



The European Commission is increasingly focusing on policy making aspects of overall horizontal governance reforms in candidate countries.



Evidence based policy formulation, including ex-ante impact assessment of policy options is a prerequisite for achieving sound policies.

Why Focus on Policy Making?

One of the substantial questions of the EU accession process, which has so far been fairly neglected in Serbia, concerns the correlation between the national policy making and coordination practices and the EU accession negotiations (as well as negotiations in the EU institutions after membership is achieved). The rationale behind the focus on this topic lies in the fact that the timing of the opening of negotiations with Serbia coincides with an evident growing interest on the part of the European Commission in the policy making aspects of horizontal governance reforms in candidate countries.

The European Commission has set increasingly rigorous requirements for the countries of the Western Balkans regarding the reforms of their administrative systems and, increasingly so, their policy making and policy implementation systems. As administrative aspects of governance do not comprise part of the EU acquis, the competence of the Commission to address those issues has not been sufficient to create a model or a standard which the candidates should emulate, as a result of which “soft acquis” has developed in this area. Compliance by candidate countries with this soft acquis is assessed and supported by SIGMA/OECD (joint initiative of the EU and OECD, principally financed by the EU). SIGMA requires that in the accession process candidate countries create policy planning, development, co-ordination and implementation arrangements that, inter alia, enable consistent policy planning and co-ordination of government activities, including priority setting; create meaningful and consistent, economically efficient and financially sustainable policies, which also already lay down the foundations for operating effectively as an EU member country.

The EU accession process is, thus, due to place much more attention on policy making improvements, in order to ensure that overall governance as well as sectoral reforms are well thought, planned as well as made sustainable in the period leading up to accession.

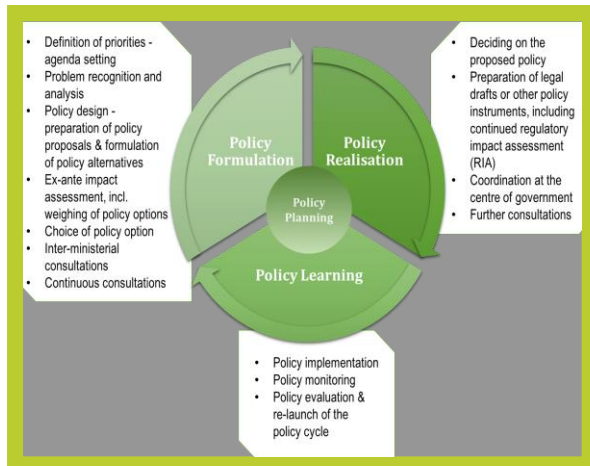
Which questions need answering?

In relation to these issues, the following questions should be addressed:

- How important is sound and evidence-based policy making for EU accession negotiations?
- To what extent is such evidence necessary when negotiating with the EU (as a candidate country) and within the EU (as a member state)?
- How should the coordination of (sometimes conflicting) positions and interests of different line ministries be ensured in order for the country to defend a single position in the context of accession negotiations and at the EU level?

Policy Brief

Policy formulation phase of the policy cycle is highly important for a country's performance in EU accession negotiations as well as negotiations in the Council of the EU once membership is achieved.



The policy cycle does not begin with the decision to draft legislation. Proper problem analysis, identification and weighing of policy options and impact assessment should precede any decision to draft new legislation. Analysis should be based on evidence!



How have these questions been answered?

An in-depth study was conducted focused on the analysis of the existing Serbian policy making and EU coordination system as well as the systems of several EU member states (the UK, France, Poland and Latvia). Based on over 50 interviews conducted with relevant stakeholders, first-hand experience was obtained, which ensured that the analysis was thorough and credible and that solid recommendations were drawn for the improvement of the Serbian policy making system in light of accession negotiations.

What was the focus of the analysis?

Given that several aspects of the policy cycle have been intensely studied and addressed by both bilateral and IPA technical assistance projects, the Study has focused on the **policy formulation** phase of policy cycle, as it has remained largely out of the focus of other reform efforts thus far. At the same time, it is a segment of the policy cycle of great importance for Serbia's performance in EU accession negotiations (as well as for negotiations in the Council of the EU after accession). Although the policy process cannot be strictly sliced into separate steps and many of them overlap, this phase should necessarily include definition of priorities, problem analysis, formulation of policy options (where regulation is but one option!), their assessment and comparisons, decision on the preferred option. It should also necessarily include inter-ministerial consultations as well as consultations with the public.

Policy Formulation in Serbia

The policy formulation stage is the least developed of all stages of the policy cycle in Serbia, with negative implications for the other stages as well. If problem analysis is not properly performed and policy goals and objectives are not defined, then it will not be possible to set indicators for measuring success of the policy and monitoring its implementation as well as evaluating its overall impact. If policy options are not well analysed and considered and their impacts assessed early in the process, then the legal drafts will not ensure that the best approach to solving a problem is adopted and amendments (or even new legislation) might be necessary soon to address implementation and enforcement problems.

The policy process in Serbia is largely focused on the legal drafting phase, with insufficient preceding analysis and assessment. Various supporting documents (justification, impact assessment, etc.) are tied to legal drafts submitted for Government's consideration, but policy analysis is not otherwise regulated. Policy proposals in fact reach the Government at a stage when no intervention into policy direction is possible, as the public administration authority proposing a legal draft has already enshrined a policy approach into the submitted text. Whereas multiple elements necessary in a sound and evidence based policy process are scattered around the relevant documents which provide for the legal framework in this area, they do not comprise a coherent system and they lack additional elements which would support proper policy formulation.

Policy Making & EU Accession Negotiations: Getting Results for Serbia

Linkage between Sound Policy Making and Policy Coordination for EU Negotiations in Serbia

Even though the content, the procedures and the dynamics of the accession negotiations significantly differ from the negotiations among the member states in the Council of EU, the parallels are striking between the **National Positions** in the EU context and the **Negotiating Positions** in the accession context. In fact, the quality of evidence base outlined in the Negotiating Position can substantially determine the success of the candidate country in negotiating **transitional provisions** in its own favour. The quality and functionality of the national policy coordination system, including the EU accession negotiations coordination system, can be evaluated based on the manner in which the Negotiating Position is argued for and defended in front of the European Commission. The same can be said of the National Position in the Council negotiations, upon accession. The national policy analysis capacities of a candidate country negotiating EU membership need to be developed from the earliest stages of negotiations, not only for the sake of negotiating the transitional provisions successfully, but also because of the need to transpose the growing body of EU law into national legislation effectively. The Serbian national coordination system for accession negotiations, mainly relying on the Core Negotiating Team, Negotiating Groups and SEIO, with support of appropriate domestic capacities for policy making and coordination, needs to assure that Serbia speaks with a single voice while arguing for the National Positions and fulfils agreed tasks in a consistent manner.

What can Serbia learn from examined countries?

In the context of EU membership negotiations, Serbia can draw a wide range of lessons observing the practices within the negotiations and policy making among the member states.

Policy formulation. The UK can be a role model for Serbia in numerous aspects, as its policy formulation practices are focused on creating evidence-based policies, elaborated consultations with internal and external stakeholders and opting for regulation only after other options are thoroughly analysed, while the centre of government steers the process from the earliest stages of the policy process and requires policy clearance prior to legal drafting. Latvia's case shows that evidence-based policies have helped the country run more efficiently, consequently making the major policy making reforms from 2000s durable and sustainable.

Policy coordination. The cases of UK and France demonstrate that clear chains of command and an entrenched consultation culture among the national stakeholders, combined with the proactive Permanent Representation in Brussels which gathers intelligence on the ground and invests in building contacts, crucially determine the level of success of a country's performance in Council negotiations. Poland has become a respected and influential member state thanks to, inter alia, timely and thorough preparations for negotiations. For the sake of being 'heard', Latvia as a small member state makes its case with evidence-based arguments and consistency.

Quality of evidence base outlined in the Negotiating Position can substantially determine the success of the candidate country in negotiating transitional provisions in its own favour.

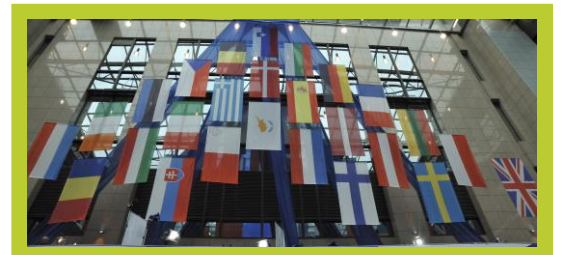


Latvia:

Evidence based policies help the country run more efficiently.

UK:

Policy clearance by the centre of government required prior to the legal drafting phase.



Preconditions for success:

- ⇨ *Clear chain of command*
 - ⇨ *Elaborated consultations*
 - ⇨ *Intelligence gathering & networking*
 - ⇨ *Timely preparations*
 - ⇨ *Arguments & consistency*
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Recommendations:

Getting Results for Serbia

Policy Formulation

Based on the analysis of the Serbian present system for policy formulation as well as the good practices in the four examined EU member states, the three key recommendations for Serbia are:

- To enshrine the policy analysis and policy formulation element into the on-going reforms of the legal drafting and policy planning processes and systems, in order to ensure consistency and synergies among the different reform efforts, inter alia, by improving and widening the application of RIA.
- To introduce a policy paper (“policy basis”) type of document into the existing legislative framework regulating the public administration tasks and Government decision-making, so as to create a formal mechanism for proposing policy options and policy solutions to both the individual decision-makers and to the Government, before any decision to regulate is made.
- To supplement the efforts related to the improvement of skills for legal drafting, civil servants should be trained in policy analysis, collection of evidence, problem analysis and other relevant skills and techniques of major importance for the capacities of the civil service to produce sound and evidence based policies.

EU Accession Negotiations as a Momentum for Policy Making Reforms in Serbia

The analysis of the policy making and coordination systems of the UK, France, Poland and Latvia reveal three key recommendations with regards to the linkages of policy making and negotiations, both EU accession ones and those in the Council of the EU upon accession:

- Reforms of the policy making system and process should be implemented as early as possible in the accession/EU membership negotiations process. Gaining experience and developing skills for evidence based policy making takes time and the state needs to join the EU policy making system and negotiations as ready as possible.
- Ensuring well analysed, well-coordinated, widely consulted and well-argued negotiating positions should be made a priority in the negotiating process, as they substantially increase the country’s performance both in the EU accession negotiations and in post-accession negotiations in the Council.
- The Serbian administration should maximise its presence in Brussels through direct meetings with EU and member state officials. Frequent meetings and preparations for them increase the awareness of the need to participate with evidenced and well-coordinated arguments and positions as well as increase the knowledge and professionalism of the civil service, which increases Serbia’s credibility with European interlocutors and, indirectly, its chances of negotiating more favourable conditions of EU accession.

About the GIZ Project “Support to the EU Integration Process in the Republic of Serbia”
www.giz.de

This three years’ project is implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH on behalf of the German Government. Since its start in autumn 2012, the project supports the Government of Serbia, so that Serbia can competently and effectively conduct EU accession negotiations.

The GIZ project helps its partners understand the requirements of the EU accession negotiations by facilitating lessons learned from former EU-candidate states. It assists the Serbian government in the development of negotiation structures (i.e. establishment of negotiation team) and in adjusting existing governmental bodies to the requirements of the negotiations process.

Furthermore, the GIZ project deals with strategic priorities and biggest needs of altogether 15 Negotiation Groups. Thus, it works closely with the SEIO, the future Negotiating Team, the Ministries of Finance, Economy, Agriculture, the Serbian National Bank and the Office of Public Procurement.

About the European Policy Centre – CEP
www.europeanpolicy.org

European Policy Centre (CEP) is a non-governmental, non-profit, independent think-tank, founded by a group of professionals in the area of EU law, EU affairs, economics and public administration reform, with a shared vision of changing the policy making environment in Serbia for the better.

CEP develops research and analysis as a basis for policy making and produces high quality options for the decision makers with the aim to substantially improve the accession process of Serbia to the EU and to position Serbia as an equal partner with the EU member states in terms of:

- openness and accountability of the democratic institutions of the government;
- market regulation and performance;
- capacity to not only fulfil the obligations arising from EU membership but also make the most of the resulting rights and opportunities once EU membership is achieved.

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