal regulations, in literature and among the public, various expressions are thus used: non-governmental organization, civil society, non-profit organization, association, institute, foundation, non-profit organization, voluntary organization, private organization, civil society organization and so on. In establishing whether an organization is non-governmental, the most commonly used criterion is the form (status) under which the organization was founded. Thus, among the public, societies, private institutions and foundations, for example, are considered to be non-governmental organizations.

The broadest framework of operation of NGOs³ is provided by the Constitution of the Republic of Slovenia in the chapter covering human rights and fundamental freedoms. The regulation of the right to association, the right to freedom of expression and the right to private property are the direct legal basis for the work of NGOs.

Formally speaking, the area of the work of NGOs is regulated by the Societies Act (1995), the Institutes Act (1991) and the Foundations Act (1995). The position and work of NGOs is further regulated by a series of laws and by tax legislation.⁴

Statistical framework

Numerically the most common form of NGO in Slovenia is the societies, of which there are over 16,000. Other forms account for just 3% and include approximately 125 foundations and 200 private institutions.

The number of registered NGOs is constantly growing but their relative weakness is indicated by the fact that only a limited number of these are genuinely active. This is confirmed by the other criteria for measuring the scope of NGOs, in particular the number of people employed by NGOs and the amount of funds which they have at their disposal. At the end of the 1990s around 3000 people were employed by societies - or around 0.4% of all employees in Slovenia. Most of these were employed by sports societies (approximately 700) and voluntary fire fighting societies (600). Humanitarian organizations and disabled persons organizations had approximately 450 employees (15% of all employees in societies, although this field accounts for just 3.3% of societies, something which indicates the significantly better position of this field in comparison with others).

Approximately 90% of societies had no employed staff. The same applies to 80% of foundations and 60% of private institutions. Only 1.7% of societies had more than two employees. However estimating the number of contract workers, which is relatively high in some cases, remains a problem.

Around 20% of societies did not have funds with which to operate; 45% had less than a million Slovenian tolar a year and fewer than 10% had more than 10 million tolar a year. Societies obtain the majority of their funds through their own activity (services) (44%),

3 In addition to the international documents ratified by Slovenia, e.g. Article 20 of the Universal Declaration of Human Rights, Articles 21 and 22 of the International Pact on Civil and Political Rights, Article 10 of the European Convention on Human Rights, etc.

4 Over 100 acts, implementing regulations and strategic documents regulate and touch on the work of NGOs in Slovenia. For more details see the Report on the Position of NGOs in Slovenia in 2003, LIC, 2003 (in Slovene).

⁵ See Kolarič, Meglič, Vojnovič in *Private Non-Profit/Voluntary Organisations*, FDV, 2002.

⁶ The problem of the "endowment" of Slovene foundations at the turn of the century', Dr Edvard Kopal, SZF.

from donations (30%) and from state and local budgets. The State contributes the majority of funds in the form of project funds (approximately 60%), annual subsidies (30%) and, to a minor extent, in the form of long-term contracts (10%).⁵

A slightly different picture is provided by figures on institutions. At the end of 2001 there were 115 foundations, of which approximately 23% operated in the social field, 22% in the cultural field, 19% in education and 13% in health. This structure is entirely comparable to other countries.⁶ Figures on the endowment share of foundations are not encouraging (on average up to 5000 euros, rarely higher). The same applies to the small revenue generated by them, since they are only capable of generating between 13,000 and 17,000 euros per annum (although the most successful can generate up to 200,000 euros). Even more telling is the fact that over 90% of all foundations do not have even one full-time employee.

Substantive framework

NGOs are self-regulating: they are formed as the result of common interests which can concentrate on a single area or can be more general and touch on several areas or on society in general. They can be mere service providers or they can be socially critical and have the ambition of bringing about social change. Most frequently these two areas interconnect - their work involves both social action/social criticism and the provision of services to individuals. For this reason the role of NGOs is technical, intercessional and of necessity also political (in the sense of drawing public attention to social inequalities and demands for social changes).

The activity of the Republic of Slovenia in the bodies of international organisations and, in particular, the process of accession to the European Union are of exceptional importance for the future of the country. The inclusion of NGOs in Slovenia in this process is extremely poor. The rare exceptions are more the result of the great energy and commitment of individuals and individual NGOs. The inclusion of NGOs in the process of Slovenia's accession to the European Union can also be considered to be relatively unsuccessful.

A trend of interconnection and cooperation between NGOs is clearly observable around the world. The construction of a global civil society is a trend which cannot be halted.

The hitherto existing phenomena of dispersal, lack of connection, mistrust and noncooperation among NGOs in Slovenia, which in the majority of cases have not recognised the advantages of networking and mutual cooperation, are reflected in the lack of strength of the entire sector, especially in its attempts at dialogue with state bodies and local authorities. Trends of interconnection are however promising, both in network form - e.g. the CNVOS (a centre providing information, cooperation and development for NGOs), the SDOS (a council of society-type organisations), the ZSU (an association of Slovene foundations), Mreža zasebnih zavodov (a network of private institutions) and the ZOCD (an association of civil society organisations which is in the process of being founded) - and in the substantive sphere (the 1st annual festival of NGOs in 2002, the preparation of the Strategy for the Systemic Development of NGOs, etc.)

Difficulties accompanying the work of NGOs before Slovenia's entry into the EU

The work of NGOs in Slovenia is thus marked by numerous difficulties. Undefined terminology, regulation of status which is in many ways unsuitable (notably the regulation of the status of public benefit organisations, which is far from complete), and tax legislation, which remains very unstimulative.

The low level of professional staff, lack of technical knowledge (project management, fund-raising, etc), the inadequate level of professionalisation in the provision of services, weak or undeveloped support infrastructure for the development of NGOs and numerous other difficulties point to a clearly unstimulative environment in which the development of individual NGOs is made more difficult. The poor human resources in NGOs are the result, in particular, of short-term project-based funding of activities which to large extent does not enable the suitable and sustainable development of activities and causes a drain of staff to other sectors.

The shortage of possibilities for stimulative employment in NGOs, the lack of internal regulations and the poor protection of workers and associates in NGOs are clear reasons for the marked weakness of employment in this sector compared to the situation in other countries. The lack of regulation of (labour) relations in organisations, the absence of codes of ethics and operation, and the lack of self-regulation by NGOs in the form of consensually adopted standards of work and quality assessment criteria lead to doubts about the democratic nature of individual organisations and can cause the public to make unnecessary inferences about the adequacy or inadequacy of the work of NGOs, especially in the light of their non-profit nature. At the same time poor recognition is a consequence of the relatively poor presence of NGOs in the media and among the general public and the relative lack of statistical data on the sector and analysis on the comparability of the situation with other countries.

Despite these difficulties it must be stated that the work of NGOs in Slovenia is essential for the social, economic and cultural development of the country and unquestionably contributes to quality of life. The work of societies, foundations and private institutions in the areas of human rights, education, environment, social services, science, humanitarian work, consumer protection, cultural, sport and in many other areas is of exceptional importance for the development of Slovenia. The aims, purposes and activities of NGOs are of a non-profit nature. Their essential element is strengthening voluntary work, because of which their work is in many ways in the public benefit. Their work covers the local, regional, national and international spheres, for which reason NGOs are of vital importance for asserting the interests of the citizens of Slovenia in their environment and make an important contribution to establishing Slovenia in the international arena.⁷

3. Strengths, weaknesses, opportunities, threats analysis (SWOT)

For the needs of the preparation of the expertise four workshops were held in late November and early December 2002. At these workshops participants carried out SWOT analysis for the following areas: environment and nature protection, social inclusion, equal

⁷ A summary of certain strategic documents of foundations, societies and private institutions, e.g. 'Slovenia's accession to the European Union and foundations', 'Minutes of the meetings of the network of private institutions', etc.

opportunities and the position of women, and employment. Thirty representatives of NGOs took part in the workshops. In this publication the results of the analysis in the field of employment are presented by way of example.

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> - Lower cost of services and greater economy of operation of the non-governmental sector in comparison with the public sector. - Those working in the non-governmental sector have (in most cases) a strongly developed sense of belonging to the organisation and a high level of identification with its mission (they feel it as part of their own mission). - High credibility of the non-governmental sector - the widespread and relatively strong trust of users and the general public in NGOs and the non-governmental sector as a whole. - High level of motivation, initiative and innovation of employees in the non-governmental sector. - Multidisciplinary training (of those working in NGOs) and an orientation towards teamwork (high cooperativeness, low competitiveness). - Developed self-regulation and deep connections with users and work that is in tune with their needs (in the majority of cases users help create the range of services and programmes). - High level of adaptability to new circumstances. - Non-profit orientation - orientation towards realising mission and needs of users. 	<ul style="list-style-type: none"> - Minimal interlinking of NGOs and little cohesiveness of the non-governmental sector. - Motivation and creativity too weak for actual systemic changes. Relatively widespread and too great identification merely with own mission and following own objectives (the 'free rider' mentality). - Insufficient specialisation; internally (employees are forced to carry out several functions which go beyond a single job description) and externally (broadly defined functions and objectives of the organisation). - Unstable organisational structure and insufficient care for the growth of the organisation. - Lack of education of employees and lack of knowledge of existing practices (especially in the EU). - Lack of staff and consequent lack of specialised knowledge and qualifications. - Drain of best qualified personnel (mainly because of low salaries and unsuitable conditions for work). - Widespread clientilism or excessive attachment to state sources of funding (one ministry, one office or one government agency) and excessive dependency and the need to adapt to the demands of funders (similar to public sector organisations). - Inactivity in the sphere of employment and consequently lack of information about existing possibilities. - Inadequate promotion of the successful work of NGOs in the sphere of employability (indirect and direct work).

OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> - Growing needs of citizens and the inability of the public sector to meet them adequately (e.g. the high unemployment rate). - Demand for plurality of public services (as the fruit of social and political changes - internal factors - and Slovenia's adaptation to demands, standards and practice in the EU - external factors). 	<ul style="list-style-type: none"> - Limited possibilities for regular employment in NGOs under existing conditions. - Unfair competition from "quasi-NGOs" - Insufficient and unclear definition of the non-governmental sector. - The structure of unemployed persons in public work programmes (many with low qualifications - harder to employ).

OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> - EU pressures on the government sector to include NGOs in the process of formulating, implementing and supervising the implementation of policies. - Flow of staff from the EU to Slovenia and vice versa. Imminent changes to labour legislation (the Labour Relations Act and the Income Tax and Corporate Profit Tax Act). - Improved and simplified conditions of employment. - Development of new models for cofinancing at the local/national/EU level and from the commercial sector/public finances. - Regionalisation of Slovenia as an opportunity for NGOs. - Interconnection of NGOs (at home and with foreign NGOs). 	<ul style="list-style-type: none"> - Exclusion of NGOs from the system of deciding on the criteria and selection of employment programmes. - Insincerity of declarative support on the part of government organisations. - Systemically unregulated relations between NGOs and the State (unstimulative and discriminatory legislation). - The complex demands of the EU for candidacy, preparation, funding, project management etc. reduce the competitiveness of NGOs. - Lack of information about possible sources of funding. - As a result of financial undernourishment there is an increased danger of manipulation of the governmental sector for NGOs. - Absence of positive discrimination in favour of NGOs in comparison with the public sector and other sectors. - The informal economy - the grey market of services.

8 Commission discussion paper 'The commission and non-governmental organisations: Building a stronger partnership', Commission of the European Communities, COM (2000) 11 final, Brussels. The document is the result of several years' work by the Commission.

9 Most processes are taking place on the basis of the following two documents: 'White paper on European Governance', Brussels, 25.07.2001, COM (2001) 428 final and 'Towards a reinforced culture of consultation and dialogue - Proposal for general principles and minimum standards for consultation of interested parties by the Commission', Brussels, 05.06.2002, COM (2002) 277 final.

10 An example of such a document is 'Opinion on the Role and contribution of civil society organisations in building Europe', Economic and Social Committee of the European Communities, Brussels, 22-23 September 1999.

4. The importance of the non-governmental sector in the European Union with special emphasis on its inclusion in regional structural policy

4.1 General description

European Union

The European Union acknowledges the important role of NGOs in numerous documents and also confirms in practice the importance of cooperation with them.

In one of the most important documents⁸ dealing with NGOs, the European Commission defines their common characteristics, the principles of cooperation between the Commission and NGOs, recommendations for dialogue and consultation, financial and staff matters and the information system. This is a key Commission document which indicates the seriousness of its attitude towards NGOs and is the main basis for improving cooperation in the future.

The processes of information, consultation and cooperation take place at the EU level⁹ in three ways: in parliament (representatives of citizens), in EU bodies (institutionalised and advisory bodies) and in the form of more informal contacts with 'interest groups'. As an institutional body within the EU framework, the European Economic and Social Committee (EESC) has an important role as the representative of NGOs in the EU. Its role is mainly an advisory one, in which it strengthens the work of NGOs¹⁰. The committee facilitates and promotes the cooperation of civil society in decision-making processes, in this way increasing the legitimacy and democratic nature of adopted decisions.

11 See the White paper on European Governance, CES 357/2002.

12 Fundamental Principles on the status of NGO in Europe. ETS No 124, MM ONG (2001) 1. As adopted by the participants to the multilateral meeting, Strasbourg 2002.

13 Communication from the Commission on Promoting the Role of Voluntary Organisations and Foundations in Europe, 6. June 1997, COMM.97.241.

14 See 'Slovenia: Partnership for Accession, 1999', Slovene translation, in accordance with the provisions of Council Regulation 622/98, OJ L 85, 20.3.1998, p. 1.

15 See Dr Riana Benko, European Union Aid Programmes, Institute for the Transfer of Knowledge and Technology, 1999, p. 23.

16 The Government Office for European Affairs (SVEZ) tried to include NGOs in various working groups on the basis of a public invitation for tenders. The results were poor since over 160 NGOs applied but only 4% of these organisations actually cooperated.

Particularly important in these procedures is the observance of the principles of cooperation, openness, responsibility, efficiency and dependence¹¹ and the implementation of minimum standards - clear content of consultations, public announcements, suitable time frames, feedback and the guaranteeing of equality of treatment of all participants.

Also important are the fundamental principles governing the status of NGOs in Europe,¹² as set out by the Council of Europe and as implemented in the EU: Articles 77-81 regulate the relationship between government and NGOs. Article 77 provides that qualified and responsible NGOs contribute to the formulation of policies and increase the applicability of legislation and the processes of decision-making. For this reason NGOs must be encouraged to participate in governmental mechanisms of dialogue, consultation and exchange, for the purpose of addressing social needs. The government should also consult NGOs during the preparation of legislation concerning the status, funding and other areas of work of NGOs. (Article 81).

Candidate countries

The European Commission recommends the active inclusion of the non-governmental sector as an equal partner in all procedures and discussions relating to it and makes the following recommendations:¹³

- better knowledge of and understanding of the non-governmental sector in general,
- the establishment of a relationship (partnership) between the State and the non-governmental sector, which also includes contracts between the State and NGOs,
- the adoption of appropriate legislation,
- financial basis and rules of competition,
- ensuring a positive role in society and promotion of donations to NGOs,
- providing education,
- development of information,
- access to programmes cofinanced from the Structural Funds within the framework of the EU.

Particularly important from the point of view of the countries which are candidates for accession to the EU are the functions assumed with the Accession Partnership document, which sets out as the main priority tasks the meeting of the Copenhagen criteria.¹⁴ The candidate country must above all ensure the stability of the institutions which ensure democracy, a state based on the rule of law, human rights and the respect for and protection of minorities.¹⁵ NGOs are undoubtedly among the subjects which guarantee the development of these areas. Despite this, in the process of Slovenia's incorporation into the EU the role of NGOs was extremely weak.¹⁶ This weak position is the consequence of behaviour and attitudes and, indirectly, of the staffing situation in NGOs.

In the pre-accession period, programmes of financial aid have envisaged financial resources and support for candidate countries for the formation and democratic functioning of civil society. This support has been aimed at stimulating democratic processes, among them the institutional strengthening of NGOs.

Pre-accession aid

A particularly important element of the pre-accession period for candidate countries has thus been financial support from the Phare programme. Up to 1997, as a resource for the transition to a market economy; after 1997, as an element of pre-accession aid in the sphere of economic and social cohesion, supplemented in 1999 by the SAPARD programme (aimed at agriculture and rural development) and the ISPA programme (transport and environmental infrastructure).

Phare programme projects are divided into three classes (human resources development, development of small and medium-sized enterprises, economic infrastructure).

They also include programmes of cross-border cooperation, among them the Phare CBC 'Small Projects Fund', whose implementation is run by National Agency for Regional Development. The basic purpose of the fund is to offer financial support to small-scale projects: connecting people at the local level and development activities of a cross-border nature. Activities suitable for funding within the framework of the fund can be services and the purchase of equipment. The aim of the programme is to increase the capabilities of local and regional authorities for the development and implementation of joint projects in the border region. The programme is similar for all three borders (SI/ITL, SI/AUS and SI/HU).

17 Source: the Delegation of the European Commission in the Republic of Slovenia

18 Additionally there is the European Initiative for Democracy and Human Rights (EIDHR), which is not a part of Phare funds.

19 'Deteljica' (an association of organic growers and producers) 'Društvo Ključ' (a centre for the fight against trafficking in women), the Society of Paraplegics' of the Ljubljana Region, the Multiple Sclerosis Society of Slovenia, 'ŠENT' (a national mental health association), the Union of Slovenian Organic Farmers' Association and Umanotera (the Slovene Foundation for Sustainable Development).

16

Phare programmes in Slovenia ran to approximately 194 million euros in the period 1992-1999, 33 million euros in 2000, 28 million euros in 2001 and 42 million euros in 2002. For the SAPARD programme, 44.8 million euros have been earmarked for the period 2000-2006 (6.4 million euros a year). For the ISPA programme the figures are 20 million euros in 2000 and 16 million euros for 2001. The total absorption capacity of Slovenia for the expenditure of these funds is good, since between 1995 and 1999 Slovenia used more than 90% of funds allocated.¹⁷

An important role in the implementation of the programmes has been played by NGOs. Some programmes from Phare funds have been specially devoted to NGOs.¹⁸

Phare LIEN, Partnership and Democracy

The first programmes aimed at NGOs were the Phare Democracy Programme (1994-1998, 8 projects), the Phare Partnership Programme (1997, 4 projects) and Phare Lien (1996-1998, 30 projects).

Phare ACCESS Programme 2000

Phare ACCESS funds activities related to the adoption and implementation of the *acquis* in the areas of environmental protection, socioeconomic development, activities in the social sector which contribute to social reintegration and inclusion in active life and/or the promotion of sustainable medical and social aid to marginalised groups of the population.

Support has been obtained by 7 organisations. Implementation is conducted by the Government Office for European Affairs.¹⁹

Part of ACCESS is also the 'Networking Facility', where 1 project has been funded.

20 The main forms are set out by Article 159 of the Treaty on the European Community: the Structural Funds, the European Investment Bank (EIB) and other Community aid instruments.

21 The Structural Funds represent main source of funding of the European Communities. On the basis of Article 159 of the Treaty on the European Community they include the European Social Fund (ESF), the European Regional Development Fund (ERDF) and the European Agricultural Guidance and Guarantee Fund (EAGGF), and on the basis of a special regulation the Financial Instrument for Fisheries Guidance (FIFG).

22 Objective 1: promoting the development and structural adaptation of regions that are lagging behind; Objective 2: promoting the economic and social restructuring of regions with structural problems; Objective 3: promoting the adaptation and modernisation of systems of education and training and of employment policies. Objectives 1 and 2 are regionally oriented, while Objective 3 is horizontally oriented

23 During the pre-accession period candidate countries have had the right to special aid from Phare, ISPA and SAPARD funds.

24 Council Regulation (EC) No. 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, OJ L 161, 26.06.1999.

Phare ACCESS Programme 1999

5 projects and 9 Networking Facilities were implemented to an amount of 310,000 euros.

Small Projects Programme (SPP) 2000

Support was obtained by 6 organisations to a total amount of 149,657 euros. The assessment is that the absorption capacity was good. Typical areas of work were activities connected to Slovenia's entry into the EU, with priority tasks in the area of agriculture, rural development, justice and internal affairs, the internal market and processes deriving from the signing of the Nice Treaty.

Small Projects Programme (SPP) 2001

Support was obtained by 6 organisations to an amount of 198,144 euros. It is difficult to estimate the absorption capacity since the projects are still being implemented. Typical areas are agriculture, rural development, regional policy, civil society/NGOs, social policy, internal affairs and justice.

Small Projects Programme (SPP) 2002

Funds to the amount of 250,000 will be issued in 2003.

The Structural Funds

A special challenge for NGOs will be their inclusion in the formulation and implementation of the regional structural policy of the EU. The fundamental purpose is to stimulate the economic and social cohesion of the whole of the EU and, in particular, the reduction of development differences between regions as an instrument of solidarity. The realisation of the goals of structural policy is done in various ways.²⁰ The main source of funding for the achievement of these goals are the Structural Funds.²¹ This aid represents more than 35% of the expenditure of the European budget and is intended for States or regions whose gross domestic product is below 75% of the EU average.

On the basis of the negotiations in Copenhagen in 2002 Slovenia was allocated 56 billion tolar of grant from the Structural Funds for the period 2004-2006.

In order to achieve the priority objectives for the period 2000-2006²² the use of funds (195 billion euros for the Structural Funds for this period) is only possible in Community territory, for which reason candidate countries will only obtain funds after entry into the Union.²³ However, with preparations for drawing funds from the Structural Funds the inclusion of NGOs in the instruments, resources and procedures of structural policy will be possible from the very beginning. The main mechanisms and groundwork for such inclusion could be the following:

- the general documents of EU institutions (listed above) which define the necessity of inclusion of NGOs in the processes of information, consultation and cooperation
- principles and regulations for the use of the Structural Funds (adopted with the reform in 1998 and amended in 1999).

Particularly important was the 'general regulation',²⁴ in that it defined the fundamental principles of procedures of aid from the Structural Funds that guarantee the correct use of

Community aid for the realisation of the aims of structural policy. The regulation conserved the multi-stage procedure for adopting programming documents (region, Member State and the Commission) but also reintroduced the taking into account of economic and social partners, the concept of ex-ante evaluation and the preparation of amendments to programme planning, and introduced a different system of prepayments and 'allocation of the performance reserve' and financial controls and increased information for the public and applicants.

Most important among the principles and regulations for the use of the Structural Funds are the following:

a. Information and publicity measures

The administrative body must²⁵ inform target groups (potential and final beneficiaries) of the possibilities of aid. Beneficiaries include NGOs, in particular institutions working for the equality of women and men and institutions involved in environmental protection.

b. The principle of partnership

This is the primary principle of a procedure that characterises in particular the processes of preparations for the adoption of decisions. The main goal is the inclusion of the relevant actors (or the most representative of them) in the procedure of preparing and implementing structural aid (these actors include for example social partners or other interest groups) - each time at the relevant level.²⁶

The principle of partnership is institutionalised in Monitoring Committees (in the case of Slovenia and the preparation of the Single Programming Document this is performed by the Monitoring Committee of the National Development Plan till the establishment of the Monitoring Committee) and means a decentralised approach to the implementation of structural policy.

c. The principle of programme planning

The principle is important because it includes the assessment of needs for development and the drawing up of strategic orientations for dealing with problems and the addressing of these problems.

Programme planning begins with the elaboration of a Development Programme, depending on the type of procedure, as follows:

- Community Support Framework, which is divided into several operational programmes in case the country is assigned more than 1 billion EUR or
- Single Programming Document such as is being prepared by, for example, Slovenia.

Three fundamental tasks await the partners:

- The plan should contain data on the course of the agreement between the partners with regard to the plan. Although the plan is drawn up by the competent national body and the State submits it to the Commission, a consultation with partners must be carried out before this and the partners allowed to state their position with regard to the plan²⁷,

25 Article 46 of the General Regulation and Commission Regulation (EC) No. 1159/2000 on information and publicity measures.

26 Most important is Article 8 of Council Regulation (EC) No. 1260/1999, which sets out the fundamental elements of partnership both between the Commission and States and between partners in individual States.

27 Paragraph 2, Article 15 of Council Regulation (EC) No. 1260/1999.

28 Paragraph 6, Article 15 of Council Regulation (EC) No. 1260/1999.

29 Paragraph 1, Article 35 of Council Regulation (EC) No. 1260/1999.

30 In accordance with Paragraph 2, Article 4 of ESF Regulation (EC) No. 1284/1999.

31 Handbook on European Union Structural Aid, Wolfgang Petzold, Phare MOCCA, October 2000 and the publication 'The Regional Policy of the European Union and the Structural Funds', Center Evropa, 2002.

- Before formulating a Program Complement the managing authority must cooperate closely with the partners²⁸,
- The State must consult them with regard to the appointing of members of the Monitoring Committee of the National Development Plan, before these are confirmed²⁹.

Additionality Principle

This principle defines that European funds supplement structural expenses of member states but do not substitute them.

Community Initiatives

Initiatives are an instrument of aid of the Commission that is funded from the Structural Funds, although it is the Commission that determines the actual orientation. It is important that for an individual initiative the Commission adopts guidelines that set out the goals, area of validity and executive provisions.

Innovative measures and technical aid - Commission instruments

Important for NGOs are technical aid measures (0.25% of the total funds from the Structural Funds) that support the implementation of structural aid by the EU and can cofinance in particular the exchanging of experiences and information on the Structural Funds for the partners, final beneficiaries and the public.

General grants

For goals 1 and 3 general grants³⁰ are envisaged within the framework of the OPs. These are funded from the European Social Fund. An 'intermediary institution' is responsible for their implementation. An NGO, local authority or regional development body may act as the intermediary institution.

Other forms of financial aid supplementing the Structural Funds³¹

The **Cohesion Fund** is a form of financial aid that supplements the Structural Funds and enables the direct funding of projects relating to environment and transport infrastructure in Spain, Greece, Ireland and Portugal. The Cohesion Fund was established under the Maastricht Treaty and the decision to establish European economic and financial union. It was introduced in the programme period 1994-1999 in order to contribute financial aid for the fields of environment and pan-European transport connections in the EU. In the period 2000-2006 the Cohesion Fund has its functions defined in European regulations 1264/1999 and 1265/1999. The criterion for allocating funds is GDP, in terms of purchasing power. If this is lower than 90% of the EU average, the Member State is entitled to draw funds from the Cohesion Fund. With the close of negotiations in Copenhagen in 2002, Slovenia was allocated 45 billion tolar of grants from the Cohesion Fund for 2004-2006

Also important are **Community Initiatives**. There are four such initiatives for 2000-2006 and their implementation takes place in a decentralised way, which means that regional authorities are responsible for most of them. These initiatives absorb 5.35% of the Structural Funds: INTERREG III (programmes of cross-border, international and interregional cooperation), URBAN III (programmes of sustainable development of towns and urban settlements), LEADER+ (development of local initiatives in rural areas as sustainable development of regions) and EQUAL (inequality and discrimination on the labour market).

In order to improve the quality of regional strategies the EU provides financial support for ideas which have not yet been tested and are treated as innovations within the framework of **Innovative Actions**. In the 2000-2006 programming period funds have been earmarked for regional activities relating to research and development, e-regions and promotion of regional identity, and sustainable development.

The **European Investment Bank** also has an important role in the Structural Funds system. This is an instrument for enabling the funding and promotion of economic and social development and it provides financial aid in the form of loans and partial funding of investment projects, global loans, guarantees and partial funding of technical support and the preparation of project implementations.

4.2 The importance of NGOs in the sphere of environment and nature protection

The purpose of the work of NGOs in the sphere of environment and nature protection is the application of the principles of environmental protection and sustainable development at all levels of political decision-making and action. At the EU level this mainly involves large international organisations, federations and networks, which also combine as necessary for joint projects in important areas. One of these permanent but informal forms of association is the 'Green 8' coalition, which brings together the largest European organisations in the fields of environmental protection and nature protection: Birdlife International, Climate Action Network Europe, the European Environmental Bureau (EEB), Friends of Nature International, the European Federation for Transport and Environment, Friends of the Earth Europe, Greenpeace and the WWF. Together they have over 20 million members and sympathisers. The EEB is a federation of NGOs whose principal aim is to assert environmental protection demands at the level of the European Union and which brings together 134 members in 25 countries (in Slovenia the Institute for Sustainable Development and Umanotera).

The most important area of work of environmental and nature protection NGOs is undoubtedly *influencing the formulation of policy and legislation* at the European Union level, which in the long term also has a major influence on the structural policy of the EU. It involves both substantive legislation and the regulation of procedures and ensuring the participation of the public, access to information and consideration of environmental protection aspects. In the substantive sense an example of such activity was the 2002 campaign by the 'Green 8' coalition for the 'greening' of the work of the Convention on the Future of Europe and the draft of the EU constitution. The same year a working group for agricultural policy was founded. This is coordinated by the EEB and its purpose is creative cooperation in the reform of the EU's common agricultural policy, with the representation of nature protection and environmental protection principles. NGOs have similarly influenced the Trans-European Networks (TEN) programme, where they have worked for more sustainable mobility and a more environmentally friendly relationship between rail, road and air transport.

32 Billions for Sustainability: Lessons learned from the use of pre-accession funds, <http://www.foeeurope.org>

33 The European Union, Slovenia and Sustainable Development (chapters: EU Environmental Policy and The Structural Funds), Umanotera, Ljubljana 1998. European Environment Bureau, <http://www.eeb.org/> Friends of the Earth Europe, <http://www.foeeurope.org/> WWF, <http://www.panda.org/> Birdlife International, <http://www.birdlife.net/>

As regards the influencing of procedural legislation, the two most important documents are the following:

The *Aarhus Convention* on access to information, public participation in decision-making and access to justice in environmental matters was signed in 1998. The convention, which is in the process of being ratified by the EU and Member States, brings revised legislation on access to information and public participation in the adoption of decisions. NGOs have represented the most powerful pressure group ever since the formulation and signing of the convention.

The *Directive on Strategic Environmental Assessment* (2001/42/EC) was adopted in April 2001 and was the result of several years of efforts by European NGOs for the introduction of this instrument whose purpose is to ensure a high level of environmental protection and the inclusion of environmental protection aspects in the preparation and adoption of plans and programmes at the international, national, regional and local levels. The directive has potentially far-reaching positive consequences and also guarantees public participation in procedures.

The second area of work is *informing the public*. For example the successful campaign of the World Wide Fund For Nature (WWF) which was run in Member States in the early 1990s for the purpose of providing information about the environmental aspects of the Structural Funds as the most important financial instrument of the EU. Regulations on the Structural Funds do envisage consideration of environmental protection demands in all investments, but the problem lies in knowing these provisions. In 2000-2002 Friends of the Earth drew attention in a similar way to the environmentally harmful use of the EU's pre-accession aid to candidate countries. They produced a report³² and organised a conference in Brussels under the banner *Billions for Sustainability?* In the report they drew attention to the shortcomings in the expenditure of approximately 3 billion euros of aid which candidate countries receive under the SAPARD, Phare and ISPA programmes in the years 2000-2006, which often involve projects contrary to the principles of sustainable development.³³

The third area is represented by attempts to put a stop to certain specific national projects which are detrimental to the environment or nature by means of international action and pressure. The first such campaign is a major irrigation project by the Spanish government for which co-financing from the Structural Funds and the Cohesion Fund was envisaged. Several international organisations have drawn attention to the incompatibility of the project with the adopted policies of the European Union and with Articles 2.5 and 12 of the Regulation on the Structural Funds and to the expected negative consequences on the environment and nature in Spain.

4.3 The importance of NGOs in the sphere of social inclusion

We understand the concept of social inclusion as a strategy for the prevention of social exclusion. Since this is one of the most important themes of European welfare systems we will take into account in our starting points the definitions and proposals formulated year the EU within the Human Dignity and Social Exclusion project. This project began in 1994 and its starting points for the realisation of the strategy of the fight against poverty and social exclusion

were presented at a conference in Helsinki in 1998. The result of this are corresponding problems at the national level, such as the one designed by Slovenia which is coordinated by the Ministry of Labour, Family and Social Affairs (MDDSZ). In 2002 the European Commission began to take a more decisive role in the implementation of these programmes. Among other things it set a demand for greater inclusion of NGOs in the implementation of programmes. As a result the MDDSZ has invited a representative of NGOs to be part of the steering group for the implementation of the programme.

Since the sphere of social exclusion is tied to employment in the National Development Programme, in this chapter we will mainly orient ourselves around the EU programmes from this sphere. In the EU the sphere of social inclusion comes under social policy. In 2000 the European Commission drew up a Social Policy Agenda³⁴ which defines goals relating to employment and social affairs. The most important structural fund for the support of the Agenda is the European Social Fund. Other European agencies are also important: the European Foundation for the Improvement of Living and Working Conditions, the European Agency for Safety and Health at Work, the European Monitoring Centre for Racism and Xenophobia, the European Centre for the Development of Vocational Training and the European Training Foundation. The agenda calls for full employment (better services and the establishing of a better balance between working life and private life); a quality social policy (a high level of social protection, quality services for all European citizens, genuine possibilities and opportunities and the guaranteeing of basic social rights); quality in industrial relations (consensus for the implementation and adoption of modernisation).

The promotion of social inclusion is one of the goals that must be met in order to achieve better quality social policy which will abolish poverty and social exclusion by increasing the participation and integration of all in economic and social life. An important source of funds here is the Community Initiative EQUAL, a subprogramme of the European Social Fund.

The planning and implementation of programmes also includes NGOs, which have an increasingly important role at all phases of proceedings. The European Union is developing a special strategy of cooperation or partnership with civil society organisations. These are present in all bodies and projects being developed by the EU in the sphere of social inclusion. In order for NGOs to achieve greater power and greater influence on EU programmes, they have joined together to form the Platform of European Social NGOs³⁵ (founded in 1995). The Platform brings together 41 associations, federations and networks representing over 1700 individual NGOs. They include women's organisations, groups representing the elderly, the disabled, migrants, the unemployed, the homeless, the poor, lesbian and gay groups, children and families. Platform members include large and respected organisations such as the European Anti Poverty Network, Caritas, Euroling Age, the European Disability Forum, the European Women's Lobby, the European Social Action Network, etc. A special programme of the Platform of European Social NGOs is directed towards the fight against poverty and social exclusion.³⁶ Its main purpose is communication and the establishing of a network of connections, and it proceeds from the belief that effective democracy is only possible through active dialogue with civil society.

All European institutions are interested in cooperation with the Platform.³⁷ The power of social NGOs is also becoming increasingly apparent in the organisation of the annual NGO forums, which can no longer be overlooked.³⁸

34 Social Policy Agenda. European Commission, Directorate-General for Employment, Industrial Relations and Social Affairs, September 2000.

35 "The Platform of European Social NGOs" now brings together 37 European NGOs.

36 More data on the network is available at www.socialplatform.org.

37 www.socialplatform.org/aboutus.asp

38 The Social Forum has become a key place for the better globalisation movement.

39 The drawing up of national plans for the prevention of poverty and social exclusion is envisaged by the Social Policy Agenda, p. 20.

40 Platform for Action and the Beijing Declaration. Fourth World Conference on Women, Beijing 4-15 September 1995, (1996). New York: United Nations.

They have an important role in the execution of compulsory national plans for social inclusion³⁹ which bind States to draw up their own action plans in this sphere.

4.4 The importance of NGOs in the sphere of equal opportunities and the position of women

a) European Union

Cooperation and dialogue according to the principle of integration and the inclusion of NGOs as partners is an integral part of the work of the EU. This is set out by a number of regulations. Article 14 of Directive 2000/78/EC on employment and occupation binds Member States to establish dialogue with appropriate NGOs. The Directive also requires States to consult representatives of sectoral NGOs which have a legitimate interest in specific sectors.

Article 8c of Directive 2002/73/EC Amending the Directive on Equal Treatment of Men and Women states that States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on the basis of sex, from the point of view of the promotion of the principle of equal treatment.

Article 12 of Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin covers dialogue with NGOs and states that Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of racial and ethnic origin with a view to promoting the principle of equal treatment.

The role of NGOs is also underlined by the Beijing Platform⁴⁰, the strategic goals of which also mention the activities which NGOs should implement in individual spheres, among them: women and poverty, education, health care, violence against women, inequality in the economy and politics.

Gender mainstreaming, ensuring equal opportunities and the realisation of the principle of participation by NGOs is, in the EU, linked to the implementation of adopted statutory provisions (treaties, directives), sectoral guidelines (resolutions, recommendations) and applicable international treaties.

- The Amsterdam Treaty (Articles 2, 3, 13).
- Council directive on the implementation of the principle of equal treatment for men and women as regards employment, vocational training and promotion, and working conditions (Dir 76/207/EEC).
- Gender equality directive amending the Council directive 76/207/EEC on the implementation of the principle of Equal treatment for men and women as regards access to employment. (Dir 2002/73/EC).
- Council Directive establishing a general framework for equal treatment in employment and occupation (2000/78/EC).
- EC directive on gender equality on the basis of Article 13 of the Amsterdam Treaty ('Gender Equality in all areas of life' - in preparation at the European Commission).

- Directive on the burden of proof in cases of discrimination based on sex (Dir 97/80/EC).
- Charter of Fundamental Rights of the European Union.⁴¹
- Other international documents, e.g. the European Convention on Human Rights, the Beijing Platform of the UN, the Convention on the Elimination of All Forms of Discrimination against Women, the UN Protocol on trafficking in women, etc.

Under Article 13 of the Amsterdam Treaty gender equality is a fundamental and transversal principle, a fundamental human right, and must therefore be the main task and goal. It represents a legal basis for antidiscriminatory legislation and policy from the point of view of gender and other personal circumstances.

Alongside the binding instruments, significant potential is also enjoyed by the so-called 'nonbinding' EU instruments which accelerate the implementation of statutory regulations:

- The Community Action Programme to Combat Discrimination (2001-2006).⁴²
- The Community Framework Strategy to Gender Equality (2001-2005).⁴³
- Special programmes for the promotion of equal opportunities and the fight against violence against women, e.g. the Daphne programme, Transnational Actions for the exchange of information and good practice, EQUAL, WEEST etc.
- Annual Report on Equal Opportunities for Women and Men in the European Union (Report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of Regions) (from 1996 onwards).⁴⁴

b) The Structural Funds

Within the framework of EU structural policy the sphere of equal opportunities and the position of women is tied to the framework of social policy and employment, or to the European Social Fund (ESS). Emphasis is placed on active employment policy, the development of the social environment, lifelong learning, overcoming economic and social changes and equal opportunities of men and women in employment.

As a supplement to the Structural Funds there are also Community Initiatives. The EQUAL programme is important here - a special ESS initiative against discrimination on the labour market.

NGOs can make a constructive contribution to the formulation of documents for the implementation of structural policies (national development programmes, single programming documents and operational programmes), both through identifying priorities and the implementation of programmes in priority areas.

Initiatives to increase the role of the Structural Funds in the sphere of gender equality were evident at two levels in 2002: in the form of the 'Gender Mainstreaming in the Structural Funds' conference (Santander, Spain) and in the efforts of the European Commission in the sphere of the implementation of gender mainstreaming in the programming documents of the Structural Funds, the purpose of which was to renew and refine mainstreaming in the Structural Funds during the preparation of a general reform of the Structural Funds (a statement of the resources and instruments for the implementation of these activities).

41 The Charter of Fundamental Rights in the European Union. In: Human Rights Documents (2002), Amnesty International and the Peace Institute, Ljubljana, pp. 789-813.

42 The Fight for Equality (2001). Office for Official Publications of the European Communities, Luxembourg. http://europa.eu.int/comm/employment_social/fundam-ri/index_en.htm

43 The Community Framework Strategy on Gender Equality (2001-2005).

[Http://europa.eu.int/comm/employment_social/equ_opp/strategy_en.html](http://europa.eu.int/comm/employment_social/equ_opp/strategy_en.html)

44 See: Annual Report on Equal Opportunities for Women and Men in the European Union 2001. Brussels 28. 5. 2002 COM (2002) 258 final.

Part two:

Recommendations for the systemic inclusion of NGOs in the preparation, implementation and evaluation of the development strategy documents of the Republic of Slovenia

1. Description of the situation and trends regarding the inclusion of NGOs in the preparation of development strategy documents in Slovenia

25

In past years, despite the lack of regulations governing the cooperation of NGOs in the process of adopting decisions, some NGOs have been included in the preparation of individual general and sectoral strategic documents and Acts or Bills. Examples of good practice have developed at the initiative of NGOs and with the support of motivated individuals in the public administration, since the State authorities have not possessed developed guidelines for the inclusion of NGOs.

A major obstacle to the successful cooperation of NGOs are cases of apparent inclusion: when NGOs are invited to prepare comments on a particular strategic document but the preparer of the document does not state an opinion on these comments or the comments are not taken into account. It also frequently happens that the final content of the draft document is prepared even before the inclusion of NGOs. As a result of bad experiences or 'abuse', or the practice of apparent cooperation, and in the absence of assurances that their contributions will be studied and appropriately taken into consideration by those preparing the documents, NGOs are reluctant to respond to invitations to cooperate. Among the current obstacles to the successful inclusion of NGOs is the frequent tendency of NGOs to follow more specific goals (which, however, are in accordance with their mission) and thereby fail to show sufficient understanding of the strategic interests of society at large.

For the authorities at the national and local levels, the low level of legitimacy which the process of preparing strategic documents, the process of adopting other decisions and the institutions of authority enjoy among the public are a powerful motive for the inclusion of

NGOs. In formulating strategic documents it is necessary to consider and balance various background documents, achieve interdepartmental coordination and political consensus and include the regional and local levels. For this reason, the bodies preparing documents must ensure that the influence of the various interest groups is balanced. Partner cooperation with NGOs can contribute significantly to increasing the legitimacy of the document and to greater quality, since it takes into account the opinion of broader interest groups. It is in everybody's interests to prepare national strategic documents that will contribute to the greatest possible extent to guaranteeing human rights, quality of life and the sustainable development of Slovenia.

The many difficulties and obstacles to cooperation can be overcome by establishing and maintaining a partner relationship between public authorities and the non-governmental sector. In the face of the opinion that NGOs and the representatives of public authorities in Slovenia are still not ready to cooperate as partners, there is a need to set up a cooperation programme that will build on the development of partnership in the longer term. As a starting point it is necessary to take into account the readiness and ability of both parties to cooperate and on this basis draw up a plan that will enable a rapprochement and the best possible cooperation between them.

A partner relationship can be established when both parties follow common goals in equal positions. Partner cooperation enables the balancing of unequal positions, particularly as regards the responsibility for the preparation, implementation and evaluation of strategic documents, and unequal access to information. Partnership also balances efforts to ensure, on the one hand, that the process is as democratic as possible and, on the other, efficiency in adopting decisions.

2. Vision

As partners, NGOs and State organisations put into practice the principles of civil dialogue and the inclusion of NGOs in the preparation, implementation and evaluation of the strategic development documents of the Republic of Slovenia

3. The purpose of the Recommendations for the systemic inclusion of NGOs

The purpose of the Recommendations for the systemic inclusion of NGOs in the preparation, implementation and evaluation of the strategic development documents of the Republic of Slovenia is to contribute to the identification of procedures and the formulation of quality standards for the inclusion and effective cooperation of NGOs in the preparation, formulation, implementation and evaluation of the strategic documents of the State.

4. Advantages of the cooperation of NGOs in the preparation, implementation and evaluation of the strategic development documents of the State

In general terms the cooperation of the public in adopting decisions increases the level of:

- legitimacy (democratic realisation of the plural interests and needs of society, transparency and credibility),
- legality (alignment with legislation).

The inclusion of the public is the moral duty of the authorities and the only way to take into account the expectations of citizens. At the same time it is a fundamental precondition for the sustainable development of society. Solutions designed to bring simultaneous progress in the economic, social and environmental spheres can only be formulated through broad inclusion and open debate which takes into account various ideas and approaches.

By perceptibly widening the range of debates about the development document being prepared, and by integrating various views and opinions, the inclusion of NGOs in the process of preparing documents increases their quality. The cooperation of NGOs also ensures the following:

- that the knowledge and experience of NGOs, particularly at the local level where the knowledge of State and local officials is weak, are included in the process of preparing documents;
- that groups with no formal possibilities of cooperation and which for various reasons are marginalised are also included;
- the strengthening of trust between sectors through cooperation, not only in planning but also in putting adopted decisions into effect;
- that strategic documents reflect the mutual advantages of various participants (the 'I win-you win' principle);
- that participating NGOs identify themselves with the document, thereby increasing affiliation and thus the possibilities for successful implementation;
- that priority challenges are incorporated in the appropriate political discussions;
- that a clear division of responsibility among the partners is created for the implementation of the measures of the strategic document among participants;
- that solidarity and cohesion are established. These increase efficiency and reduce the risk of conflicts of interests as obstacles to development.

The numerous advantages of cooperation by NGOs listed above do not make these processes any less complex. They require careful and thorough preparation beforehand. The fear on the part of those preparing the document that too many possibilities for cooperation by NGOs would slow up the preparation of the document to an unacceptable extent can be overcome by means of a clear and precise definition of an effective inclusion procedure, including definitions of the time frame and the content of cooperation (more on this in the final chapter).

5. The existing legal and institutional basis and practice regarding the inclusion of NGOs in the preparation, implementation and evaluation of strategic documents

47 Official Gazette of the Republic of Slovenia, No. 13/12.3.1993

Slovenia

Article 44 of the *Constitution of the Republic of Slovenia* guarantees every citizen the right, in accordance with law, to participate, either directly or through his elected representatives, in public affairs.

Under Article 81 of the *Rules of Procedure of the Government of the Republic of Slovenia*⁴⁷ interested civil society organisations have the right to cooperate actively in the processes of statutory amendments if the contents of these amendments relate to them or their area of work.

In the *Partnership for Accession*, which Slovenia signed in 1997, the strengthening of NGOs is one of the important tasks in the process of Slovenia's accession to the EU.

A Monitoring Committee of the National Development Plan is responsible for the supervision of the preparation and implementation of the *National Development Programme*. Under the partnership principle, the Council includes four members from NGOs, for the following areas: environmental protection, ensuring gender equality, employment and social inclusion.

In the environmental sphere, the *Partnership for the Environment* programme of cooperation between environmental NGOs and the Ministry of the Environment, Spatial Planning and Energy (MOP) is already being carried out. In 1998 the MOP issued *Instructions on the procedure for preparing general legal acts and other documents at the MOP*, which clearly define possibilities for cooperation by NGOs.

The legal basis for the cooperation of NGOs in the preparation of documents and the implementation of social inclusion strategies which guarantee the introduction of a plural network of service providers is already set out in the *Social Security Act*.

NGOs are also defined as equal partners in the social security system by the *National Social Protection Programme* and the *National Programme on the Fight against Poverty and Social Exclusion* and programmes from the sphere of unemployment.

Representatives of NGOs sit on various bodies responsible for the implementation of the programmes listed above. They are present on the steering committee for the implementation of the *National Social Protection Programme* and the *National Programme on the Fight against Poverty and Social Exclusion*. (It is not however known what key was employed in the selection of NGO representatives and what their actual influence is on implementation.)

Recent trends in amendments to the legal system point to the State's readiness to put into practice the principle of an open State: a bill regulating *Access to Information of a Public Nature* is currently before Parliament. In 2003 the Government is expected to begin preparing a bill on *transparency and openness in the preparation of regulations*, in cooperation with NGOs.

The European Union

The European Commission document *The Commission and Non-Governmental Organisations: Building a Stronger Partnership* states that NGOs must be actively included as equal partners in all processes and discussions relating to them and encourages the establishing of a relationship (partnership) between State and the non-governmental sector and the possibility of NGOs cooperating with the State.

Similarly, Article 8 (Complementarity and partnership) of the *Proposal for a Council Regulation (EC) laying down general provisions on the Structural Funds* prescribes for every Member State the appointment and selection of representative partners at the national, regional and local levels within the framework of its institutional, legal and financial system and the appropriate inclusion of organisations working in the spheres of the environment and the promotion of gender equality.

The European Union devoted special attention to the inclusion of NGOs by adopting a communication (*Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission*) within the framework of which it adopted recommendations of principle for cooperation with civil society organisations and minimum standards (a clear specification of the contents of consultation, target groups, time frames, etc.) for determining the key mechanisms of cooperation.

The *White Paper on European Governance* also proposes greater openness of decision-making procedures which should enable greater inclusion of citizens and organisations in the process of formulating and implementing EU policy. It aims for greater openness of decision-making and the responsibility of all subjects involved. All of this should contribute to a realisation on the part of citizens that the joint work of the Member States within the Union leads to an improvement in the efficiency of individual States in addressing their own problems. Irrespective of the process of preparing and adopting EU policy, its characteristics should be greater openness, accessibility and comprehensibility. Cooperation with regional and local governments and with civil society needs to be strengthened, and it is the Member States who are primarily responsible for this.

The *Fundamental Principles on the Status of Non-Governmental Organisations in Europe* (Council of Europe, 2002) state that a responsible and quality contribution from NGOs in the processes of formulating policies improves the quality and implementation of the decisions of government bodies. NGOs must therefore be encouraged to cooperate in formal and informal mechanisms of dialogue and consultation, in particular in order to seek the best solutions for the needs of society. Similarly, NGOs must be included in the preparation of legislation and implementing regulations which affect their status or funding or the spheres in which they work.

The role of NGOs does not mean a substitution of the role of political parties and is complementary to existing mechanisms. Similarly such cooperation by NGOs may not affect (ensure or exclude) the obtaining of funds for their basic activity from State sources. State bodies may not attempt to influence the work of NGOs or their independence.

Article 14 (Dialogue with NGOs) of the *Directive on Employment* (Dir 2000/78/EC) provides that Member States shall encourage dialogue with appropriate NGOs which have, in accordance with their national legislation and practice, a legitimate interest in contributing to the fight against discrimination [...] with a view to promoting the principle of equal treatment.

The *Aarhus Convention* (the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters) is one of the most important international agreements in this sphere. The Convention recognises the right of every citizen to live in an environment adequate to his or her health and well-being and imposes the duty to protect the environment. In order to exercise this right and fulfil this duty, citizens must have access to information, the right to participate in decision-making and legal protection of these rights. Under the Aarhus Convention the exercising of these rights increases quality and improves the possibilities of implementing decisions, contributes to public awareness, gives the public the possibility to express its interests and enables bodies of public authority to give appropriate consideration to these interests.

6. The key elements for the inclusion of NGOs in the preparation, implementation and evaluation of national strategic documents are:

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- preparation of groundwork,
- fulfilment of preconditions for cooperation,
- putting procedures into effect by observing the principles of civil dialogue and partnership.

The preparation of groundwork for the inclusion of NGOs in the preparation, implementation and evaluation of strategic documents:

- establishing European criteria and principles for a partnership between NGOs and the bodies responsible for preparing strategic documents,
- adoption of an appropriate statutory basis for the partnership and cooperation of NGOs.

Fulfillment of preconditions for the inclusion of NGOs in the preparation, implementation and evaluation of strategic documents:

- Definition of terminology (NGOs, public benefit NGOs, etc.)
- Ensuring the financial and material conditions for the cooperation of NGOs and representatives of NGOs, in particular:
 - appropriate evaluation of the work of NGOs (tariffs etc.),
 - provision of primary funds on the part of the preparer of the strategic document for the inclusion of the NGOs
- Existence of good quality services necessary to achieve the partnership of NGOs in all processes:
 - research service,
 - legal service,
 - other necessary services.

- quality infrastructure necessary for the partnership of NGOs in the processes of preparation, implementation and evaluation of strategic documents,
- information infrastructure for the flow of information,
- increasing the employment and service possibilities of NGOs,
- training the preparers of strategic documents for the inclusion of NGOs and training of NGOs for cooperation,
- elaboration and adoption of clear criteria for the selection of NGO representatives in processes where the number of NGO representatives is limited

Putting into effect the processes of preparation, implementation and evaluation of strategic documents:

- The introduction and implementation of the principle of civil dialogue in all contexts (preparation, implementation and evaluation of the strategic document) with the following strategic guidelines:
 - a) elaborated clear criteria for the selection of:
 - an appropriate mechanism of implementation of the principle of civil dialogue (information, consultation, cooperation, participation in decision-making)
 - an appropriate method of implementation (joint decision-making bodies, advisory bodies, permanent or ad hoc mechanisms, equal starting points/culture of dialogue, etc.).
 - b) putting into practice the principle of partnership between the preparer of the strategic document and NGOs, in particular by means of the following methods:
 - timeliness and completeness of information for NGOs on the part of the preparer,
 - cooperation of NGOs in the formulation of processes of preparation and co-formulation of strategic documents and in determining the contents of strategic documents,
 - cooperation of NGOs in the implementation and evaluation of the strategic document and evaluation of the implementation of the principle of civil dialogue in the sense of the contribution of NGOs (procedural and substantive) to the effectiveness of the strategic document,
 - ensuring of suitable conditions for the work of NGO representatives by the preparer of the strategic document.
- Putting into practice the principle of transparency and openness of procedure for all stakeholders
- Putting into practice the principle of partnership between NGOs and other subjects involved in the strategic document, in particular:
 - local communities,
 - other networks of NGOs,
 - other important subjects.
- The introduction and implementation of the principle of inclusion of NGOs in the contents of strategic documents at all levels.

7. Practical recommendations for the inclusion of NGOs in the preparation, implementation and evaluation of national strategic development documents by observing the principle of civil dialogue

Recognition of NGOs and their organisational structure

Before the commencement of the process of inclusion of NGOs, the preparers of strategic documents must have thorough knowledge of the non-governmental sector in individual spheres, their social role, history, interests, areas of work, forms of organisation and the formal and informal relations between different actors. Since it is based on self-initiative, the non-governmental sector contains a very wide spectrum of different types of organisation. NGOs can work at various levels, from addressing smaller, local, practical problems to more strategically oriented work at the local, regional or national level.

Also of key importance is knowing who an individual NGO represents (the numbers involved and what organisations/members they represent), what responsibility they have for the communication of information and communication with their members, what public mandate they have, whether there are coalitions of NGOs or other connections between individual NGOs. It is also important how NGOs are technically and professionally trained and whether they have financial resources for cooperation at their disposal. Taking into account the existing situation in the area of funding NGOs in Slovenia, and EU guidelines, the preparer of the strategic document must provide appropriate financial coverage of the costs of work, cooperation at meetings, the acquisition of information and the preparation of material by NGO representatives.

It is also important to know the level of public benefit of NGOs, whether they represent the interests of the members of a specific NGO or are committed to the wider interests of the community. In this connection it is good to know whether they are able to go beyond specific group interests and work in the wider/public interest and to know their priorities, expectations, communication potentials and cooperative abilities.

NGOs are organised (and registered) forms of the public. At no time should it be overlooked that NGOs do not represent the public as a whole. It is therefore also necessary to ensure the cooperation of individuals who are not part of organised civil society, and in particular to protect the interests of minority groups and vulnerable groups.

Definition of the purpose of inclusion of NGOs

Definition of the purpose of inclusion of NGOs is important because even in the initial phase it sets clear objectives for cooperation and prevents the formation of unrealistic expectations on both sides.

The purpose of cooperation is in principle many-layered and includes:

- timely notification of NGOs that a strategic document is being prepared,
- an opportunity for NGOs to formulate comments with appropriate assistance,
- consultation between the preparers of the document and NGO representatives,
- collection of comments and proposals,

- consideration of the comments of NGOs in formulating the final version of the document, or an opinion on them, together with a separate or joint explanation,
- analysis of the possibilities of implementing the principle of inclusion of NGOs in the content of a strategic document,
- assessment of the effect of NGO cooperation on the quality of the strategic document.

It is logical to include NGOs in the early phase of the preparation of a strategic document, when various possibilities which NGOs can influence are still open. It frequently happened in the past, as a result of the short time frame involved, that the draft of a proposed document was not available to NGOs during the preparatory phase and that when they obtained the document for inspection it had already been elaborated to such an extent that major changes of content were no longer possible. Such procedures are inadmissible.

In communication with NGOs, the preparer of a strategic document should clearly indicate the phase of preparation of the document and state the elements that NGOs can influence and the way in which they can influence them. In this way the preparer of the document enables NGOs the role of an actor able to contribute to the better quality of the document.

Complete notification of NGOs about the preparation of the document and the time frames and substantive frameworks for cooperation

The two basic preconditions for the equal cooperation of NGOs are the order and accessibility of the data and material tied to the overall preparation of the document. This includes:

- all information about the document itself (technical background, analyses and studies commissioned by the preparer and similar material) and
- all appropriate information on the process of preparing the strategic document. It is best if the preparer of the document, together with NGOs, prepares an integrated plan for the inclusion of NGOs which includes the following descriptions:
 - the name of the document being prepared and a short description of its importance and role,
 - the name of the public body responsible for the preparation of the document,
 - the structure of the decision-making body,
 - the time frame and description of the phases of preparation of the document in which NGOs may be included, taking into account the standards for the minimum time necessary (in the EU for example this is 8 weeks for contributions from NGOs to written documents and 20 working days to announce participation in events during the process),
 - list of available material and where it can be accessed,
 - information on the possibilities of cooperation for NGOs that is as complete and detailed as possible
 - forms of assistance available for the cooperation of NGOs,
 - method of dealing with the comments and proposals of NGOs,
 - the time and place where reports on the results and effects of the inclusion of NGOs and the final draft of the document will be presented,
 - examples of good practice from other countries (if possible).

The information must be easily accessible, up to date, of good quality, complete and comprehensible.

Motivation and assistance to NGOs for cooperation

The preparer of a strategic document occupies an active role in the inclusion of NGOs according to the principle of transparency and openness of procedure and strives to achieve the best possible response from all interested NGOs. It is particularly important to guarantee the participation of key NGOs which have experience and knowledge and can make a significant contribution to the formulation of good solutions. To this end it is recommendable to send individual invitations to these NGOs (in addition to general invitations) and to include in them a statement of the importance of the document being prepared, the purpose of including NGOs and the advantages that the cooperation of NGOs is expected to bring.

A precondition for the above is the introduction of objective criteria for the classification of organisations (area of work, quality of work, etc.) and the setting of minimum standards in identifying the target groups which will cooperate in the procedure (e.g. in the European Union at least those which will be affected by the strategic document, the implementers of the strategic document and those who have a direct interest). In order to identify the subjects in the procedure it is also necessary to evaluate the effect of the strategic document on the general public, the necessity of specific expert knowledge, the inclusion of non-organised civil society, guarantees of balance of interests, already existing formal bodies and mechanisms, etc.

Those NGOs which have expressed an interest in cooperation but which are not fully acquainted with the issue and State policy in this sphere must be provided with appropriate assistance in order to understand the technical background and other material, the process of formulating State strategies and the effects which the strategic document can have.

The effective cooperation of the public in the preparation of strategic documents requires familiarity with new skills (presentation of views, team work, identification of problems and setting of priorities, achievement of consensus and resolution of conflicts, networking and similar). In order to increase this capability and at the same time raise the quality of decision-making, it is necessary to provide NGOs with appropriate assistance in advance.

Besides training, other forms of support for NGOs are also important:

- financial evaluation of the contributions of NGOs and coverage of other costs,
- provision of research and advisory services
- necessary infrastructures, particularly information infrastructure.

Public meetings and other forms of consultation

The preparer of a strategic document carries out appropriate consultations with members of NGOs within the time frames envisaged for the inclusion of NGOs. In addition to the consultations and working meetings envisaged in the plan of cooperation with NGOs, ad hoc meetings can also be held if the development and dynamics of cooperation make this desirable. It is also possible to establish other forms of cooperation for which NGOs express an interest during the preparation of the document and which are acceptable to the pre-

parer of the document. These can include the collection of written information and comments, surveys, advisory groups, an open telephone information line, public discussion, etc.

Information technology opens up new possibilities for electronic communication, electronic forums, public debates and other forms of communication. Although not all NGOs have the possibility to use information/communication technology, for most of them these forms of cooperation are very advantageous since they are very useful and simple. It therefore makes sense to use them.

Expressing opinions on the comments and proposals of NGOs, joint decision-making, assessment of the effects of cooperation with NGOs.

The comments, proposals and opinions of the NGOs included in the process must be appropriately documented and annexed to the rest of the documentation on the strategic document being prepared. The collected material enables the preparer of the strategic document to analyse the contributions by means of which NGOs hope to modify the strategic document and help formulate it. A transparent and correct attitude on the part of the preparers of strategic documents is extremely important here.

The decision-making body directly responsible for the preparation of a strategic document studies the comments and proposals of NGOs at every stage of cooperation with NGOs and expresses a clear opinion of them. It prepares a report on this which it publishes on a website and at the same time organises a meeting with NGOs.

On the basis of appropriate consideration of new proposals and alternatives put forward either by the NGOs included in the process or by other partners in the preparation of the strategic document, the final version of the document is prepared. This final version is published before final adoption.

The preparer of the document may monitor the success of cooperation during the process of inclusion of NGOs and adapt the further process of inclusion to its intermediate findings. It presents a final report on the results of cooperation with NGOs to the public together with a final draft of the strategic document. The findings and assessment of the success of the inclusion of NGOs serve as a basis for further strengthening of partnership.

Implementation and evaluation of strategic development documents

Programmes and projects for the putting into effect of the measures of strategic development documents are prepared by the Government together with the other participants. Projects which will meet the needs of several groups of citizens and in whose implementation various stakeholders, including NGOs, will participate, usually have an advantage in quality and thus in funding.

Thus the way in which NGOs will cooperate in the implementation and evaluation of a strategic document depends both on the activities which NGOs carry out and on their approach. It is extremely important for every such process to contain analysis of the possibilities of implementation of the principle of inclusion of NGOs in the content of the

strategic document, since NGOs, like the government and business sector, have a key role in this process.

Once they are included in the full life cycle of the strategic document, it will be easier for NGOs to assume the part of the responsibility that belongs to them as a sector of modern society.

APPENDICES

1. List of literature

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