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Macedonia's model of inclusion of CSOs in the accession negotiations

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Introduction

2018 has been marked with positive trends regarding Macedonia's EU integration. Most importantly, Macedonia and Greece put an end to the almost three-decades-long name dispute by signing a bilateral agreement.¹ This contributed to the removal of the key obstacle to Macedonia's EU integration. As a result, the European Commission renewed the recommendation for the start of the accession negotiations, while the European Council proposed June 2019 as a conditional date for setting out the start of the accession talks. What is more, the screening of Macedonian legislation, as a preparatory process for the accession negotiations, is scheduled to start in September 2018. In late July 2018, the Macedonian government appointed the chief political and technical negotiators,²

while in August introduced the country's negotiating structure.³ Yet, the government did not share an official document explaining the structure of negotiations. The presented structure envisions a model of CSOs' inclusion. More concretely, civil society representatives along with representatives from the public service and academia will be part of 35 working groups that will monitor the implementation of the acquis and draft the country's negotiating positions.⁴

Hence, the aim of this paper is to incite a discussion between the Macedonian government and civil society over the model of inclusion of civil society in the accession talks. The main points for discussion are inspired by the analysis that this paper herewith presents. It relies on secondary data analysis and semi-structured interviews with civil society representatives and elaborates the models of inclusion of CSOs in the

¹ Final agreement for the settlement of the differences as described in the United Nations Security Council resolutions 817 (1993) and 845 (1993), the termination of the Interim Accord of 1995, and the establishment of a strategic partnership between the parties.

² The government appointed Mr. Bujar Osmani, Deputy Prime Minister for European Affairs and Head of the Secretariat for European Affairs, as Macedonia's chief negotiator. Mr. Bojan Marichikj, special advisor for Euro-Atlantic integrations to the Prime Minister, was appointed Macedonia's technical negotiator.

See: vlada.mk/?q=node/15224

³ Влада на Република Македонија, Презентација на преговарачката структура за пристапувањето на Република Македонија во ЕУ, 2018, https://www.youtube.com/watch?v=2pBwGt_PdCg

⁴ Ibid.

accession negotiations of Serbia and Montenegro – two Western Balkan countries currently negotiating with the EU. The main difference between Serbia and Montenegro in this respect is that in the case of the latter civil society is directly included in the country's negotiating structure, while in the case of the former CSOs are only engaged in a non-binding consultative process with the country's authorities through the parliament.

This paper first elaborates on the Montenegrin and Serbian model of inclusion of CSOs in the accession process. Through a comparative analysis, it then concludes with a discussion on the variants of the Macedonian model of civil society inclusion.

I. Montenegro's Model of Inclusion of CSOs

Montenegro started the accession negotiations with the EU in 2012 applying the Union's new approach to

the negotiating process for the first time. Montenegro made a breakthrough in this regard by directly including the CSOs in the accession talks through their participation in working groups along with governmental representatives.

In that light, the negotiating structure of Montenegro⁵ is as follows: 1)

College for negotiations – discusses all the issues related to the accession negotiations and submits proposals for negotiating positions to the government for adoption; 2) **State Delegation** is in charge of the direct political talks and negotiations with the member states and the EU; 3) **Council for rule of law** – a governmental body formed in 2014 that monitors the completion of tasks related to the negotiations under Chapters 23 and 24; 4) **Negotiating group** is in charge of the technical level of negotiations with the institutions and the member states of the EU; 5) **Working groups for preparation and leading the accession negotiations** are composed of representatives of governmental and non-governmental organisations which assess the compliance of the Montenegrin

⁵ Pregovaračke strukture," accessed August 30, 2018, <https://www.eu.me/mn/pregovori-o-pristupanju/pregovaracke-strukture>.

NEGOTIATING STRUCTURE OF MONTENEGRO

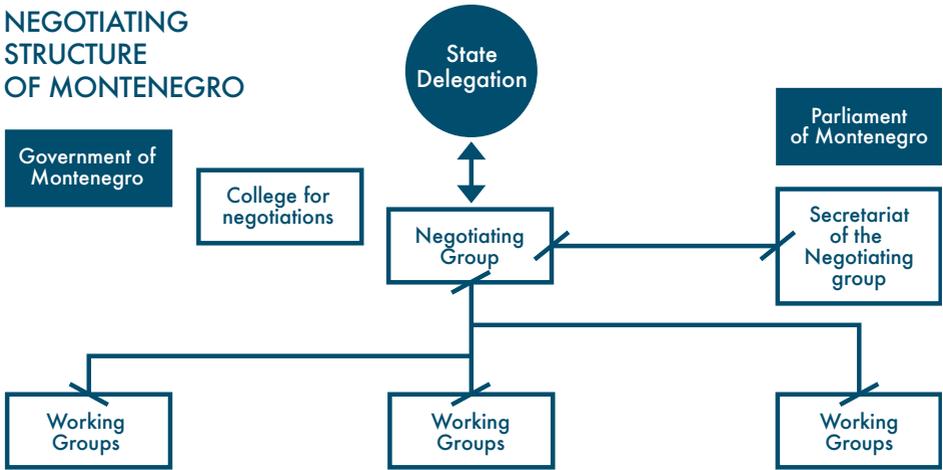


Figure 1: Negotiating structure of Montenegro⁷

with the EU legislation, draft proposals for the negotiating positions as well as prepare, implement, and report on the implementation of action plans and other documents of importance for the EU accession; 6) **Office of the Chief Negotiator** provides support for the daily activities of the Chief Negotiator (at the same time Head of the State Delegation); and 7) **Secretariat of the Negotiating group** coordinates the tasks arising from the negotiations and reviews the course of compliance with the *acquis*

communautaire as well as the course of negotiations.

The Montenegrin Parliament is also included in the process through the Committee on European Integration which monitors the accession talks and provides non-binding opinions on the negotiation positions and assesses the work of the negotiating team.⁶ The negotiating structure is presented in Figure 1.

Montenegrin CSOs are included in the

⁶ Skupština Crne Gore, "Rezolucija o načinu, kvalitetu i dinamici procesa integracija Crne Gore u Evropsku Uniju," Službeni list Crne Gore, Broj 1/2014, January 9, 2014.

⁷ Source: Ministry of Foreign Affairs and European Integration of the Republic of Montenegro.

accession talks on a technical and policy preparation level by participating in the negotiating working groups. Civil society representatives have to possess expertise in the respective area covered by the working group.⁸ They are recruited through a public call and are approved by the Montenegrin government.⁹ There are 33 working groups composed of 958 governmental representatives and 344 civil society representatives (26%).¹⁰ In the case of the working group for Chapter 23, there are 57 governmental representatives and 10 civil society representatives (15%), while, in the case of the working group 24, there are 42 members with no information available regarding its composition.¹¹ Montenegro's model of inclusion of CSOs is even more interesting given that the country, in line with EU's new approach in the accession negotiations, redefined the role of the working groups and expanded their task to monitor the action plans' implementation, which enables a better

control of the accession process.¹² Hence, the Montenegrin model assures that civil society's voice is at least heard.

However, in practice, the Montenegrin model faces several challenges. For instance, NGOs' representatives never had full access to information held by the working groups, such as reports of expert missions, opinions of the European Commission on key legislation etc.¹³ Furthermore, the possibility for direct influence on the content of the documents prepared by the governmental working groups – primarily the screening lists, negotiating positions, action plans and reports on the implementation of action plans – is limited by the composition of the working group where CSOs' representatives are outnumbered and outvoted by their governmental counterparts.¹⁴ Additionally, civil society representatives practically lose their watchdog role as they are allowed to

⁸ Jovana Marović, Interview with Jovana Marović, Executive Director of Politikon Network, May 31, 2018.

⁹ Ibid.

¹⁰ Ja za Evropu, Evropa za mene, "Pregovori o pristupanju," accessed May 30, 2018, <https://www.eu.me/rmn/>.

¹¹ Ja za Evropu, Evropa za mene.

¹² Jovana Marović, Interview with Jovana Marović, Executive Director of Politikon Network.

¹³ Ibid.

¹⁴ Ibid.

communicate with the public only in the capacity of the respective working group.¹⁵

In this respect, it is worth mentioning that the work of the negotiating groups should be based on a partnership between the government and civil society, whereas the group members should prefer consensual decision-making.

Moreover, while state institutions fund their representatives' participation in the working groups, civil society representatives do not receive financial support for their contribution. In practice, the lack of finances additionally hinders CSOs' participation in the accession process. For instance, they are disabled to attend the inter-governmental meetings in Brussels.¹⁶ Last, the transparency in the most demanding chapters 23 and 24 is further limited by the 'nature' of

the negotiation structure, that is, by the Council for rule of law.¹⁷ Namely, the civil society has raised concerns that the Council, which was formed in 2014 two years after the start of the negotiations, hinders the transparency of the accession process by concealing the fact that the *acquis* is not implemented accordingly.¹⁸

Even though their participation is institutionalised and secured, CSOs' role in the accession negotiations is constrained by the limited access to information and the lack of sufficient funds. What is more, the parallelism in Montenegro's negotiating structure additionally bypasses the role of civil society.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Evropski puls, "Koliko NVO mogu doprinijeti procesu evropske integracije Crne Gore?," February 2016.

II. Serbia's Model of Inclusion of CSOs

Serbia started the accession talks in 2014. Serbia's accession to the EU follows the same, newly-established negotiating approach like its neighbour Montenegro, yet, with a different negotiating structure in which CSOs are not directly included.

The negotiating structure of Serbia¹⁹ is as follows: 1) **Ministry of European Integration** coordinates the accession negotiations by directing, monitoring, and supporting the work of the Negotiating Team and other bodies envisioned with the negotiating structure; 2) **Head of the Negotiating Team**; 3) **The Core Negotiating Team** prepares the negotiating positions and is in charge of the negotiations on all chapters and at all stages of the accession process; 4) **Negotiating Groups** participate in the

screening process and prepare proposals for the negotiation positions; 5) **The Coordination Body Council** performs the operations regarding current issues within the process of accession, and 6) **The Coordination Body** considers the most important issues and guides the operations within the scope of the public administration in the process of accession.²⁰ The negotiating structure of Serbia is presented in Figure 2.

The Serbian National Parliament also participates in the accession process through the Committee on European Integration. This Committee monitors the accession talks and gives non-binding opinions and recommendations on the negotiating positions of the Serbian government.²²

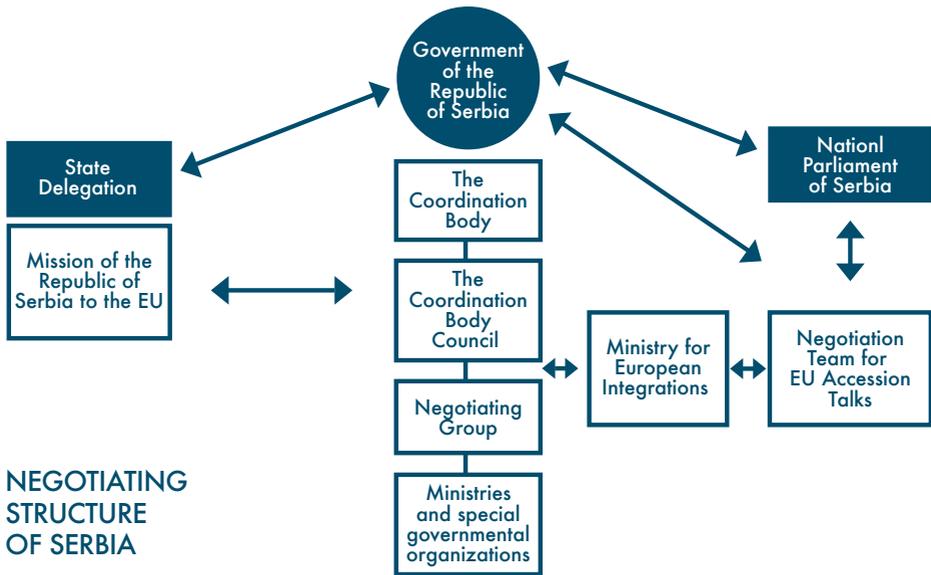
The participation of civil society in the accession negotiations in Serbia is not entirely institutionalised like in Montenegro

¹⁹ Strahinja Subotić, *Serbia's Pursuit of Interest in the EU Administrative, Financial and Lobbying Capacities*, ed. Duško Lopandić and Sena Marić (Belgrade: European Policy Centre, 2017).

²⁰ Negotiating team for accession of the Republic of Serbia to the European Union, "Negotiation Structure," accessed June 1, 2018, <http://www.eu-pregovori.rs/eng/>.

²¹ Strahinja Subotić, *Serbia's Pursuit of Interest in the EU Administrative, Financial and Lobbying Capacities*, ed. Duško Lopandić and Sena Marić (Belgrade: European Policy Centre, 2017), 28.

²² Narodna Skupština Republike Srbije, "Rezolucija o ulozi Narodne Skupštine i načelima u pregovorima o pristupanju Republike Srbije Evropskoj Uniji," 2013, <http://www.parlament.gov.rs/upload/archive/files/RS95-13Lat.pdf>.



NEGOTIATING STRUCTURE OF SERBIA

Figure 2: Negotiating structure of Republic of Serbia²¹

and is a result of civil society's self-organisation. In Serbia there are three separate mechanisms of civil society involvement: 1) *Sectorial Civic Society Organizations (SECO)*; 2) *prEUgovor*; and 3) *National Convention for the EU (NCEU)*.²³

NCEU is the only participation mechanism which is focused on all the chapters of the acquis in the accession talks and is legitimised by the state. Thus, NCEU is in the spotlight of this paper.

Inspired by the Slovakian model of the national convention for the EU formed in 2001, NCEU has been active since 2006 as a:

[P]ermanent body for thematically structured debate on Serbian accession into the European Union, between representatives of the governmental bodies,

²³ See Natasha Wunsch, "Beyond Instrumentalisation: NGO Monitoring Coalitions in Croatia, Montenegro, and Serbia," *East European Politics* 31, no. 4 (October 2, 2015): 452–67, <https://doi.org/10.1080/21599165.2015.1085859>; Bojan Elek, Liljana Ubović, and Tomasz Zornaczuk, "Civil Society Networks in the EU Integration of Serbia," *The Polish Institute of International Affairs* 8, no. 110 (April 2015): 1–7.

political parties, NGOs, experts, syndicates, the private sector and representatives of professional organizations.²⁴

NCEU is an umbrella body coordinated by the European Movement in Serbia,²⁵ which provides a platform for consultations between the Serbian government and civil society, recommendations about Serbian negotiation positions based on an open and transparent dialogue, monitoring of the implementation of the negotiation chapters' conditions and benchmarks, and informing the public about the dynamics of the accession process.²⁶ It comprises more than 300 organisations with almost 700 members that work on each of the 35 chapters of the *acquis*.²⁷

NCEU receives logistic and symbolic assistance from the Serbian National Parliament (SNP). For instance, NCEU's meetings take place within SNP's

premises. Furthermore, public officials, such as the SNP's President, SNP Committee on European Integration's President, representatives of the Serbian government / Ministry of European Integration and others make part of NCEU's presidency – the body that “provides strategic guidelines to the NCEU” and attends working groups' sessions.²⁸ Despite not being part of the institutional structures, NCEU has a role in the decision-making process regarding Serbia's negotiating positions. For example, NCEU delivers its recommendations and opinions over Serbia's negotiating positions to all the governmental institutions included in the accession talks.²⁹ For instance, prior to defining the negotiating positions, the negotiating groups, as well as the Committee on European Integration, have to consult yet not necessarily adopt NCEU's recommendations.³⁰

²⁴ National Convention on the European Union, accessed August 22, 2018, <http://eukonvent.org/eng/about-national-convention-on-the-eu/>.

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ Ibid

²⁹ Ibid

³⁰ Одбор за европске интеграције, “Одлука о поступку разматрања предлога преговарачке позиције у процесу преговора о приступању Републике Србије Европској Унији,” 4 Јуни 2014, <http://eukonvent.org/wp-content/uploads/2014/08/Odluka.pdf>; Влада Републике Србије, “Закључак којим се усмерава и усклађује рад органа државне управе у поступку израде преговарачких позиција у процесу преговора приступању Републике Србије Европској Унији,” Август 2015, http://eukonvent.org/wp-content/uploads/2015/08/zakljucak_pregovaracke_pozicije_13_08_15.pdf.

In practice, Serbian CSOs face several challenges in the accession process as well. For example, the quality of cooperation between the governmental working groups and the National Convention, especially in the case of the governmental working groups for chapters 23 and 24, is one-way, pro forma, and unsatisfactory.³¹ For instance, the cooperation with the Ministry of Internal Affairs was often characterised with the absence of political will to support some of CSOs' key proposals and recommendations regarding some of the most troublesome aspects in the field of security, such as depolitisation of police and combatting organised crime.³² It also happened that the Committee on European Affairs refused to discuss the National Convention's recommendations and comments regarding Serbia's negotiating position for Chapter 24.³³ Therefore, the cooperation is not essential and the authorities are not fully ready to accept civil society as a partner that

can contribute to the accession process. Besides the unsatisfying cooperation with the government, another problem that CSOs face is the lack of adequate capacities and expertise as well as funds that will directly facilitate their inclusion.³⁴ By looking at Serbia, this paper concurs that, in practice, civil society has a consultative rather than decision-making role despite the fact that NCEU is a recognised partner in the negotiating process. It appears that the Serbian model makes CSOs contribution less sufficient and leaves them prone to exclusion as well. In addition, like in Montenegro, CSOs role in the process is further constrained by the lack of funds and capacities.

That being told, this paper continues with the discussion on the Macedonian model of CSOs' inclusion in the accession talks.

³¹ Bojan Elek, Interview with Bojan Elek, researcher at Belgrade Centre for Security Policy, May 31, 2018.

³² Ibid

³³ Ibid

³⁴ Elek, Ubović, and Żornaczuk, "Civil Society Networks in the EU Integration of Serbia."

III. Discussing Macedonia's Model of Inclusion of CSOs

As a result of the announced start of the screening process in September 2018 and setting out of the path towards opening the accession talks in June 2019, the Macedonian government began drafting the country's negotiating structure. At the beginning of August, the structure was presented to the public.³⁵

The negotiating structure of the Republic of Macedonia comprises the following bodies: 1) **Coordinating Body** – a body which defines the country's negotiating positions and that is chaired by the Prime Minister; 2) **Council for rule of law**; 3) **State Delegation** – a body in charge of the accession negotiations with the

EU. It is headed by the Deputy Prime Minister of European Affairs – the Chief (Political) and includes the Minister of Foreign Affairs, Chief Technical Negotiator, Macedonia's Ambassador to Brussels, and the Secretary of the Negotiating Group; 3) **Negotiating group** – a body headed by the Chief Technical Negotiator that is in charge of the technical level of the accession negotiations for all the chapters of the *acquis*; 5) The Secretariat for European Affairs (SEA) will exercise the task of **Secretariat of the Negotiating Group** providing expertise as well as logistical and administrative support to the State Delegation and Negotiating Group. This body will be headed by a Secretary from SEA; 6) **Office of the Chief Technical Negotiator** – an operative body of the negotiating group that will assist; and 7) the existing **working groups**³⁶ for preparation of the National Programme for Adoption of the *Acquis Communautaire* (NPAA) and negotiating positions will

³⁵ Влада на Република Македонија, презентација на преговарачката структура за пристапувањето на Република Македонија во ЕУ.

³⁶ Службен Весник на Република Македонија бр. 66, Одлука за изменување и дополнување на одлуката за образување на работни групи за подготовка на националната програма за усвојување на правото на Европската Унија и подготовка на преговарачките позиции за преговори за членство во Европската Унија (Скопје, 2015).

³⁷ Ibid

be revised in terms of composition as well as competences. With that, they will be transformed into working groups for leading the accession talks. These working groups were initially established following a decision by the Macedonian government in 2009 (amended in 2015) and envision 37 working groups – one group for the political criteria, economic criteria, membership obligations, administrative capacities, and expert consultation for the *acquis communautaire's* terminology as well as 33 groups for each of the negotiating chapters (*excluding Chapter 34 – Institutions and Chapter 35 – Other issues*).³⁷ It is worth mentioning that the government announced 35 instead of the 37 working groups, which indicates that the governmental decision from 2009 would be amended again. Another novelty is that besides the representatives from state institutions, these working groups will include representatives from civil society, academia as well as individual

experts. Last, the government promised to allocate funds for the work of the negotiating groups.³⁸

It is also important to delineate the communication framework between the different bodies of the negotiating structure in order to make their answerability precise. In addition to this, the negotiating structure's rules of procedure need to contain clearly set deadlines ensuring unimpediment of the structure bodies.

Although not mentioned as part of the negotiating structure, the parliament is also included in the accession process through the National European Integration Council (NEIC). NEIC has the mandate to give opinions on the negotiating positions defined by the government.³⁹ In terms of cooperation with civil society, NEIC recognises only one CSO representative as part of its current composition.⁴⁰ The other non-governmental members

³⁸ Влада на Република Македонија, презентација на преговарачката структура за пристапувањето на Република Македонија во ЕУ.

³⁹ Собрание на Република Македонија, "Одлука за основање национален совет за евроинтеграции," Службен весник на Република Македонија 140/LXIII, 21 Ноември 2007, <http://www.slvesnik.com.mk/Issues/3E47FAFB43EDDC4588947E016BC7D2D5.pdf>.

⁴⁰ Собрание на Република Македонија, "Одлука за именување на претседател, потпретседател, членови и заменици-членови на Националниот Совет за Евроинтеграции," Службен Весник На Република Македонија 89/LXXIII, 17 Јули 2017, <http://www.slvesnik.com.mk/Issues/3E47FAFB43EDDC4588947E016BC7D2D5.pdf>.

⁴¹ Собрание на Република Македонија.

of the Council include representatives of the chambers, labour unions, and religious organisations.⁴¹ Nevertheless, the members of the Council who are not members of the parliament do not have the right to vote.⁴² What is more, in practice, NEIC is a consultative body whose decisions are non-binding.

On the other hand, the Committee on European Affairs (CEA) is a permanent parliamentary body, which monitors the EU integration of the Republic of Macedonia. In doing so, CEA provides opinions and recommendations on the national strategies and programs for EU integration as well as the activities and policies related to the integration process. CEA monitors and provides opinions on the alignment of Macedonian legislation with the *acquis communautaire* as well.⁴³ CEA's role in the EU accession process is very important as no law can

be harmonised with the *acquis* without CEA's opinion.⁴⁴ **Since the alignment of domestic legislation with the *acquis* makes a crucial part in the accession talks, more powers related to the parliamentary control of the process should be vested in CEA. What is more, these powers should envision inclusion of CSOs in the parliamentary control on a systematic level.** This will ensure greater oversight of the accession negotiations as, at least theoretically, CEA could make obligatory decisions related to the accession negotiations, therefore, setting its direction. **Besides CEA, NEIC, like NCEU in Serbia, could remain as an additional monitoring platform for assessing the quality of the accession process. However, its composition has to be widened by inviting more watchdog-based CSOs in its structure.**

⁴² Собрание на Република Македонија, "Одлука за основање Национален совет за евроинтеграции."

⁴³ Assembly of the Republic of Macedonia, "Committee on European Affairs," accessed August 23, 2018, https://www.sobranie.mk/working-bodies-2016-2020-en-ns_article-committee-on-european-affairs-16-20-en.nsp?

⁴⁴ Собрание на Република Македонија.

Conclusion

The goal of this paper is to spark a debate between the stakeholders involved in the accession process, based on the analysis and comparison of the Serbian and Montenegrin model. The aim of the discussion is to contribute to Macedonia's model quality and consistency taking into account all the aspects of the other national models presented herewith.

By looking at Macedonia's negotiating structure, it could be concluded that the bodies envisioned in the Macedonian model resemble their Montenegrin counterparts. **Notwithstanding the model, trust and cooperation between the government and CSOs should be the basis of the negotiating process.** This approach will avoid the pitfalls of exclusion and/or marginalisation present in the Montenegrin and Serbian model. Another thing to be taken into consideration is the danger of creating parallelism in the Macedonian negotiating structure. **Thus, all the bodies of the negotiating structure need to have a**

strictly defined mandate. Bodies with overlapping duties, like the Council for rule of law in Montenegro, should be avoided.

All in all, the Macedonian model can be described as inclusive given that CSOs are directly included in the country's negotiating structure through their participation in the accession talks working groups. The announced funding is encouraging and, at least theoretically, removes the financial challenges that might appear. Nevertheless, in assuring a better quality of the accession process, **civil society representatives in the working groups should be recruited from the policy-making-oriented organisations with expertise in acquis-related fields. The monitoring-based organisations should stay out of the negotiating structure in order to preserve their watchdog activities or alternatively they may monitor the process through the parliamentary bodies.**

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