29 September 2014

Social Platform contribution to the public consultation on the Commission's Stakeholder Consultation guidelines

OUR KEY POINTS

- We welcome a strengthened stakeholder consultation while recognising that more is needed to reach a true civil dialogue with decision makers. Civil dialogue is a key part of participatory democracy
- Our European NGOs need sufficient time to consult with members on national, regional and local level in order to be able to give meaningful inputs based on the experience of people affected on the ground
- Our experience shows that providing feedback to stakeholders on how their contributions have been taken into account, and if not why not, is the weakest point of the consultation process and where there is a high potential for improvement
- We encourage the guidelines to be applied as widely as possible and to all forms of consultation processes, including e.g. on the European Semester and the European Migration Forum

ANSWERS TO THE COMMISSION'S QUESTIONS

Do you think the Stakeholder Consultation Guidelines **cover all essential elements of consultation**? Should any of these elements receive more attention or be covered more extensively?

Civil dialogue is a tool of participatory democracy. Its ultimate objective is to reach decisions that are close to the general interest and that improve decision making. To achieve this, civil dialogue aims to put forward the views and needs of organised civil society, particularly the voice of those excluded from the 'official' political arena.

Overall, we welcome the initiative by the Commission to develop Stakeholder Consultation guidelines and, properly implemented, they can be a valuable tool in order to strengthen the quality, scope and targeting of the consultations.

Social Platform believes that consultation is only a part of civil dialogue. Consultation is in fact just the second step on a scale from minus one to five [i] that assesses the quality of civil society involvement. Step minus one is exclusion and step five is full partnership. While partnership is not always desirable, - especially for civil society that acts as a watchdog and critical voice - dialogue (step three) should always be an aim. A meaningful dialogue means that civil society is involved in all stages of a policy cycle: agenda-setting, policy definition/decision making, implementation, evaluation and reformulation. It includes EU institutions a) accountability and responsiveness, b) political will and openness to make a difference, c) transparency and clarity, d) equality and inclusiveness, e) sustainability and structures, f) recognition of the role of CSOs and g) an on-going process, with involvement at all stages of decision-making.

In 2008, Social Platform developed a position on 'How to establish an effective dialogue between the EU and civil society organisation'; this includes seven recommendations for European decision makers,[ii] as well as recommendations for pan-European networks of social NGOs.

While the central elements are identified by the Stakeholder Consultation guidelines, we find it important that the Commission takes into account the specificity of civil society organisations when defining its strategy. In particularly, the need to give sufficient time for European NGOs to consult with their members on national, regional and local level in order to be able to give meaningful inputs based on grassroots (people affected).

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We particularly welcome that the Commission emphasises the need to provide feedback to stakeholders on how their contributions have been taken into account, and if not, why. This is a part of the consultation where our experiences demonstrate clear room for improvement.

Social Platform and our members' involvement in previous consultations serve as feedback to the Commission on how consultations can be improved in the future, in line with the intention of the proposed guidelines. Below we provide **a few examples**:

On the future of Home Affairs in 2013

The public consultation on the future of Home Affairs policies: 'An open and safe Europe – what next?' (2013), was conducted without any guiding questions for stakeholders that could help them to frame their contributions in a way that would allow the Commission to easily integrate them into its work. By way of comparison, the consultation ahead of the Stockholm programme in 2008 was designed with guidance. Social Platform organised a hearing together with the Commission as a part of the public consultation at the end of 2013. While the hearing was appreciated by all stakeholders there was no feedback on why most of the inputs from the participants (both in written and at the hearing) were not taken into account in the final Communication. In addition, the Justice and Home Affairs Council had its first discussions on the basis of a paper prepared by the Presidency before the result of the public consultations was finalised. This practice undermined the purpose of the consultation, i.e. enabling those affected by the policies to influence the proposal at an early stage.

On the Europe 2020 Strategy and the European Semester

Our members have in the past experienced weak involvement of civil society in processes such as the European Semester. EU institutions and member states have not been willing to consult, or when they did the consultation was poorly designed. Also, the Commission chose to formally invite social partners to comment on the Country Specific Recommendation's, while civil society was not given an equal opportunity.

NGOs experienced limited stakeholder involvement in the preparation of the National Reform Programmes. Few European and national NGOs were involved in the drafting, monitoring and implementation of the NRPs, and almost none in a meaningful process which took on board their input, despite their expertise on the ground. In some countries the NGOs were invited to comment on the NRPs, but they were mainly contacted by the ministries of labour and/or social affairs that were not responsible for the final versions of the NRPs. There was no feedback from the national administration on if, and how, the NGOs' comments were taken into consideration during the final stage of the NRPs' preparation[iii].

Social Platform has developed concrete recommendations to the EU and member states on how to improve a meaningful and structured stakeholder involvement ahead of the mid-term review of Europe 2020 and hope this will be taken into account for the ongoing public consultation on the Europe 2020 strategy.

Further we contributed to the work of the Liaison Group of the European Economic and Social Committee on the Europe 2020 mid-term review, including on stakeholder involvement (3.6.)

On the European Migration Forum *(previously the European Integration Forum)*

The European Integration Forum was set up by the EU institutions to give civil society a way to express its views. Ahead of the extension of the forum to cover also immigration and asylum issues the European Platform on Asylum and Migration (EPAM) provided feedback[iv] building on NGO experience of the forum since its launch in 2009. Social Platform supports their proposals for improvement and believe that these are also valid for the Consultation guidelines. EPAM's key points are that the forum should be a more:

1) **collaborative structure** for civil society to agree on the topic, agenda (in order to enable EU NGOs to consult with national NGOs, issues to be discussed need to be published well in advance), and participants (priority should always be given to immigrant-run organisations, i.e. to oragnisations representing the group affected by the policies)
2) **structured and timely input** to the formulation of EU policy and enforcement (directly linked to ongoing policy processes at EU level or to major policy trends across the member states)
3) **visible and constructive meeting space** between civil society and EU and member state high-level policymakers

On trade policies and in particular the Transatlantic Trade and Investment Partnership (TTIP)

Trade policy is a clear example of EU policy in which the consultation with civil society organisations is largely insufficient. It is one of the policy areas in which the transparency of EU decision-making processes is mostly lacking. Negotiations with third countries are carried out by the Commission and the European Parliament is not fully associated in the dialogue on equal footing with the Council. Therefore, setting processes to ensure transparent consultations with all the relevant stakeholders, including civil society organisations, is of paramount importance to give legitimacy to the Commissions' negotiations. However, most of negotiations take place behind closed doors and negotiating documents are not accessible, even to member states. Commissions' consultations with stakeholders are predominantly dominated by consultation with businesses.

With TTIP we have seen some improvements in the process to ensure more transparency, even if it is still not enough. An open consultation was launched on investment protection and investor-to-state dispute settlement (ISDS). The Commission maintains a Civil Society Dialogue consisting of regular meetings between civil society and European Commission officials to discuss aspects of Europe's trade policy. In the case of TTIP, meetings of the Civil Society Dialogue are taking place after each round of negotiations with the US. This is positive, but not enough as during meetings the Commission orally informs stakeholders on the key developments of the negotiations and there are never written documents. Impact assessment studies focus only on economic issues, while an impact assessment including sustainable development aspects is lacking.

Do you think the guidelines support the **identification of the right target audiences**? If not, how would you improve them?

To make a meaningful input based on grassroots (people affected) European NGOs need sufficient time to consult with their membership on national, regional and local level.

Is there a **risk of 'over consultation'**, making it difficult for you as a stakeholder to distinguish between important and less important consultations?

We do not see a risk of over consultation. Instead, we welcome transparency from the Commission about legislation and policies it would like to consult stakeholders on. Timely information would enable European NGOs to identify how to respond and engage their national, regional and local members in the most appropriate way.

We encourage the Commission to make use of the Transparency Register to target NGOs by the topics it has indicated it is working on.

Do you see a **need to explain the limits of consultations** in this guidance document?

We believe it is important for the Commission to be clear towards stakeholders early in the process about what its expectations are and how it intends on giving feedback after the consultation is finalised.

Do you think the guidelines provide enough **guidance on how to analyse the results and assess the representativeness of respondents and how to provide feedback to stakeholders participating in a consultation?** If not, how could this process be improved?

Providing feedback to stakeholders is a crucial step for the accountability of the EU Institutions. See our examples above of how this objective has not been met in previous consultation.

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[i] Scale of civil society involvement:

-1) Exclusion
0) Indifference
1) One-way dissemination of information: Public authorities provide information
2) Consultation: Public authorities tell civil society what happens, and ask for feedback. A two-way information channel
3) Dialogue: Both public authorities and civil society are able to set the agenda, and public authorities may respond to the concerns advanced by civil society
4) Participation: More than just consultation, ideas put forward by civil society are incorporated into policy design, documents, and programs
5) Partnership: The final stage; a strong term denoting that civil society is taken in as a partner, and plays a real role in: co-decision, co-design, co-production, and possibly co-administration

[ii] Seven recommendations for European decision makers:

1. Establish an Inter-Institutional Agreement for civil dialogue at EU level
2. Adopt practical guidelines for civil dialogue
3. Establish a European Statute for European civil society organisations
4. Establish cross-sectorial minimum standards for the Commission on funding for civil society organisations
5. Establish clear responsibilities and leadership regarding civil society and civil dialogue, within each Directorate-General and in the college of commissioners
6. Reform the European Economic and Social Committee
7. Create a public and user-friendly database of European civil society organisations Adopt practical guidelines for civil dialogue

[iii] Platform contribution to the Informal EPSCO Council, Nicosia Cyprus July 12, 2012

[iv] See EPAM's written contribution to the European Migration Forum, debated with representatives of the EU institutions and European civil society networks on Sep 23, 2014 (EESC)