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'The Principle of Partnership in Programming the EU Funds and the Extent of Compliance in Bulgaria'

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Abstract

Bulgaria's integration to the EU has been an ambiguous experience. During the negotiation process, the EU has been primarily associated with the funds to be allocated and the benefits it brings. However, the funds absorption and effectiveness programmed for socio-economic development demand a complex management system, specific administrative capacity and interactions between wide circle of actors based on the principles of partnership, co-ordination, decentralisation and complementarity.

This paper focuses on the application of the principle of partnership in Bulgaria in programming the EU funds 2007-2013 and its implications on public dialogue, cooperation with civil society actors, local governance, efficient planning and the institutional challenges it has raised. The research examines the domestic compliance and response to EU-isation through the case-study of application of the principle of partnership. It displays evidence that there is a serious adaptational misfit and left-overs of the previous institutional establishment that limit the EU leverage in this regard.

The paper builds upon empirical data from a project of Open Society Institute-Sofia 2010-2011 through in-depth interviews and focus groups and a research project of the European Studies Department of Sofia University "St. Kliment Ohridski": "Bulgarian in the EU: the Experience of the First Years", section 4: "The Public Partnership – a Conditioning for Institutional Efficiency and Fight against Corruption" led by Prof. Georgi Dimitrov.

Introductory notes

The application of the principle of partnership in the programming of the cohesion policy in Bulgaria is a litmus test for state efficiency to implement *public* policies. The process entails sufficient national institutional capacity to perform and implement EU common policies. This requires a specific set of administrative and policy tools in order to achieve the overall goals abiding by the *acquis communautaire*.

The EU Structural Funds and the EU Cohesion Fund contribute to the achievement of three main objectives: convergence; competitiveness and employment; territorial co-operation. The

effective application of the underlying principles in the Structural Funds can actually incorporate the target groups' needs and allow for “bottom-up” prioritisation when strategic documents and objectives of the operational programmes are being planned and to facilitate successful transfer of policies to member-states. As stated by the European Commission¹, an important prerequisite for the preparation for successful resource absorption is the application of the partnership principle at the various stages: planning; management; implementation; monitoring; and evaluation. The application of the partnership principle, namely the involvement of a wide range of different stakeholders in the programming and identification of the Structural Funds priorities ensures that the needs of target groups are taken into account and that this public resource allocated from EU's development budget is used effectively.

Despite the undeniable positive economic and political effects of membership, various issues surround Bulgaria's integration in the EU. EU cohesion and structural funds are expected to have a considerable impact on national public policy. For this impact to be positive, however, this process demands specific institutional adaptations in the member state as well as management and absorption capacity. As this paper is going to outline further, there is an institutional misfit between the EU governance and Bulgaria's institutional setting and post-communist trajectories that creates serious pressure on domestic actors for change. This paper is going to demonstrate that EU leverage is limited on domestic level in Bulgaria by the unreformed institutions and public administration and the inability to implement *public policies* (Karamfilova 2010). This is to be illustrated by the application of the principle of partnership in programming the EU funds in Bulgaria.²

Europeanisation and domestic compliance

In this paper, the broad definition of ‘EU-isation’³/Europeanization (Radaelli 2000) is accepted as the process of construction, diffusion, institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public

¹ http://ec.europa.eu/regional_policy/sources/docgener/evaluation/doc/rathe/asec3.pdf

² The paper is part of the PhD research and builds upon data provided by the Open Society Institute – Sofia and a research project conducted by the European Studies Department of Sofia University “St. Kliment Ohridski”: “Bulgarian in the EU: the Experience of the First Years”, section 4: “The Public Partnership – a Conditioning for Institutional Efficiency and Fight against Corruption” led by Prof. Georgi Dimitrov

³ The author views this term used by Dr. Othon Anastassakis as more proper to capture the process of EU integration, its leverage and various influences and derivative policy transfers.

policies. This wide definition provides a framework to explore the domestic dynamics during the process of accession and EU integration. It emphasizes the two dimensions of the process (EU supranational governance and the national policy-making) and accommodates the process of adaptation of the actors on national level to the EU demands. The paper will be looking more closely on the process of domestic adaptation to the pressures emanating directly or indirectly from EU membership. This process denotes how public administrative institutions at the centre have adapted to the obligations of EU membership. This ‘involves the development of formal and informal rules, procedures, norms, and practises governing politics at the European, national, and subnational levels’ (Caporaso *et al.* 2001). The impact of EU policies has had different domestic effects in member states, depending on a number of intervening variables (Schmidt 2002). The primary attribute of EU policies, in this regard, is how narrowly they specify rules of implementation. The mirror-image is set by the mediating factors found within each domestic setting:

- the economic vulnerability to global and European pressures;
- the political institutional capacity to respond as necessary;
- the ‘fit’ of EU policies with national policy legacies and preferences; and,
- the discourses that influence policy preferences and thus affect the sense of vulnerability and capacity.

EU-isation depends on the level of convergence and convenience between European-level processes, policies, and institutions, on the one hand, and domestic-level processes, policies, and institutions, on the other. This degree of fit or misfit leads to adaptational pressures. National institutions are required to change their policies and even institutional structures in response to EU-isation. Sociological institutionalism would expect that the more institutional structures at the European and domestic levels look alike (structural isomorphism), the less adaptational pressures member states should face (DiMaggio and Powell 1991). EU-isation, however, can cause *institutional misfit*, challenging domestic rules and procedures and the collective understandings attached to them (Börzel and Risse 2003).

Whether misfits produce a substantial effect at the domestic level depends on the presence of various factors facilitating adaptation and serving as catalysts for domestic change. Only if and when these intervening factors are present can we expect a transformation in the member states (Börzel and Risse 2003).

Domestic change in response to Europeanization pressures can be weak or strong. Börzel and Risse (2003) distinguish three degrees of domestic change:

1. **Absorption:** member states incorporate EU policies into their programmes and domestic structure but without modifying existing processes, policies, and institutions thus the degree of domestic change is low
2. **Accommodation:** Member states accommodate Europeanization pressures by adapting existing processes, policies, and institutions without changing their essential features and the underlying collective understanding to them. The degree of domestic change is modest and a way of doing this is by ‘patching up’ new policies and institutions onto existing ones
3. **Transformation:** Member states need to replace existing policies, processes, and institutions by new, substantially different ones, or alter existing ones to the extent that their essential features and/or the underlying collective understanding are fundamentally changed. Thus the degree of domestic change is high.

The paper will focus on the third mode of domestic change as it applies to the expected change in Bulgaria. Following the collapse of communism in 1989, the post-communist model of policy-making and establishment was challenged by the EU accession. Membership of the European Union confronts governments with a set of particularly testing organizational and managerial challenges. On one hand, it requires abilities to form coherent national positions in EU decision-making. On the other, the EU accession calls for institution-building, supplant of new intuitions that embody a new type of organisational culture and new way of budgeting and programming of policies. This proves further complicated in the case of implementing EU cohesion and regional policy as it entails involvement of various stakeholders, institutional coordinaton and mid-term strategic planning.

Experts agree that much depends on a mix of policies and reform (Bechev 2010) and the abilities of the institutions and domestic actors to generate outcome. The EU cohesion and structural funds were expected to assist further modernization in Bulgaria; however, the issues of public spending, transparency and involvement of stakeholders still remain. Recent reports have raised the question about the rent-seeking opportunities, misuse and misappropriation of funds and ‘the illusion of inclusion’ of various stakeholders (Center for the Study of Democracy 2008 and 2010, ECAS 2004, CSI 2010 for Bulgaria). The paper will seek the preconditions for these challenges in the difficulties in transformation in Bulgaria conditioned

by the inherited over-centralisation model of the communist state and in the deficiencies in the application of the principle of partnership that reveals the lack of coherence in strategic planning; lack of coordination between the respective stakeholders in the process; lack of predictability in the policy-making; doubts over transparency; lack of uniform rules for consultation and problematic programming and budgeting.

Under the financial perspective for 2007-2013, Bulgaria was planned to receive €6.852 billion from the Structural Funds alone⁴. The ability to generate real impact through these resources depends on the efficiency of the public administration, the local authorities, the NGOs and the business. This is conditioned by the availability of capacity and experience to implement a complex policy-making process of programming, management, implementation, monitoring and evaluation. The design of the cohesion and structural funds mechanism in the CEE new member states is assisted through the pre-accession programmes of PHARE, ISPA and SAPARD. However, the pre-accession funds did not manage to successfully transform the domestic arena (Hristova 2010). The European Commission Monitoring Report⁵ from 23.07.2008 was very poignant: *“Bulgaria is experiencing difficulties in many of these programmes and has to demonstrate that sound financial management structures are in place and operating effectively. Administrative capacity is weak. Beyond that, there have been serious allegations of irregularities as well as suspicions of fraud and conflicts of interest in the award of contracts(...)Bulgaria is not able to reap the full benefits of this assistance because of critical weaknesses in administrative and judicial capacity, be it at local, regional or central level. The Bulgarian public administration suffers from a high turnover of staff, unattractive salaries which create opportunities for corruption, and outdated, centralized procedures.”* Furthermore, following monitoring reports have been pointing out that: *“At the same time, these changes are an indispensable investment in the future of Bulgaria – an effective administrative and judicial system is necessary for sound public finances and well rooted socio-economic development”*(July 2010). The issue of administrative capacity is also a subject of awareness in the monitoring report in July 2011.

In the Commission's understanding⁶, the institutional and administrative capacity relates to the

⁴http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_funds_20080723_en.pdf

⁵http://ec.europa.eu/dgs/secretariat_general/cvm/docs/bulgaria_report_funds_20080723_en.pdf

⁶http://ec.europa.eu/regional_policy/sources/docgener/evaluation/evalsed/sourcebooks/themes_policy/boxes/inst_and_admin_capacity_def_en.htm, Jaenike, 2001

ability of public structures to identify and solve implementation problems and allow governments to elaborate and implement programmes with better performance. It also points to the relevance of the partnership principle and its relevance to governance delivery.

The Inherited Institutional Setting in Bulgaria

The extent of the regime transformation presupposes a dramatic overrun of the existing institutions and agents, mindset, rules of procedure and governance that represent the pillars of democracy consolidation. What should be taken into account for the process of modernization in Bulgaria is the assisted top-down change with the import of foreign normative and institutional models. The rigid institutional features (the so called informal constraints), however, prove persistent in shaping the transformation outcomes. The EU conditionality through the formal rules and institutions and type of management and funds allocations is conducive to formal, but not sustainable change. The routinization and habituation of these changes are hindered by the institutional change trajectories in Bulgaria. The EU-isation through transformation aims at coherent qualitatively new change of state of policy-making. This change however is conditioned by the path dependencies of the political culture and practices (Stark and Bruszt 1998). This results in tensions between the imported formal rules and the everyday informal practices. Institutional change is conditioned by the final outcome of this interaction, which characterises the development and functioning of institutions (North 1990, Kabakchieva 2007). In his study from 1993, Putnam and his team monitor the creation of new regional structures in Italy in the 1970s. Their conclusions demonstrate the direct link between the historical circumstances and the way the institutions are constructed and whether they are positioned to generate results or resist change. The historical accumulations, the so-called informal constraints shape the path and the result of institutional change. The institutions are understood as a set of formal rules, informal constraints and sanction mechanism. While the rules can be changed easily overnight with a strategy for reform or a legal act, the informal constraints represent the environment in which these rules have to generate results.

The simultaneity and the complexity of both the process of internal democratisation and of convergence to the EU in Central and Eastern Europe inevitably refers to the specific interaction and the extent of interdependence between them in shaping the post-communist transformation trajectories (Vachudova, 2005). The EU was the one to take a defining role in

that respect. The accession driven reforms within each candidate country were taken for granted as being part of the transformation post-communist processes. The tools of conditionality combined with the membership perspective were believed to have played major role in democratisation processes in Central and Eastern Europe.

The process of 'EU-isation'⁷ was largely considered part of and even a prerequisite for many countries for moving beyond communist legacies and regaining legitimacy (Grabbe 2006). Qualifying for EU membership in Central and Eastern European countries took part in parallel with consolidating democracy and market economy development (Vachudova 2005). Conditionality has been an integral part of EC/EU policies in one way or another, directed towards member States, candidates or third countries. Its significance however, rose in the 1980s and, particularly, the 1990s with the practice of setting out both political and economic conditions. From the beginning, EC/EU started to develop a set of conditions in order to enhance implementation and adoption of the established standards in the economic, the political, and the social domain (Pridham 2005).

The EU positive effects on CEE democratisation process, however, tend to be overestimated (Raik 2004). The conditionality set consists of broadly formulated criteria and without any clear benchmarks, which lead to inconsistent operationalisation of Copenhagen criteria (Hughes et al. 2004). The CEE candidate states had to confront higher challenges of transposition compared to previous enlargements. The formulation of the conditions was ambivalent in certain domains, lacking precise regulation (like in regional policy (Hughes et al. 2004), governance, minority rights, and nuclear safety) and subject to interpretation and interference from different actors.

The issues of good governance as a precondition of effective public administration reform and sustainable implementation of the designed reforms were not addressed sufficiently as part of the democracy conditionality. The process was based on the assumption that the political criteria were in place (EC Progress Report 1997). That misleading guess have stumbled the reforms and has a lasting backward effect on implementation and enforcement of the reforms.

The substantial benefits combined with the enormous requirements of membership have afforded the EU unprecedented leverage on the domestic politics of aspiring member states

(Vachudova 2005). Conversely, the thinness of the *acquis* in certain fields of negotiations resulted in ambivalence and uneven implementation.

The issues of institutional change as interpreted through the perspective of the New Institutionalism (North 1990) add further issues of concern when explaining how the processes of democratisation and EU accession relate.

The former system of communism leaves the legacy of total centralisation with a unilateral centre of power. The fall of communism in 1989 does not leave the establishment in a vacuum. The formally changed institutions, still keep the unformal mechanisms, which resist the change.

In order to explain the particular institutional context and the reasons behind the problematic transformation in Bulgaria several factors define post-communist realities:

- Initial settings of transition and challenges in habituating the newly-introduced institutions
- The overlapping issues of democratisation: sustaining initial settings, substantiating democracy
- The trajectory of institutional change: issues of tensions of informal constraints and formal rules – implications to domestic transformation: adoption of EU rules and new modes of governance that build upon the remnants of communist institutional culture of overcentralisation (Kabakchieva 2004 in “State against the Reforms”).
- Specific resistance in the institutional character of the post-communist setting as a principle of the state structure and mechanism of function. This shapes a specific manner of institutional behaviour such as: ‘encapsulation of the institutional structures’; ‘feudalisation of the directorates’; ‘lack of horizontal linkages and communication’; ‘lack of taking responsibility’; ‘problems with professionalism’; ‘lack of institutional memory and continuity’; ‘lack of predictability’ (Dimitrov 2004).

The inherited overcentralisation creates complex structures with fragment functions. There is no coherent strategy of institutional change leaving the change subject to patch-work, top-down process. The main management structures and decision-making is concentrated in the executive branch and is dependent on the personality, rather than on uniform rules.

The hybrid institutional culture shaped by the persistence of informal local constraints result in diverse and inconsistent performance, strategic deficiencies, and delivery shortfalls.

The Principle of Partnership in Bulgaria

The process of EU accession is invariably linked to the issue of absorbing the resources provided by the EU funds for development. The application of the partnership principle is an integral part of the absorption of these funds. It underlies the functioning of the Structural Funds and it has been formally introduced in 1988 with the EU regional policy reforms. The partnership principle is one of the main principles for the functioning of the Structural Funds. It has been introduced with the regional policy reforms of 1988, and the 1999 reforms made it fundamental for the implementation of EU regional and cohesion policies. In 1993 the principle has been introduced as an integral element in the planning and programming of the Funds and it plays a major role in the application of the Structural Funds. Article 4 of the 1988 Framework Regulation (Council Regulation (EEC) No 2052/88) defined ‘partnership’ as follows:

‘close consultations between the Commission, the Member State concerned and the competent authorities designated by the latter at national, regional, local or other level.’

With the regional policy reforms of 1993 (Council Regulation (EEC) No 2083/93), the definition was developed further to include: *‘the economic and social partners, designated by the Member States.’* Partnership takes the form of *‘as wide as possible consultation of all the relevant bodies, “the regional and local authorities, the other competent authorities, including those responsible for the environment and for the promotion of equality between men and women, the economic and social partners”’* (http://ec.europa.eu/regional_policy/sources/docoffic/vm20002006/chap2_en.htm based on Council Regulation (EC) No 1260/1999)

Along the vertical axis of the principle, all partnerships should include representatives of the European Commission and the Member State. All other competent authorities and bodies are included along the horizontal axis. The Member State is able to determine which stakeholders are to be involved to determine the roles of economic and social partners.

As a principle of involvement and consultation on the objectives and priorities of the Structural Funds, the partnership principle aims at:

1. Better planning, development of an overall action and implementation strategy
2. Better implementation with the objective of ensuring coordinated action
3. Increasing the capacity for regional and local development; better targeting of programme objectives and considering the needs at all levels

To this end, the application of this principle has the following functions:

1. Programme planning/drafting
2. Programme management, implementation and monitoring
3. Programme evaluation.

The last amendments concerning the partnership principle are contained in Article 11 of Council Regulation (EC) No 1083/2006. Its provisions are as follows: *'...Each Member State shall organise, where appropriate and in accordance with current national rules and practices, a partnership with authorities and bodies such as:*

(a) the competent regional, local, urban and other public authorities;

(b) the economic and social partners;

(c) any other appropriate body representing civil society, environmental partners, non-governmental organisations, and bodies responsible for promoting equality between men and women.

Each Member State shall designate the most representative partners at national, regional and local level and in the economic, social, environmental or other spheres (hereinafter referred to as partners), in accordance with national rules and practices, taking account of the need to promote equality between men and women and sustainable development through the integration of environmental protection and improvement requirements.

2. [...]The partnership shall cover the preparation, implementation, monitoring and evaluation of operational programmes. Member States shall involve, where appropriate, each of the relevant partners, and particularly the regions, in the different stages of programming within the time limit set for each stage.'

The application of the partnership principle, namely the involvement of a wide range of different stakeholders in the programming and identification of the Structural Funds priorities ensures that the needs of target groups are taken into account and that this public resource allocated from EU's development budget is used effectively. The effective application of these principles in the work of the Structural Funds can actually incorporate the target groups' needs and allow for "bottom-up" prioritisation when strategic documents and objectives of the operational programmes are being planned in order to achieve economic and social convergence, as well as competitiveness, by employing this type of intervention.

In a study conducted by the European Commission⁸, the successful application of the partnership principle ensures the achievement of the objectives set in the programming documents. The main conclusions could be summarised as follows:

- Partnership is an integral part of all stages in the programming of the Structural Funds
- Partnership boosts programme efficacy and effectiveness by improving the quality of the decisions made
- The involvement of partners at the separate stages of the programming cycle is different; their role is greater at the stage of planning and project selection; their role in the specific operational tasks is varied; their role with regard to the monitoring and evaluation is more limited
- The extending and consolidation of partnership results in: greater effectiveness of programme development and monitoring; more effective project selection; transparency of the decisions and the decision-making processes; greater engagement in and fostering of the programme results; development of institutional capacity at various sectoral and territorial levels
- The extending of partnership through the inclusion of NGOs and municipalities boosts programme effectiveness
- Partnership contributes to the development of project selection criteria and this role is more important than the inclusion in the project selection process itself.

Bulgaria does not have a long tradition in the field of strategic planning and programming as specified in the EU policy-making demanding specific institutional and administrative capacity to perform. The idea of domestic adaptation to European rules and approach to strategic planning as well new institutional models is oriented towards bureaucratization in the good sense of the word – impersonal decision-making based on formal and transparent rules, beyond the arbitrary will of a certain official or empowered person. Thus the European system is oriented towards effectiveness – the funds are allocated for certain activities, not to certain people (Kabakchieva 2007). The long tradition of communist planning (Dimitrov 2004) substantially differs from the process of planning and programming within the EU. The communist planning depends on the discretion of power of the leading party focused on the extensive development; lack of a management cycle and efficiency indicators; hierarchial sequence of decision-making with directives from the party state with no horizontal linkages and delegated responsibilities. This coupled with the identified institutional deficiencies of the

⁸Referenced in <http://www.eufunds.bg/docs/partnarship2-bg.pdf>

post-communist state above raise the issue of capacity and efficiency of the process. Therefore the application of partnership is a by-product of this path-dependent process and has implications on the preparation for participation in the Structural Funds and EU regional policy (UNDP 2006). The application of the partnership principle was regulated by the Regional Development Act of 1999 and was amended by the new act of 2004; at the same time special institutional structures, the district and regional development councils, were established. At the initial stages of Bulgaria's preparation to participate in the EU cohesion policy and to absorb EU funds (1998-1999), the application of the partnership principle was more of an exception; the National Agricultural and Rural Development Plan under SAPARD (1999-2000) is a case in point. At the later stages of the preparation for accession and participation in the EU cohesion policy, the partnership principle was incorporated in all relevant policy, legislative and guidance documents.

For Bulgaria⁹ the EU Structural Funds are a source for social and economic development. The main aspect underlying the policy planning and drafting process under the Operational Programmes is the partnership principle. The creation and elaboration of the fund management system for the 2007-2013 financial framework, as well as the overall programming process at national level and the application of the partnership principle in this process were laid down the Strategy for Bulgaria's Participation in the European Union Structural and Cohesion Funds¹⁰. In this regard, a Coordination Council for the National Development Plan was established and the overall responsibility for the coordination was placed with a Directorate with the Ministry of Finance which was designated Managing Authority for the resources provided by EU Structural Funds and the implementation of the National Strategic Reference Framework. The various activities on the preparation and consultation of the National Development Plan 2007-2013 were assigned to the Agency for Economic Analysis and Forecasting. The partnership principle is applied in the drafting, implementation and management of strategic documents and Operational Programmes for the period 2007-2013 concerning Bulgaria's participation in and use of EU Structural Funds. Seven operational programmes (Competitiveness, Human Resources Development, Regional

⁹The Opportunities for Not-for-profit Organisations and Coalitions of Advocacy Organisations in the Process of Formation and Implementation of National Policy on the Operational Programme Implementation 2007-2013 [*Възможностите за нестопанските организации и коалициите от застъпнически организации в процеса на формиране и прилагане на националните политики за изпълнението на оперативните програми 2007-2013*], Foundation for Local Government Reform, 2007

¹⁰ http://www.opcompetitiveness.bg/uploadfiles/documents/2009/pms/strategysfandcf_april2006final.pdf

Development, Transport, Environment and Technical Assistance) and their respective Managing Authorities were determined.

The requirements for the application of the partnership principle were incorporated in the methodological guidelines concerning the National Development Plan and the Operational Programmes, the Working Group for each Operational Programme and the National Strategic Reference Framework¹¹. Since 2005 public forums have been regularly held to form consensus about the National Development Plan, the drafts of the National Strategic Reference Framework 2007-2013; the texts of the Operational Programmes were also drafted in application of the partnership principle, which was stated as one of the commitments in the texts of the strategic documents.

Each country applies its specific approach to determining the social and economic partners, NGOs and business structures within the following groups.

- Government (administrative) partners:
 1. Government institutions, ministries, and agencies
 2. Regional and local authorities, representative of municipalities
- Social and economic partners
 3. Social and economic partners representative for the country (*i.e.* trade unions, employer and industrial organisations)
 4. Non-governmental organisations representing important interest groups: equal opportunities; civil society; environmental protection; international movements; technology and innovation centres; professional associations and organisations, etc.
 5. Research and education groups: rector's councils; the Academy of Sciences; leading universities; vocational training organisations; secondary education organisations; leading research institutions or their associations, etc.
 6. The business: business associations and affiliates, leading companies operating in the country.

¹¹ <http://www.eufunds.bg/en/page/23>
<http://www.eufunds.bg/en/page/66>

The identification and inclusion of partners is an important step in the preparation of planning and programming. According to the methodological framework, the inclusion of partners covers: partner identification; information and training of target partners; inclusion in Operational Programmes Working Groups of all those who are willing to. The criteria and mechanisms for partner identification and inclusion are laid down in a special partnership manual.¹² The section on partner selection specifies the selection criteria. The group of government authorities and regional and municipal representatives, as well as industrial organisations and trade unions, were easily identified, because of their high profile and their participation in other forms pursuant to the Labour Code, the National Tripartite Council, etc. The other participants in the process were identified using certain criteria approved by the National Development Plan Working Group according to: representativeness; scope of interests; balanced distribution of interest groups: equal opportunities; civil society; environmental protection; international movements; professional associations and organisations; technology and innovation centres; balanced representation of social and economic partners. The group of NGOs falls within this category, *i.e.* the subject of unspecified and over-generalised selection approach. Due to their high profile the first groups were automatically included in the consultation and programming process, whereas the rest were subject to selection criteria which were not sufficiently detailed against the backdrop of no uniform mechanism for coordinating the interactions.

The actual selection of participating NGOs was left to the National Development Plan Working Group. This Working Group was responsible for monitoring and coordinating the drafting of the Operational Programmes and included representatives of the Ministry of Finance (EU Funds Management Directorate), the Agency for Economic Analysis and Forecasting (AEAF), the relevant ministries and social and economic partners mandated by organisations, a total of 25. The Operational Programmes Working Groups were entrusted with the development of the relevant programme objectives and priorities. Their membership was similar, 25 people representing the leading ministries, AEAF, EU Funds Management Directorate and the social and economic partners. The relevant Working Groups were established with an order of the respective Minister, who was also responsible for appointing the social partners as well. Depending on the work of each Group, sub-groups under the specific programme priority axes could be established further. Meetings under the separate

¹²<http://www.eufunds.bg/docs/partnarship2-bg.pdf>

axes were held and the respective Operational Programme was drafted; these Working Groups later served as the basis for the Working Sub-groups with the Monitoring Committees.

The application of the partnership principle in the drafting of these documents is mandatory and the European Commission has placed a specific focus on the manner of its implementation. However, the application of the partnership principle turns out to be more effective between the various central authorities, unlike where local authorities, regional stakeholders or social and economic partners, and NGOs participate. In its greater part NGO participation is due to the NGOs' activity, coalitioning and organisation of representation. The mechanisms for the appointment of NGO representatives were not clearly laid down despite the available criteria and this creates the impression of lack of transparency and parity between the stakeholders. The real opportunities for NGO participation remain insufficiently detailed to ensure representativeness and effectiveness of the participation. The manner in which the decision about the participation of certain organisations was made depended on the decision of the respective Working Groups which were the structure having the last say on how the participant selection criteria were to be applied. The lack of transparent and uniform mechanism raises the question about certain arbitrariness in determining the manner of NGO participation and the insufficient development of the partnership mechanism.

The discussions within the state-funded Economic and Social Council (ESC), a 'consultative body expressing the will of civil society structures with regard to economic and social development', established in 2002 and including representatives of employers, workers and other organisations, are considered an example of the application of the partnership principle.

According to Balkan Assist's study (2005), at central level the government seems to be communicating most often with the so called social partners (trade unions and employers) which the majority of civil society organisations consider to be part of the tripartite status-quo. It is arguable to what extent this represents actual application of the partnership principle, because the civil society organisations themselves have doubts about the legitimacy and representativeness of the above consultation forums, as well as about the presence of these organisations (Bulgarian Center for Non-profit Law 2009). It is considered that in many of the abovementioned formats for the application of the partnership principle in the discussion of certain regional policy priorities no "authentic" third sector representatives take part, but rather organisations which are opportunistically or practically tied to the government.

The willingness to work with NGOs in the planning and programming process varies in the different government structures. This illustrates the lack of a uniform mechanism whereby this could happen and also places NGOs in a position of dependency on the “good will” of certain administrative structures to apply the partnership principle. Thus NGOs have to exert additional pressure to get included. Even though the legislative and institutional preconditions are there, the application of partnership in the planning of regional and local development and the programming of structural funds is weak and, to a great extent, perfunctory. A great deal of criticism is aimed at the more general dialogue between the authorities and the non-governmental sector, mostly with regard to the inclusion mechanism (selection of representatives), the efficacy of procedures, the impact on decision-making and the process transparency. The main deficiencies lie in the interactions between the administration and the social and economic partners, namely the lack of clear selection procedures, the privileged access of certain organisations, the restrictive approach to partner selection, and all this affects the work in the relevant Working Groups and the engagement of civil society organisations in the process.

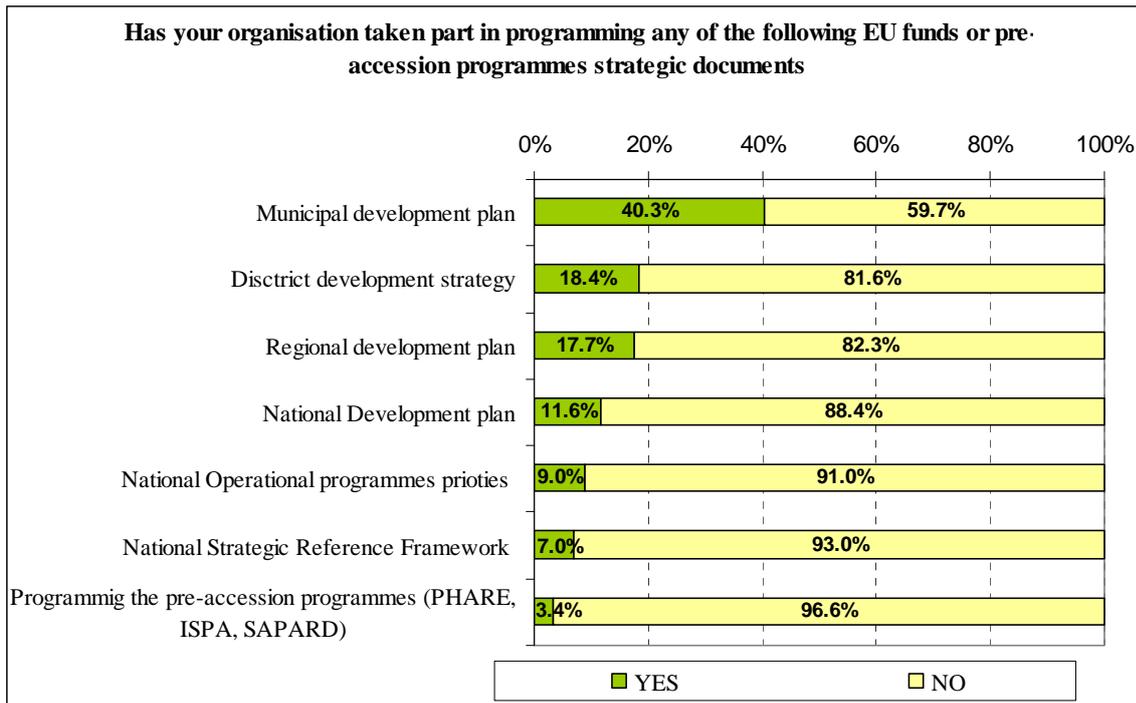
Data from the Civil Society Index for Bulgaria 2008-2011¹³ shows a low level of inclusion of civil society organisations¹⁴ into various forms of participation in the Structural Funds planning and management. Only 6.4% of organisations reported to have participated in an Operational Programme Monitoring Committee; 7% participation was reported also for the drafting of the National Strategic Reference Framework; 9%, for the objectives of the Operational Programmes; around 11.6%, for the National Development Plan. The positive trend is the growing percentage for the municipal development plans and the district strategies, but the question is whether the coordination and coherence of planning are effective in incorporating the objectives of the specific municipal plans and regional strategies into the overall strategic network.

Figure 1 NGO participation in programming of EU funds in Bulgaria¹⁵

¹³Civil Society Index for Bulgaria 2008-2011, conducted by Open Society Institute – Sofia, upcoming publication

¹⁴ This study covers also the most active civil society organisations, which means that even they are excluded from the process

¹⁵Data from the Civil Society Index 2008-2011, conducted by the Open Society Institute – Sofia in February-April 2009, organisational survey amidst 156 organisations



For the Structural Funds to achieve positive results, capacity for the performance of a complex process of programming, management, implementation, monitoring and evaluation is required. The creation of such mechanism for the absorption of the Structural Funds will depend on the capacity of the individual actors involved in the process. The problem with the previous planning stage is that it took place mainly at the central government administration level without coordination between the separate levels, local government and municipal administration, and without actually incorporating the target groups' needs into the specific Operational Programmes. The drafting of the National Strategic Reference Framework and the Operational Programmes only formally included the partners in the process. The lack of experience and preparedness, as well as actual capacity for programming and effective managements, and the fictitious stakeholder participation predetermine the low levels of absorption and the problematic use of the resources under the Structural Funds in Bulgaria.

Based on the semi-structured in-depth interviews with 13 NGOs and experts from the executive on political and administrative levels regarding the application of the partnership principle and the programming of the EU cohesion and structural funds in Bulgaria, conducted within a project of Open Society Institute – Sofia (Analysis and Assessment of the Application of the Partnership Principle in the programming of the EU funds in Bulgaria for the 2007-2013 period) and 6 focus groups on regional level the following conclusions could be drawn:

- The available good practices in the programming for 2007-2013 appear to be *ad hoc* initiatives or the results of the serious commitment of certain civil society organisations to take part in the process
- Imitation and certain arbitrariness of the application of the partnership principle
- No uniform and even access to the consultation process to the various NGOs; no clear-cut selection mechanism for the NGOs; Inability to identify the respective NGOs due to their lack of capacity, low organisation and representation issues; Various rules in individual ministries in appointing or selecting the organizations

“It appears that there is strict regulation of the socio-economic partners and they are granted the right of vote. On the other hand, NGOs are only consulted and they can’t really influence the decisions. That is during the process of programming and now. Even in the legal framework about the Monitoring Committees – all the institutions, agencies and the respective professional organisations and trade unions...then only 4-5 NGOs.”

“NGOs took part largely on voluntary basis. If we take the nationally represented organisations that have been defined by law, they are automatically in. The other group, i.e. the NGOs, is more difficult (to define)...”

“The mechanism (of selecting NGOs in the working groups during programming) is different for the different Operational Programme (OP). The individual Operational Programmes teams define the potential beneficiaries and who represents them and invite them to the Monitoring Committee. If an organisation sees it was omitted from the process and considers itself representative, it can take initiative to be included. Each OP has its own arrangement how to invite the partners in programming and in the Monitoring Committee.”

- Lack of sustainable communication between the government and the socio-economic partners
- There is no clear mechanism of co-operation in the planning process; the possibilities for participation of NGOs do not represent a sufficiently regulated and transparent selection mechanism. The organisations are left to organise themselves on their own. In the majority of cases, NGO representatives have only advisory powers in the Monitoring Committees of the different Operational Programmes

“All the others organisations and interest groups we had to look for a way to involve them – for example the regional and local associations, the professional organizations, the business associations, the environmental organisations...And it occurred that the state do not have such a mechanism that allows us to find such organizations and make a selection”

- No proper feedback
- ‘Encapsulation of the system and unwillingness for change’
- Centralization of decision-making and lack of sustainable horizontal coordination between the responsible bodies
- Lack of uniform approach to policy making in the country; ministries are unpredictable as each has its pace of work

“Especially after 1990, we (in the ministries) do not know how to draft a strategic document....There are no clear-cut and uniform guidelines...A document is being drafted without any harmonization with other acts as there are no such practices... We do not have the idea of strategic planning....”

“There is a lack of uniform approach to policy making. There should be a law for strategic planning with overall uniform rules – period of programming, description of the process, framework of coordinaton. Otherwise, each ministry has its own pace of policy making and programming its agenda. There are numerous strategies and programmes in each ministry, but no co-ordinated policies in one sector”

- Lack of proper preparation and training

“Lack of experience and preliminary preparation. Unprepared – the state administration, which has the leading role and responsibility in the process (of programming), as well as the organisations themselves to participate effectively and qualitatively in the process”

- Low administrative and absorption capacity

“Now, when we have the opportunity to lay ourselves open, one can actually see how bad the administration is. There is money, but let us see what we are doing. There are objectives, but are being pursued in a perfunctory manner. Nobody cares what the quality and the real impact of this aid is.”

- Lack of knowledge and understanding of the process of programming

“It is important in policy formation in the sector, all stakeholders to be involved and the other important thing is the quality of representation...for example social partners, potential beneficiaries are passive, do not dare to speak their opinions and do not communicate well with the real organizations, people and representatives from the NGOs.”

- Doubts over issues of transparency and accountability of the EU funds management
- The administration seems to fulfil commitments to EU rather than realise the actual utility of the process in determining the strategic priorities for financing
- The number of institution representatives greatly exceeds the number of NGO representatives in the process of drafting, implementation and EU resources management and this has direct effect on the decisions made
- Doubts of corruption, over-centralisation of the process, chaotic motion

“The lack of participation in this process (of programming) is conditioned by the chaotic and unclear approach of civic participation in public policy making per se. There are no clear forms and tools or uncontested leaders in the civic sector who can attract the trust of other organizations.”

The process of programming calls for serious domestic transformation in member states, especially in countries with post-communist institutional pathways. It requires serious administrative and strategic planning capacity and experience habituated as public policy making. The analysis above identifies some of the deficiencies that shape the main challenges in programming, application of the principle of partnership and how they refer to public policy making. A precondition for the member state to efficiently program and manage the EU cohesion and structural funds is to have already domesticated the changes and habituated the major stages of strategic planning and budgeting and to have sustained democratic changes.

The evidence however shows that there are specific compliance challenges that are conducive to thinness of domestic changes. Although there are alterations on local and municipal level in the way the EU funds are understood and managed and partnership applied, the patchwork of the partnership principle and the domestic limits to EU-isation further challenge the internal reform agenda, public policy making and citizen participation, involvement and public dialogue and consultations.

Instead of a Conclusion

The Structural Funds are a public resource earmarked for development and are the main financial tools of the EU cohesion policy. An important prerequisite for the preparation of successful resource absorption and performance is the application of the partnership principle at the various stages: planning; management; implementation; monitoring; and evaluation. This depends primarily on the ability of the domestic actors to adopt the specific regulations and the implementation costs, especially when the programming process of the EU funds was retained, with the Commission adopting a more strategic role and delegating greater responsibility to domestic actors for the day-to-day implementation and monitoring of programmes. This transfer of policy also is conditioned by the domestic responses to formal rules pressures.

According to the official data by the Bulgarian government Bulgaria level of EU funds absorption equals to 14% as of 31st July 2011. Bulgaria still struggles with absorption, but what is more important still confronts challenges in institutional management, administrative capacity and efficiency.¹⁶ The commission assesses its performance as mixed bag with some good examples coupled with challenges in corruption and misappropriation and weak administrative capacity in the Mid-term health-check review¹⁷. This indicates that Bulgaria does not fully manage to make effective use of the resources allocated to it under the Structural Funds. The inability to generate public results remains one of the major problems in the public policy implementation. The EU regional policy aims to promote social and economic convergence between the countries and regions in EU. It is an expression of social solidarity between the Member States and is funded with resources from the Community budget. Deficiencies in the application of the principle of partnership in the programming of the EU funds in Bulgaria are indicative of the gaps in public policy making in the country. The efficiency of the principle of partnership depends on the existence of clear-cut transparent mechanisms for coordination and implementation. This paper illustrated challenges in its domestic adaptations. The entry of all stakeholders was somewhat obstructed; the enforcement of certain rules were subjected to the “good will” of the administration; the policy-making process has proven chaotic, disorganised and highly centralised, dependent on the executive government. The principle of partnership has been proclaimed as an instrument

¹⁶<http://www.parliament.bg/en/parliamentarycommittees/members/240/documents>

Presentation of the Annual Report on the Absorption of EU Funds in the Republic of Bulgaria for 2010; www.eufunds.bg

¹⁷ <http://www.euractiv.com/en/specialweek-regions2020/regional-policy-eu-a-midterm-healthcheck-linksossier-494583>

to ensure inclusion of the interested stakeholders in the process of programming, implementing, monitoring and evaluating of the Structural and Cohesion funds. In Bulgaria, however, the contextual background has proven unfavourable. The identified deficiencies highlight a lack of routinized predictable policy-making process, which has led to obstruction of the domestic adaptation and transformation.

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