

Member States, at least until 31 December 2010. The Commission hopes that, by that date, the Council will have adopted the **new directive** bringing order to all exemptions across the board, as called for in the Communication.

3. Specific comments

3.1 The EESC congratulates the Commission on its work: both the **proposal for a directive, which it endorses unreservedly**, and the publication of a Communication announcing the definition of an 'exemption' structure which is consistent with the principles of the single market and the Lisbon Strategy.

The EESC will issue a specific opinion on the Communication, to make a constructive contribution to the debate.

3.2 Previous experience would suggest that the general interest of reaching swift consensus on the proposal might take second place to defending particular interests and policies: the EESC hopes that this fear will prove unfounded. In terms of technical accuracy the proposal cannot be criticised: as the decision-making process progresses, only the political aspects will play a role. The EESC draws the decision-makers' attention to the needs of the market and the public, which require transparent, fair laws to be adopted without delay.

Brussels, 24 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS

Opinion of the European Economic and Social Committee on Croatia on the road to accession

(2008/C 44/27)

On 16 February 2007 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on: *Croatia on the road to accession*.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 October 2007. The rapporteur was Ms Anne-Marie Sigmund.

At its 439th plenary session, held on 24 and 25 October 2007 (meeting of 24 October 2007), the European Economic and Social Committee adopted the following opinion by 155 votes to two with four abstentions.

1. Introduction

1.1 On 20 April 2004, the Commission issued a positive opinion on Croatia's application for accession to the European Union; on 20 December 2004, the European Council decided to open accession negotiations in March 2005, which were then postponed to October 2005.

1.2 The joint screening process was successfully completed in October 2006, and bilateral accession negotiations were able to begin. Substantial progress has been made on the political and economic criteria and on transposing the *acquis*.

1.3 The Committee welcomes the speedy progress of the negotiations and the broad-based participation of Croatian civil

society in this process but stresses that the contribution of all the representative civil society organisations concerned is needed, and in particular the comprehensive involvement of the social partners in the negotiation of all the relevant chapters. In this context, the Committee refers to its opinion of 31 March 2004 and the arguments put forward in point 5.5, which continue to be valid and which it now reiterates ⁽¹⁾.

1.4 This opinion will refrain from making another analysis of existing statistical material, but will instead concentrate on assessing the situation of organised civil society in Croatia, assessing its foundations, opportunities and challenges.

⁽¹⁾ EESC opinion of 31.3.2004 on *Croatia's Application for EU membership* (rapporteur Mr Strasser), point 5.5: 'If the Croatian economy is to successfully cope with the conditions applying in the EU's internal market, it is essential that the necessary reforms, liberalisation measures and adjustments to comply with EU law receive the support of civil society. Key prerequisites in this context are that the Croatian population is kept adequately informed of the importance and the impact of Croatia's integration into the EU and that representative civil society organisations are involved in the political decision-making processes.' (OJ C 112, 30.4.2004, p.68).

2. General comments on the role of civil society

2.1 The history of the emergence of organised civil society in the 'old' Member States is very different from the formation of civil society activities in the 'new' Member States, whose situation applies by analogy to Croatia: whilst in the first case, civil society initiatives arose within countries out of demand and/or needs, or to defend particular interests in accordance with the bottom-up principle, there was civil society involvement in the second group of states to highlight ideas or concerns, but in most cases first and foremost against the over-powerful state. (This does not apply, however, to the social partners, as in their case the representation of interests always took priority.) It is also because of these origins that all these countries needed to a greater or lesser extent to catch up in areas that are key to civil society activity such as trust, solidarity, transparency and autonomy.

2.2 Since 1999 the Committee has been concerned with describing organised civil society and formulating definitions ⁽²⁾. A significant finding arising from the Committee's analysis of the situation and role of civil society in Croatia is the fact that, partly for historical reasons, the social partners, in their capacity as representatives of employers and workers, form the 'hardcore' of the civil society players. Alongside the representation of interests, a common feature of all representatives of organised civil society is their commitment to the common good, which distinguishes them clearly from lobbyists, who also represent interests. The Committee considers this complex and open definition of organised civil society to be of particular significance in relation to Croatia, as the Committee has noted that in some cases civil society tends to be equated in Croatia with NGOs. The Committee would sound a warning against the use of this definition, which it considers incomplete, as it would from the outset by definition exclude the social partners from any form of participation in civil society activity.

2.3 Apart from representing interests, the field of activity of the representatives of organised civil society also includes participation in the process of shaping public opinion and policies in the broadest sense. In addition to numerous practical forms of participation, the social and civil dialogues, however, are the most important expressions of participatory democracy. Whereas its very field of activity means that the social dialogue is restricted to the social partners and cannot be extended, all representatives of organised civil society can take part in the civil dialogue, providing they meet the necessary criteria of representativeness. While the social dialogue can be clearly described, there is still no corresponding definition of the civil dialogue. Perhaps the closest approximation we have to a definition of the civil dialogue is that of Jürgen Habermas, who describes it an element of participatory democracy, an interactive discourse into which normative content can flow. By analogy with the social dialogue, civil dialogue can take place both vertically, between the state and organised civil society, and

horizontally, between the organised civil society players themselves. The Committee stresses the importance of drawing a distinction between the concepts of social and civil dialogue. Civil dialogue complements the social dialogue, but does not replace it.

At European level the European Economic and Social Committee is the institutional representative of organised civil society in the Member States. It is thus the 'home of civil dialogue', but not the forum for social dialogue.

2.4 The Committee considers the issue of representativeness of civil society actors to be particularly important, as it goes hand in hand with their democratic legitimacy. It is therefore not enough to represent a sufficient number of the affected or interested parties, i.e. be quantitatively representative; a civil society organisation must also — indeed first and foremost — be qualitatively representative, i.e. be able, by virtue of its specialist knowledge, experience and specific skills, to play a constructive part in events. Amongst the other qualitative criteria for recognising a civil society organisation, elements such as transparency, democratic decision-making structures, sustainability, economic independence and autonomy are especially important, particularly in young democracies. The Committee has commented in a number of opinions both on the composition of organised civil society and on the representativeness of its representatives, and has drawn up a list of civil society players as well as a list of representativeness criteria ⁽³⁾.

3. Current state of play

3.1 The socio-economic situation in Croatia

3.1.1 The economic situation in Croatia is stable, although it varies significantly from region to region. The steady trend of economic growth at the rate of about 4,8 % that has been witnessed over recent years (2002-2006) is projected to remain about the same in the two years to come. Attention should be drawn, however to the continuing high level of disparity in regional economic development. Average consumer price inflation reached 3,2 % in 2006, which represents a 0,8 % increase since 2002, but overall price stability has been maintained. There have also been negative developments, however, in relation to the trade deficit and external indebtedness, as well as a growing budget deficit. In order to tackle indebtedness, the goal of increasing investment and public-private partnerships is gaining ground in Croatia.

⁽²⁾ EESC opinion of 22.9.1999 on *The role and contribution of civil society organisations in the building of Europe* (Rapporteur: Ms Sigmund) (OJ C 329, 17.11.1999, p.30).

EESC opinion of 25.4.2001 on *Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper* (rapporteurs: Ms Sigmund and Mr Rodriguez Garcia Caro) (OJ C 193, 10.7.2001, p.117).

EESC opinion of 14.2.2006 on *The representativeness of European civil society organisations in civil dialogue* (rapporteur: Mr Olsson) (OJ C 88, 11.4.2006, p. 41).

⁽²⁾ *The role and contribution of civil society organisations in the building of Europe.*

The Committee would also point out in this connection that government measures are needed, not only for EU accession but also in the longer term as a signal of the country's willingness to meet the convergence criteria for accession to the third stage of European monetary union.

3.1.2 With regard to the social situation, there is, despite laudable progress over the last few years, still work to be done, e.g. in tackling labour market problems:

- the rate of long-term unemployment is well above the EU average and overall the employment rate is relatively low. This creates an unfavourable ratio between employed persons and people receiving social benefits;
- the harmonised unemployment rate (based on the labour force survey) is on a stable downward trend; it reached 11,2 % in the first quarter of this year, down from 11,8 % in the first half of 2006;
- the rate of youth employment is very low;
- declining formal unemployment is counterbalanced by a high rate of informal employment;
- there is a potential/foreseeable danger of new jobs being increasingly poorly paid and insecure.

Action is also needed to address the still relatively low level of average household incomes.

3.1.3 A report by the European Foundation for the Improvement of Living and Working Conditions, based in Dublin (*), paints a picture of the social situation in Croatia and contains the following recommendations: *'Regionally balanced economic development is needed to sustain growth and create good-quality jobs; the focus on employment policy needs to shift from income support to training to encourage the unemployed into work; affordable housing needs to be provided for families who cannot afford private sector housing; incentives need to be given to enable children and young people to enrol and stay in school; and more affordable childcare is required to boost women's labour market participation and help parents balance work and family life. The overall policy message is that promoting living standards and social inclusion should be defined as a priority across all areas of policymaking and implementation, thus ensuring a multi-dimensional and holistic approach to preventing and reducing poverty, inequality and social exclusion'.*

3.1.4 There are numerous initiatives promoting small and medium-sized enterprise growth. These initiatives emanate from

the Croatian government, but also from the activities of national and international donors and civil society.

The Committee considers it important to create a favourable environment for business –especially for SMEs, which are drivers of growth and job creation, notably in disadvantaged regions. In this context, the Committee welcomes the increasing activity of the association for SMEs operating within the Croatian Employers' Association (HUP).

3.1.5 The Committee considers agriculture to be a key area of the accession negotiations. Most agricultural production takes place on small family farms of an average size of 2.4 ha, which together account for some 80 % of agricultural land and livestock. Much agricultural land is still unusable because of war damage (e.g. mines). In some cases there are unresolved property ownership issues. Croatian agriculture is at present uncompetitive and is in the throes of change. Clearly there is a need for comprehensive reform of Croatian agricultural policy, e.g. in connection with EU accession. The agriculture ministry has launched corresponding strategic development projects, which aim to boost the competitiveness of domestic production. There has also been progress in implementing rural development, quality and organic farming programmes. There is still a need for a comprehensive food safety strategy.

Suitable structures are also urgently needed to implement the common agricultural policy and to introduce the politically independent representation of interests, which is needed not only for political reasons (ensuring the right to a voice) but also for practical reasons (assistance with the administration of Community funds under the pre-accession strategy during the accession phase, and participation in their administration and distribution after enlargement).

3.1.6 An aging population as a characteristic process in all European countries means a challenge in shaping public social security policies. Demographic change is also a problem for Croatia, although average life expectancy in Croatia — particularly when compared to the 'old' Member States — is lower than in many other European states. The Croatian social security system is not equipped to react to an aging population. Reforms of social security have been subject to a strong influence from international financial institutions.

Moreover, the representation of the interests of the older sections of the population in the political arena is a relatively new phenomenon in the Republic of Croatia.

(*) *Quality of life in Croatia: key findings from national research*, Dublin, 2007.

3.1.7 There is a small level of migration into and out of the Republic of Croatia, with immigration almost three times the emigration level. However, both immigration and emigration are tending to decrease and do not represent an important statistical factor.

3.2 *The political situation in Croatia*

3.2.1 The Committee believes that the forthcoming parliamentary elections (November 2007) will not affect the stable political situation in Croatia. Even though the opinion polls show different results, not clearly indicating the possible outcome of the elections, the pro-EU stance of all the major political parties is a factor preventing any possible shift of the present European orientation in Croatian politics. The overall objective of the political parties is to join the European Union by 2009.

3.2.2 Several reforms of the public sector are being undertaken at present. Public administration reform with the goal of promoting more efficient and competent public administration is being pursued in parallel with the reform of the judiciary, aiming at doing away with a backlog of cases and promoting the rule of law paradigm.

3.2.3 In line with internal and external evaluations, the fight against corruption is placed high on the agenda for accession to the European Union. Criminal procedures initiated by the state authorities are more and more being supplemented by civil society calls for transparency and legality in political party financing, public procurement procedures, access to information and avoidance of conflicts of interest. These efforts are being hindered by a lack of trust in institutions, but a generalised publicity campaign is sure to give results in the mid-term.

Here, organised civil society continues to play an important role and contributes to the fight against corruption. In relation to that, the partnership project 'Development of Local Civil Initiatives through Capacity Building on Several Levels' resulted in ten associations from eight Croatian Cities gathering in a multidisciplinary network called 'BURA'.

3.2.4 The protection of minorities requires further efforts. These efforts should encompass promotion and protection of minority rights and lead to the practical integration of minorities. In this context, the Committee welcomes the fact that the Croatian government's 2007 employment plan makes specific reference to, and implements, the right of national minorities to equal treatment in employment in the civil service. In this regard the 2007 elections for councils of national minorities should also be mentioned. The results achieved with the Roma minority regarding their integration into schooling show a

pattern of success. In addition to minority rights, specific understanding is still needed for the integration or return of refugees and internally displaced persons, as well as for the resettlement of returning refugees, with the aim of physical as well as societal reconstruction. In principle, however, it can be said that useful steps have been taken in the right direction.

3.3 *Organised civil society in Croatia*

3.3.1 The legal framework for civil society in Croatia arises primarily from the following sources:

- The Associations Act provides the overall framework for civil society associations and represents a relatively good legal environment covering the majority of civil society actors ⁽⁵⁾.
- The Labour Act regulates the establishment and functioning (including the framework for collective bargaining) of trade unions and their associations, and employers' organisations and their associations.
- The Volunteer Act regulates the notion, principles, conditions and practice of volunteering as a possible way of providing volunteer work also in civil society organisations as organisers of volunteering.
- The Endowments and Foundations Act ⁽⁶⁾ represents an important source, especially in the field of financing civil society.
- Additional sources include the Institutions Act, the Social Welfare Act, and a range of laws and regulations in the field of financing, taxation and humanitarian work, also related to civil society. The representatives of employers and employees also have an important role to play here, in addition to their role as social partners.

3.3.2 A change in Croatian civil society can also be observed in the activities of NGOs. With the previous predominant orientation of civil society towards the protection and promotion of human rights and humanitarian work, today there is a shift towards the realisation of social policy and social rights.

⁽⁵⁾ According to available data, some 27 000 civic associations are registered in Croatia.

⁽⁶⁾ At this moment there are about 90 foundations in the country.

Also environmental organisations have demonstrated a capability to act jointly, through the creation of formal and informal networks, gathered around specific actions.

A tendency towards stronger networking and organisational grouping is noticeable as well with the youth organisations, disabled persons' associations and women's organisations.

The Croatian consumer protection organisations are trying to assert consumer rights. But the human and financial resources are not sufficient to deal with consumer protection, consumer information and lobbying on behalf of consumers in a sustained way.

3.3.3 In the context of civil society activities in Croatia, the dialogue between the social partners at various levels merits particular attention.

The institutional framework for a tripartite social dialogue (employers and trade unions as partners of government) is formally well developed through the Croatian Economic and Social Council. So far, however, it has produced few concrete results. One of the reasons for this is the still not completely resolved problem of the fragmentation of interest groups, not only on the employees' side. The Committee considers that further consolidation of interests at the level of the various organisations would be desirable, also in the interests of the representativeness of individual associations. Another cause can be found in the practical arrangements: thus, for example, the deadlines for submission of opinions by the social partners are usually too short (in most cases only 3-4 days), and there is no feedback as to why specific proposals have not been taken up.

An autonomous, bipartite social dialogue does already exist at company level. At this level it creates the most implications for relationships between both workers and employers and trade unions and employers, in the form of numerous collective agreements and also through the works council track. But autonomous bipartite social dialogue still has a great deal of unrealised potential related to resolving the issue of trade union representativeness with a single employer and establishing the representation on the workers' side in collective bargaining. Additionally, in SMEs there is a relatively low level of interest representation and organisation of workers.

At sectoral level social dialogue is mostly absent. The reason for this is very much influenced by the still not fully resolved issue of establishing representativeness of both workers and employers and the problems of establishing the scope of sectors and branches as bargaining units. Bearing in mind the importance of sectoral bargaining on influencing the conditions of the overall economic situation, the development of social dialogue should be focused at this level.

Since the social dialogue is still mainly conducted by the government through a tripartite social dialogue, the main focus is put on tripartite consultations. But without the development of an autonomous bipartite relations system at national and sectoral level and without emphasising sectoral collective bargaining, it will be difficult to develop a well-structured and balanced system of industrial relations. In this regard also the statistics of

collective bargaining coverage and membership should be made public.

3.3.4 As in many European countries, in Croatia there is a lack of understanding of the various forms of civil dialogue. Although the Croatian government has already set up useful, operational conditions for the civil dialogue, this is only a beginning. On very few occasions up until now has there been a broad civil society consensus on particular issues, with strong representation of interests. However, support for the draft Access to Public Information Act, and ecological issues relating to the Družba Adria project and the LGN terminal in the Adriatic, provide encouragement for the future.

3.3.5 The Committee stresses in this connection that a structured civil dialogue, as a complement to social dialogue, is an essential aspect of participatory democracy. It should not, however, be restricted to the opportunity for consultation but must, above all — in accordance with the bottom-up principle which is inherent in civil society action — guarantee the right of participation.

3.3.6 The existing institutional framework in Croatia for creating a modern form of participatory democracy is very promising in its approach.

3.3.6.1 **The Croatian government's Office for Cooperation with NGOs**, set up in 1998, was the first public body to be charged with building structured cooperation between the state and civil society. This office now also manages the not inconsiderable subsidies for Croatian civil society (HRK 85,94 million), proposes legislative solutions for the sector, and coordinates the activities of national, regional and local actors. In 2006, total financial support amounting to HRK 321 626 823.06 (about EUR 44,1 million) was granted to civil society organisations in Croatia.

The office is also in charge of supervision and implementation of the National Strategy for the Creation of an Enabling Environment for Civil Society Development (adopted in July 2006).

The Strategy defines the situation and goals in ten areas of civil society:

- value-based relations between the state and civil society;
- social cohesion and integration;
- citizen's participation in the creation of public policies;
- education for democratic citizenship and human rights;
- legal framework for action and development of civil society;
- institutional framework to support the development of civil society;
- system of financing to support the development of civil society;
- regional development;
- development of volunteering, philanthropy and establishment of foundations;
- development of civil society in the international context.

The operational plan adopted by the government on 1 February 2007 provides for specific measures for the period 2007-2011 and also lists the institutions responsible.

3.3.6.2 The Council for the Development of Civil Society was set up in 2002 and is a cross-sector consultative body for the Croatian government; its job is to come up with strategies for developing civil society and for monitoring the implementation of the government's programmes for cooperation with the sector. The council is a joint body, with ten representatives of the relevant government offices and ten representatives of organised civil society, assisted by three experts. The mandate of the Council's second session officially ended in July 2006, though it was prolonged by the Government till 1 February 2007. On the occasion of the new constitution assembly of the Council, held on 16 February 2007, a new president of the Council was appointed. Five sessions of the Council were held in the first half of July 2007.

3.3.6.3 The National Foundation for Civil Society Development was established in 2003 by the Croatian Parliament and acts outside the structures of national and local government. The main activities of the Foundation include the provision of financial and expert support to programmes promoting sustainability of non-profit-organisations, inter-sectional cooperation, civic initiatives, volunteering etc. The Foundation is financed from the state budget, from income collected through official lotteries, but also from foreign donors (e.g. the European Commission). The management of this innovative instrument includes, in equal proportions, the representatives of national government, organised civil society and experts in the field.

4. Analysis:

An initial assessment leads to the following conclusions: 4.1

The Committee recognises and applauds Croatia's efforts to continue the accession negotiations without delay and believes that the environment is favourable to this pace being kept up throughout the campaigning for the elections in Autumn 2007. However, the Committee points out that the measures to be taken in terms of legislation, but also in administrative reform, must be as simple, clear and above all sustainable as possible. The Committee considers the initiative of the Croatian government aimed at introducing the 'one stop shop' system for registering companies in Croatia to be an important step in this direction. The Committee particularly welcomes the implementation of the Hitrorez project, which aims at reducing inefficient and outdated laws and regulations and proposes to wipe out as many as 420 regulations connected with the business sector. It will need to be ensured, however, that these legislative measures to not lead to the dismantling of employee protection rights and that, above all, the existing guarantees of social and collective human rights are maintained. The Committee also believes

that clearer and simpler regulations are an extra tool in the battle against corruption and that, with this package of measures, Croatia could serve as an example for the region.

Further simplification of legal procedures will also be required. New legislative measures should not, however, derogate from laws that have not been adapted, as this would have negative effects, such as undesirable legal uncertainty, in the first, sensitive stage of membership.

The Committee considers the length of court procedures to be a problem requiring solution. The socially weaker parties to disputes are often placed at a disadvantage or deterred from bringing actions by procedures which can in some cases last for years. The establishment of specialised labour and arbitration courts would go some way towards solving the problem in the area of employment disputes by shortening and simplifying procedures.

The area of land acquisition also seems to require measures aimed at ensuring more transparency so as to give foreign investors the required planning security. The process of digitalisation and on-line availability of (land) registers in Croatia launched by the Croatian government is a major step towards the achievement of this goal.

4.2 In this context, the Committee recognises Croatia's particularly difficult position: as well as preparing for accession, the country is in the process of dealing with the consequences of the 'homeland war'.

4.3 The Committee believes that the formal fulfilment of the accession criteria should not be the sole purpose of the accession negotiations. Particularly in the final phase of the pre-accession period, the active role and contribution of qualitatively and quantitatively representative civil society actors will play a significant part in preparing Croatia's citizens for accession. After accession, these representatives of civil society organisations will, both within the framework of the existing social dialogue and as stakeholders in civil dialogue, do much to help ensure that the standards set by the transposed Community *acquis* are implemented and/or applied across the board. It should also be pointed out that strong and effective civil society organisations have an important role to play in implementing the Community *acquis* and in monitoring, particularly in period immediately following Croatia's accession to the EU. An equally important role will fall to them in the administrative sphere, e.g. in managing Community funding. In some areas (e.g. SMEs, the professions, agriculture) there is a lack of long-term, horizontal structures which meet these requirements. Strengthening civil society players who meet all the representativeness criteria is thus not only an objective to be pursued in the context of the accession negotiations but also a measure which will have positive effects, particularly after Croatia's EU accession.

5. Final comments

5.1 The Croatian government has set itself the goal of meeting the criteria for EU accession by 2009. The Committee is determined, within the limits of its competences, to support Croatia strongly in this.

In the last two accession rounds the Committee has accumulated valuable experience, which it would now like to put to practical use in the current enlargement discussions with Croatia, in the interests of both parties and for their mutual benefit.

5.2 The Committee considers that this cooperation should be as pragmatic and unbureaucratic as possible, focusing on the issue. It must be based on the shared belief that organised civil society is not only an important consultative partner in the process of shaping opinions and policy during the accession round, but that it will also have a vital and continuing role to play after enlargement. Efficient civil society organisations which meet the essential qualitative and quantitative representativeness criteria are essential for breathing life into the participatory element of a modern democracy. They will be essential to Croatia, as a new EU Member State, in the implementation and practical application of the country's adapted legislation. The Committee offers its assistance and cooperation in tackling

these current and future tasks. This could take the following form:

- sectoral meetings with representatives of Croatian organised civil society for the purpose of sharing information, views and experience;
- participation of EESC members in seminars or other initiatives under the IPA (Instrument for Pre-Accession Assistance);
- cooperation with the organisers of the Croatian information and communication campaign on accession, cooperation on drawing up case studies, which will illustrate the consequences of accession for specific groups in a transparent and easily understandable way. It goes without saying that this should not be limited to the rational aspect, but that the emotional side must also be addressed. Experience shows that hostile attitudes in the pre-accession phase are often caused by fears based on ignorance. Including Committee members in relevant information campaigns also has the advantage that members of the Committee come from organisations that are in many cases comparable to Croatian civil society organisations. They are therefore credible and can communicate on the same level as the target group.

Brussels, 24 October 2007.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS
