Opinion of the European Economic and Social Committee on ‘EU-Bosnia and Herzegovina relations: the role of civil society’

(Exploratory opinion)
(2009/C 317/03)

Rapporteur: Mr Patrik ZOLTÁNY

In a letter dated 2 September 2008, Ms Margot Wallström, Vice-president of the European Commission, and Mr Olli Rehn, Commissioner for enlargement, asked the European Economic and Social Committee, in accordance with Article 9 of the cooperation protocol between the EESC and the European Commission, to draw up an exploratory opinion on

EU-Bosnia and Herzegovina relations: the role of civil society.

The Section for External Relations, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 23 June 2009. The rapporteur was Mr Patrik Zoltvány.

At its 455th plenary session, held on 15-16 July 2009 (meeting of 16 July 2009), the European Economic and Social Committee adopted the following opinion by 147 votes and 1 abstention.

1. Main recommendations of the opinion

1.1 The recommendations to European Union (EU) institutions and bodies:

— To actively support the social and civil dialogue in Bosnia and Herzegovina.

— To participate as an active intermediary in creation of new constitution.

— To insist on the implementation of ratified international texts and of Bosnia and Herzegovina’s constitution, and to ensure trade union and employer organisations can register based on a designated legal basis, allowing them to operate effectively.

— To support systematically those projects run by civil society organisations and focusing on the promotion of the idea of European integration within the whole society. A systematic debate on the issues concerning European integration should encompass all parts of society, including civil society.

— To support projects aiming at transferring know-how and experience from the EU Member States to Bosnia and Herzegovina. The contribution of the ‘new’ Member States from Central and Eastern Europe might be of real added value. The importance of ‘twinning projects’ should be given greater recognition and support by the EU institutions. The newly established facility promoting civil society development and dialogue can provide support for such activities.

— To enable the representatives of civil society organisations from Bosnia and Herzegovina to visit the EU institutions and participate free of charge in conferences and events organised by the EU.

— To strengthen support to the regional networks of civil society organisations in the Western Balkans and to develop regional programmes.

(1) According to the definition of the European Economic and Social Committee, the term ‘civil society’ encompasses the employers’ organisations, employees’ organisations, as well as other non-governmental organisations and interest groups.
— To maintain a systematic dialogue with other donors in order to provide civil society organisations in Bosnia and Herzegovina and the Western Balkans as a whole with a well-targeted, efficient, effective and well-timed assistance.

— To organise regular meetings with the representatives of civil society organisations in order to react with greater flexibility to their expectations and needs.

1.2 The European Economic and Social Committee (EESC) will seek to:

— create a Joint Consultative Committee (JCC) between the EESC and Bosnia and Herzegovina civil society organisations in order to promote and support civil dialogue in Bosnia and Herzegovina;

— participate actively in the new People to People Dialogue Programme managed by the ECI’s Directorate-General for Enlargement: the EESC could prepare and organise study visits within the EU (especially in Brussels) for representatives of civil society organisations from Bosnia and Herzegovina;

— enable representatives of civil society organisations from Bosnia and Herzegovina to visit the EESC and to become acquainted with its activities.

1.3 The recommendations to authorities in Bosnia and Herzegovina:

— To develop a legal environment that supports civil society, including employer organisations and trade unions.

— To develop a strategy for the development of civil society; this would create the basis for a viable civil society as a necessary element of a mature democratic society. The strategy should be developed in close cooperation with civil society organisations.

— To maintain a systematic dialogue on the issues concerning civil society organisations with their representatives. The government’s approach towards civil society should be more inclusive.

— To introduce various incentives to civil society organisations, including financial ones, in order to support their development and the sustainability of their activities. A transparent grant scheme that allows civil society organisations to apply for grants financed from the state budget should be developed.

— To increase the level of dialogue and cooperation with the public authorities, ensuring the recognition of CSOs.

— To solve the issue of the Confederation of Trade Unions of BiH’s registration.

— To actively support the establishment of the Economic and Social Council at the state level in line with the progress in creating state level institutions related to these areas.

— To speed up work on meeting the conditions for Visas free regime.

— To introduce citizenship education in the areas of civil society activities.

1.4 The recommendations to civil society organisations in Bosnia and Herzegovina:

— To stimulate bottom-up approaches and self organisation of civil society, contributing to strengthening the societal ownership of CSOs.

— To raise awareness on the role of civil society in the political process.

— To facilitate networking and partnership building, i.e. exchange of information, know how and experience.

— To increase knowledge and understanding of EU integration, EU policies, and European Institutions.

— To increase education and training within CSOs.

— To stimulate interethnic and interreligious dialogue and increase the level of cooperation, networking and twinnings among CSOs.

2. Background of the opinion

2.1 The European Union goals in the Western Balkans

The Western Balkans is among the top regional priorities of the European Union’s (EU) foreign policy. The main goal of the EU in the Western Balkans is to increase regional stability and prosperity. The preparation of the Western Balkan countries for EU membership can be mentioned as an equally important goal. To achieve the latter, the EU is using specific pre-accession instruments.

The Stabilisation and Association Process (SAP) was created in order to assist the countries of the region on their way to the EU. It includes political dialogue, significant trade preferences and financial assistance. It also includes the establishment of a comprehensive contractual relationship that should help the countries of the region to prepare their future accession. The development of civil society and democratisation are some of the objectives of the SAP and are expected to contribute to the political, economic and institutional stabilisation of the region. The signing of the Stabilisation and Association Agreement (SAA) is considered to be a significant step towards EU membership.
2.2 The European Economic and Social Committee and the Western Balkans

The European Economic and Social Committee (EESC) plays an important role in assisting the development of civil society in the Western Balkans. In 2004, it set up the Western Balkans Contact Group which is the only permanent and specific body of the EESC dealing with this particular region. It is part of a broad range of other EU bodies working on this area and concentrates on the added-value it can bring to the general EU works on this topic. The main goal of the EESC in the Western Balkans is to monitor changes in the political, economic and social situation in the Western Balkan countries and in EU-Western Balkan relations, more specifically the implementation of the Thessaloniki Agenda and the evolution of the SAP; to promote cooperation between the EESC and Western Balkan civil society organisations, as well as national Economic and Social Councils or similar institutions, and to encourage and maximise exchange of best practices between EU civil society organisations and their counterparts in the Western Balkans.

3. Political developments in Bosnia and Herzegovina

3.1 The current political situation

The political process in Bosnia and Herzegovina continues to be affected by the legacy of the war and the Dayton Agreement, which established the independent state of BiH in its current form. Competing political forces strive to benefit from the Dayton constitutional set-up and at the same time to overcome the constraints inherent in it. The need for streamlining and modernising the government in BiH is increasingly recognised by the international community, as well as in BiH itself, although the support from the Entities’ political establishment for this process, which is being largely internationally driven, is uneven.

The major political challenge for the country in the years to come will be constitutional reform, without which further progress towards a more democratic and efficient state, implementation of the comprehensive reform agenda, and EU approximation will be difficult to achieve. The reform of the Dayton constitutional set-up cannot be imposed from outside, even though the international community in general and the EU in particular, are ready to assist. It will have to be a result of consensus among the political stakeholders of Bosnia and Herzegovina and to have the wide support of citizens. This process, which may affect all areas, will be very sensitive, and may take quite some time to be completed.

It should be noted that there are differing views on the future of the country among the politicians and that there is still some distrust among the citizens of different ethnicities. Overall, nationalist rhetoric has prevailed and Bosnia and Herzegovina’s leaders have made no progress towards creating, through the reform of the constitutional framework, more functional and affordable State structures which support the process of European integration.

Due to the concerns over political stability in Bosnia and Herzegovina and in the region, the closure of the Office of the High Representative (OHR) has been postponed on several occasions. In February 2008, the Peace Implementation Council (PIC) decided to make the closure conditional on Bosnia and Herzegovina’s progress on addressing five specific objectives and two specific conditions (signing of the SAA and a stable political situation). Apart from the Brčko final award issue, progress on addressing the five objectives (2), has been very limited.

3.2 Political relations with the EU and the neighbouring countries

3.2.1 Relations with the European Union

The negotiations on a SAA with Bosnia and Herzegovina (BiH) were launched in November 2005. The SAA was initialled on 4 December 2007 and signed on 16 June 2008, following progress in four key areas set out by the European Commission and the Council in 2005 (3). Pending the ratification of the SAA by all EU Member States, the trade-related measures of the SAA have been put into force through the Interim Agreement, applicable since 1 July 2008. Among other things, the SAA has formalised the trade preferences granted by the EU to Bosnian products since 2000 (on an autonomous basis) and has led BiH to the phasing-out of trade restrictions and the progressive reduction of its customs duties on EU products. So far, the implementation of the Interim Agreement has been satisfactory.

(2) 1) Acceptable and sustainable resolution of the issue of apportionment of property between State and other levels of government; 2) Acceptable and sustainable resolution of defence property; 3) Completion of the Brčko final award; 4) Fiscal sustainability (promoted by an agreement on a permanent ITA coefficient methodology and establishment of a National Fiscal Council); and 5) Entrenchment of the rule of law (demonstrated by adoption of a National War Crimes Strategy, of a Law on aliens and asylum and of a National Justice Sector Reform Strategy).

(3) 1) Implementation of police reform in compliance with the October 2005 agreement on police restructuring; 2) full co-operation with the ICTY; 3) adoption and implementation of all necessary public broadcasting legislation; and 4) development of the legislative framework and administrative capacity to allow for proper implementation of the SAA.
In parallel with the negotiations on the SAA, a Visa Facilitation Agreement was elaborated and signed on 17 September 2007: it entered into force in January 2008. This agreement reduced, and even eliminated for some categories of citizens, the visa processing fees. The agreement also simplified the conditions for granting visas to many groups of citizens, including students, businessmen, journalists, etc. Discussions about introducing a visa-free regime for Bosnian citizens were started by the European Union on 26 May 2008. In order to finalise the negotiations, BiH should progress in meeting all the criteria.

As regards pre-accession financial assistance, the 2008-2010 Multi-Annual Indicative Planning Document (MPD) for Bosnia and Herzegovina was adopted in September 2008. The European Commission (EC) allocated a total of €74.8 millions to Bosnia and Herzegovina under the 2008 Instrument for Pre-accession Assistance (IPA) programme. The main areas of intervention are: strengthening the rule of law and public administration structures, economic and social development and democratic stabilisation. In the framework of the Civil Society Facility, €6.5 million were allocated to civil society development under IPA 2007/2008 national programmes. Civil society organisations from Bosnia and Herzegovina also benefit from regional activities and visitors programmes financed by the Multi-Beneficiary Programme. In addition, €5.7 millions have been provided from Community funds to support the budget of the OHR until June 2009.

IPA and remaining CARDS assistance is implemented by the EC Delegation in Sarajevo. Decentralised management of aid remains a medium-term objective for Bosnia and Herzegovina. Preparations for decentralised implementation have advanced slightly. The National Fund and the Central Financial and Contracting Unit (CFCU) in the Ministry of Finance and Treasury (MoFT) have been partly staffed and further recruitment is in progress. The complex institutional and political environment in BiH led to significant delays in ratifying the IPA Framework Agreement. The Agreement’s proper implementation is not ensured yet. As a consequence, the implementation of the 2007 IPA programme is also delayed.

### 3.2.2 Relations with Croatia

The relations with Croatia have changed substantially since 2000. The two countries have reached further agreements on refugee return across the BiH/Croatia border and signed a Free Trade Agreement, which was implemented almost immediately. A double citizenship agreement with Croatia was approved by the Parliamentary Assembly of Bosnia and Herzegovina in February 2008. It is estimated that around 400 000 citizens of Bosnia and Herzegovina also have Croatian citizenship. There are still remaining border disputes to be settled, and there are still obstacles to the transfer of cases and extradition of suspects in cases of criminal offences and crimes against humanity between BiH and Croatia.

### 3.2.3 Relations with Serbia

Relations with Serbia have improved significantly since the collapse of the Milosevic regime, with diplomatic relations being established on 15 December 2000. During the BiH chairmanship of the South East European Co-operation Process (SEECP) in 2003-2004, the Foreign Ministers of the Former Yugoslavia met with their wider South East European counterparts to reinforce commitment to good-neighbourly relations, stability, security and co-operation in South Eastern Europe.

The October 2006 election campaign in BiH saw a public strengthening of ties between the Republika Srpska (RS) and Serbia, culminating in the signing of a revised Special Parallel Relations Agreement on 26 September 2007 in Banja Luka, although both sides stressed that the agreement in no way undermined the sovereignty, territorial integrity or political independence of BiH.

However, there remain potential tensions in BiH’s relations with Serbia. Following Kosovo declaration of independence there has been an increase in anti-Dayton rhetoric and secessionist threats in the RS; on 21 February 2008 the Republika Srpska National Assembly (RSNA) passed a resolution linking the position of the RS in BiH to that of Kosovo in Serbia and describing the circumstances under which the RS would be entitled to secede.

### 3.2.4 Regional Cooperation

Relations with Montenegro are good and have further intensified. Agreements on cooperation in the area of defence, police cooperation, civil protection and cross-border cooperation have been signed.

Relations with the Former Yugoslav Republic of Macedonia are good, both in the bilateral and the regional context. Agreements on readmission, police cooperation and civil protection have been concluded.

Relations with Albania have intensified, and Bosnia and Herzegovina has decided to open an Embassy in Tirana.

Bosnia and Herzegovina actively participates in regional cooperation programs and initiatives, for example in CEFTA.

### 4. Economic developments in Bosnia and Herzegovina

#### 4.1 The current state of the economy in Bosnia and Herzegovina

Despite the difficult political environment, BiH enjoyed four years of stable economic performance, with growth in GDP estimated at 5.5 % in 2008. Inflation in the first quarter of 2007 was just 1.5 % but started to pick up in the second half of 2007, driven by
an increase in food and transport prices and reached 4.9% in December, further accelerating to 9.5% in August 2008. The current account deficit dropped from 21.3% of GDP in 2005 to 11.4% of GDP in 2006, but widened again to 12.7% of GDP in 2007. The trade deficit fell from 49.6% of GDP in 2005 to around 37% of GDP in 2006 and 2007. Further improvements are unlikely for the time-being as export expansion has slowed in 2007, imports have increased again and foreign direct investments (FDI) are likely to decrease following the global financial crisis. The total fiscal surplus was 3% of GDP in 2006, which resulted mainly from a surge of revenues following the introduction of VAT. The surplus declined to 1.3% of GDP in 2007 and may turn into a deficit in 2008 following, among other factors, an increase of VAT refunds.

Like other transition countries, BiH has a growing economy but faces widespread poverty and social hardship. Unemployment estimates range from 16 per cent to 44 percent. BiH is facing the consequences of the financial and economic crisis which constitutes a danger to the economic, social and ethnic situation, as well as to relations within the EU and the region.

Thecountry's government structure is cumbersome and consumes over 50 per cent of GDP. Fragmented structures, limited resources, lack of experience and ad hoc approaches to supporting national capacities undermine the ability of Government in formulating and implementing policy.

The EU is Bosnia and Herzegovina's main trade partner (exchanges with the EU represent over 50% of Bosnia and Herzegovina's total trade). The signing of the SAA and the entry into force of the Interim Agreement are likely to deepen this relationship and expand trade integration with the EU. Bosnia and Herzegovina exports mainly to Italy, Germany and Slovenia. Bosnia and Herzegovina imports originate from these EU countries and, to a lesser extent, from Austria. Bosnia and Herzegovina's exports are essentially based on metals, wood and wood products, mineral products and chemicals. Imports include, in particular, machinery, mineral products, foodstuffs and chemicals.

All eight core conventions of the International Labour Organisation (ILO) have been ratified by Bosnia and Herzegovina (BiH). Freedom of association is guaranteed in the constitutions of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS). The two Entities have separate labour laws, and so has the district of Brčko.

The BiH Law on Associations and Foundations, adopted in December 2001, does not have provisions for registering a trade union federation at BiH level.

However, according to the 2008 Progress Report of the European Commission, no progress has been made in this area. The fact that there are no powers at State level in the field of employment and social policies remains an obstacle to the development of a countrywide strategy for employment. Based on constitutional arguments, Republika Srpska systematically objects to giving a role to the State level in internal labour market issues. Employment strategies and projects for active employment measures have been developed by the two Entities and Brčko District. However, there is little coordination between them.

The situation is similar in the area of social dialogue. The Trade Union Confederation has not been able to register at State level. Under current law, the registration of the trade unions is synonymous with their recognition - representativeness. Also, the legal basis and procedure for the social partners are the same as for all other civil society organisations, such as consumer groups or sports associations, which is disproportionate. The complex political and social organisation in the country continues to affect dialogue between social partners and solutions do not seem immediate. The lack of clarity regarding the legal registration of trade unions has blocked further progress towards establishing collective bargaining. A new law, replacing the above mentioned law on Associations and Foundations should be drafted, in order that the Government no longer get discretionary power as regard the decision to register or not a new organisation.

5. The current state and role of civil society organisations

5.1 Social dialogue

5.1.1 Legal environment

Social dialogue is not formally present at the level of Bosnia and Herzegovina. This is due to the fact the current constitution does not have provisions for setting up state level government institutions dealing with social policy or education.

5.1.2 Social partners

5.1.2.1 Employers

In the case of Bosnia and Herzegovina it is difficult to speak about employer organisations active at state level. As there is no Ministry of Labour at state level and many of the economic issues are under the responsibility of entity governments there is no official coordination or cooperation among employer organisations at state level.

The two major organisations of employers are Association of Employers of Federation of Bosnia and Herzegovina and Association of Employers of Republika Srpska. Both of them participate in Economic and Social Councils at entity level. The main issue the employer organisations are facing both internally and externally is representativeness and effective representation of the interests of their members towards the public authorities.
5.1.2.2 Trade unions

Unionisation rates in the formal sector are quite high in the FBiH and in RS. While the Confederation of Independent Trade Unions (Savez Samostalnih Sindikata Bosne i Hercegovine, SSSBiH) organises workers in FBiH, the Confederation of Trade Unions of Republika Srpska (Savez Sindikata Republike Srpske, SSRS) does the same in RS. The trade union confederations of the two entities of Bosnia-Herzegovina, the FBiH and the RS, set up at a founding assembly held in Sarajevo on 24 June 2005 a common umbrella organisation for the trade unions of Bosnia-Herzegovina (KSBiH). KSBiH submitted a request for registration at the state level, but the issue has not been resolved to date.

5.1.3 Assessment of the existing mechanisms

No Economic and Social Council has been established at state level due mainly to unwillingness to bring the issue of social dialogue at a State level, notably from Republika Srpska. There are two labour codes – one in each entity and there is no Ministry of Labour at state level. The main issues for social partners such as: economic policies, labour law, or education fall under the responsibility of entity and local governments. A proper single market (including the labour market) within Bosnia and Herzegovina has not been established yet. Economic and Social Councils are functioning only at entity levels and they receive funding for their activities from the Government. The remaining formal obstacle for establishing the ESC at state level is the issue of non-recognition of trade union umbrella organisation. It should also be noted that the capacities of social partners are still weak and further professionalisation of their work internally is required.

5.2 Civil dialogue

5.2.1 Legal environment

Bosnia and Herzegovina has a 'limited' history of development of civil society. Before the war, there was a range of public organisations with activities mainly in the areas of culture and sports. During and after the war, most of the non-governmental organisations (NGOs) focused their activities on the distribution of the humanitarian aid and only slowly changed their focus to more standard activities.

NGOs can register at State, Entity, cantonal (for FBiH) or municipal level. Since 2002, the Law on Associations and Foundations allows NGOs to register at the State Ministry of Civil Affairs and Communication and be active anywhere in the country. However, due to cumbersome procedures necessary to obtain State level registration and also non-recognition of state level registration at entity level (Republika Srpska), many NGOs prefer to register at entity level. A Memorandum of Understanding signed in 2004 for the establishment of a Joint Registry for Associations and Foundations in BiH, between the State, the Entity governments and the Brcko District promotes 'increasing freedom of movement of associations and foundations and establishes a system of fast access to information on all foundations and associations'.

The Law on Associations and Foundations has been amended and came into force in 2008. The 2002 Rulebook on Registration still applies, which complicates the registration process. The BiH authorities are seeking to amend it in order to reduce the number of forms required for registration. There is also a plan to introduce on-line registration.

According to a study prepared by the United Nations Country Team (4), one of the main issues for CSOs is the recently introduced system of VAT. The VAT Law, which came into force in BiH on 1 January 2006, introduced a unified tax rate of 17%, which represents a tax increase. Various collections (social, health) additionally apply to CSOs when hiring staff. Additional taxes apply to donations. The general feeling is that tax exemptions for the civil society sector would be welcomed and would make their work easier.

Public financing of CSOs is another important issue. In most cases CSOs view public funds distribution as insufficiently transparent. Legislation on volunteerism is still not enforced. Resolving poor implementation of legislation and the need for harmonisation of laws remain critical. Some of the CSOs observe that the legislative drafting process in BiH is non-transparent and non-accessible.

The CSOs see weak support from the political authorities as some of them see the civil society sector as a rival. There is also a general misunderstanding among local authorities of values and advantages of partnership with civil society.

5.2.2 The situation within the various interest groups

The total number of registered NGOs in Bosnia and Herzegovina is now close to 8 000 (5) however the number of active ones is much smaller. The income of the third sector is estimated at 4.5% of GDP while operating expenditures are 2.4%. Staff employed in the sector represent 1.45% of the economically active population (6).

(4) The Prime Minister of Republika Srpska, Milorad Dodik, declared on 22nd August 2007 that 'the Government of RS will not support the creation of the social Council on the level of BiH, [evaluating that] the basic economic and social questions are tackled on the level of entities and that the creation of this Council is a political matter.'

(5) Main Findings on the Level of Cooperation Between the UN Agencies and Civil Society Organisations in BiH, January 2007, Working Paper of UNCT in BiH.

(6) Figure provided as of February 2005 – data included into the Report of the EU funded Project ‘Mapping Study of Non-State Actors in Bosnia-Herzegovina’, September 2005.

The predominant activity area of NGOs is that of human rights promotion. Other areas of significant NGOs involvement are education, gender issues, economic development, humanitarian relief, civil society development, health, youth and children, community development.

5.2.3 Assessment of the existing mechanisms

Some progress has been noticed regarding the institutionalisation of the relationship between the authorities and the non-governmental sector at the State level. The BiH Council of Ministers, together with the representatives of civil society signed on 7 May 2007 the Agreement on Cooperation between the Council of Ministers of BiH and the non-governmental sector in BiH.

A Civil Society Board was established in October 2007 in accordance with the Agreement. Even though the Board does not represent the whole of civil society, it has 31 sub-sectors, making it the strongest forum for NGOs in the country. However, more efforts by the authorities are needed in order to establish regular and systematic communication with civil society and to encourage its participation in policy-making.


6. The role of civil society organisations in EU integration

6.1 Civil society organisations and the process of European integration

The European idea is not the one very much present in the work of civil society organisations. The citizens see the European integration of BiH as a distant project. Majority of CSOs have limited experience from working with their counterparts from EU countries. The debate on EU has just started in BiH. The CSOs focus their projects on the priorities set by financial donors – international organisations and governments and local donors. The advocacy of the European integration of BiH in each sector is not really visible, with the exception of activities of international NGOs. In spite of this, there is 80 percent support for future membership of BiH in the EU among its citizens which is a good starting point for advocacy activities of CSOs concerning meeting the EU membership criteria.

The President
of the European Economic and Social Committee
Mario Sepi

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