

Opinion of the European Economic and Social Committee — The role of civil society in EU-Kosovo relations

(2012/C 181/05)

Rapporteur: **Mr Ionut SIBIAN**

In a letter dated 22 September 2011, Commissioner Maroš Šefčovič and Commissioner Štefan Füle asked the European Economic and Social Committee to draw up an exploratory opinion on

The role of civil society in EU-Kosovo relations.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on the 6 March 2012

At its 479th plenary session, held on 28-29 March 2012 the European Economic and Social Committee adopted the following opinion by 145 votes to 5 with 13 abstentions.

1. Conclusions and recommendations

The EESC's exploratory opinion on the role of civil society in EU-Kosovo relations takes into consideration the United Nations Security Council Resolution 1244 (1999).

This opinion includes a set of recommendations which are addressed to both the European Commission and Kosovan authorities. The EESC is ready to support the European Commission's actions aimed at strengthening the role of civil society in Kosovo as well as the relations between the EU and Kosovan civil society.

1.1 The EESC calls on the Kosovan government to take appropriate measures for the safe and free movement of ethnic minorities throughout its territory as a precondition for reconciliation and mutual trust.

1.2 The European Commission should work with the Kosovan government and media organisations in the country to support media freedom and the professionalization of journalism.

1.3 The EESC encourages the Kosovan government to consult civil society and social partners in the formulation of a national strategy for economic development. The Kosovan government and the European Commission should give maximum priority to the inclusion of youth and women on the labour market. A particular attention should be given to supporting rural development, sustainable agriculture and farmers' associations.

1.4 The EESC should help strengthen the Social Economic Council of Kosovo by engaging with the main social actors and by sharing its know-how and expertise. The European

Commission should also provide strong support to the Social Economic Council of Kosovo. The government of Kosovo should secure a specific budget line for the functioning of the Social Economic Council of Kosovo.

1.5 The EESC recommends the Kosovan Ministry of Labour to set up a transparent and fair mechanism of funding for social partners' initiatives.

1.6 Although Kosovo's status prevents it from being a party to ILO Conventions, the Kosovan government should align its legislation and practices to them.

1.7 In the EESC's view, it is mandatory that the representatives of the social partners participate in the setting-up of an inclusive National Council for European Integration.

1.8 The Kosovan government should strengthen law enforcement on secure free access to public information.

1.9 In the context of the launch of Kosovo's National Council Against Corruption in February 2012, the EESC expresses its hope that civil society will be provided with genuine means to have an effective contribution to the fight against corruption.

1.10 The Kosovan government should take into consideration the Strategic Framework prepared by civil society and create the legal and institutional framework for a structured dialogue and its involvement in the decision making process. The Kosovan Assembly should develop an institutional platform that would allow for a regular dialogue with civil society organisations.

1.11 The European Commission should further support the creation of civil society networks in Kosovo in view of easing the dialogue with the authorities and connecting to the existing European civil society platforms.

1.12 The European Commission should support the Kosovan government to develop a legal and fiscal framework conducive to long-term sustainability for civil society in Kosovo. The Kosovan government should create transparent public funding mechanisms for civil society organizations. Additionally, the EESC recommends the Kosovan government to establish a State Fund for Civil Society.

1.13 The EESC recommends that the EC funding available for civil society under IPA be balanced between those promoting democracy and rule of law, and those promoting socio-economic development. The calls for proposal under IPA should be planned in such a way that gaps of funding can be avoided.

1.14 The European Commission should consider identifying ways to ease the access of smaller civil society organizations to its programs and to support longer-term initiatives.

1.15 The European Commission should find solutions to ease the access of social partners to the funds earmarked for civil society under IPA. Specific programmes for the social partners under the Civil Society Facility (CSF) could be created. Trade unions need to have targeted programmes under IPA that would allow them to reinforce their capacities

1.16 The EESC strongly supports the involvement of CSOs and social partners in defining the national priorities for IPA assistance.

1.17 The EESC reaffirms its interest and willingness to co-chair with the European Commission the civil society plenary meetings which take place on a yearly basis within the Stabilisation and Association Process Dialogue (SAPD).

2. Background of the opinion

2.1 External actors in Kosovo

2.1.1 On 17 February 2008, the Kosovo Assembly, declared independence. Kosovo's authorities pledged to fully implement the provisions of Ahtisaari's Comprehensive Status Proposal (CSP) and adopted a new Constitution reflecting this commitment. The Assembly invited the European Union to deploy its rule of law mission (EULEX). It also invited a

group of states⁽¹⁾ to establish the International Civilian Office (ICO) to supervise the implementation of Ahtisaari's plan. The International Civilian Representative (ICR) retains the power to override legislation and decisions deemed to be at contrary to the Ahtisaari CSP.

2.1.2 With a gradually reduced presence, KFOR, the NATO-led military presence, continues to provide security throughout Kosovo, while the Kosovo Police has taken over responsibility for the protection of most cultural and religious sites and of the largest part of the borders.

2.1.3 In July 2010, the International Court of Justice adopted its advisory opinion on the independence of Kosovo and found that its declaration of independence did not violate international law.

2.2 The EU approach in Kosovo

2.2.1 22 of the 27 EU Member States have recognised Kosovo's independence, but the absence of a European consensus on Kosovo's status does not prevent the EU from engagement with Kosovo. The level of engagement with Kosovo authorities of the five states who have not recognised it - Cyprus, Greece, Romania, Slovakia and Spain - varies.

2.2.2 Kosovo is part of the Stabilisation and Association Process (SAP), yet it remains the only country in the region that has no contractual relations with the EU, a status which prevents it from signing a Stabilisation and Association Agreement (SAA). Within the SAP Dialogue (SAPD), eight meetings (seven sectoral ones followed by one plenary) were held in 2010 - 2011, including consultations with civil society organisations, on the main chapters of the EU *acquis*.

2.2.3 In line with the United Nations resolution on Kosovo that was passed in September 2010, an EU facilitated dialogue has started between Belgrade and Prishtina in March 2011. This dialogue aims at finding practical solutions on regional cooperation, trade, freedom of movement and the rule of law (see 3.3).

2.2.4 In July 2010, the European Parliament adopted a resolution on Kosovo encouraging EU Member States to step up their common approach towards Kosovo. The European Parliament underlined that the prospect of accession to the EU is a powerful incentive for the necessary reforms in Kosovo and called for practical steps to make this prospect more tangible both to the government and to citizens.

In January 2012 the European Commission launched the visa liberalisation dialogue with Kosovo.

⁽¹⁾ Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Slovenia, Switzerland, Sweden, Turkey, the United Kingdom and the United States of America.

2.2.5 Kosovo benefits from the Instrument for Pre-accession Assistance (IPA), the Instrument for Stability (IfS), and the European Instrument for Democracy and Human Rights (EIDHR), and other sources of funding. Kosovo is participating in the IPA multi-beneficiary programmes. The multiannual indicative planning document for 2011-2013 was adopted on 27 June 2011. In 2011, a total of EUR 68,7 million granted in the IPA annual programme for 2011 was allocated in close coordination with the Ministry for European Integration and government institutions. The EU pre-accession assistance is focusing on support for the rule of law, the economy, trade and industry, and for public administration reform.

2.3 *Activities of the European Economic and Social Committee in relation to civil society in Kosovo*

2.3.1 EU enlargement and the progress made by the Western Balkans countries in moving closer to European Union membership is one of the EESC's external relations priorities. The External Relations Section has developed efficient tools for meeting its main objectives to support civil society in the Western Balkans and to enhance its capacity to be a partner for governments on the road to EU accession.

2.3.2 The Western Balkans Contact Group – a permanent internal body established by the EESC in 2004 – is the main instrument for coordinating the EESC's activities in this regard. The role of the Contact Group is also to monitor the changes in the political, economic and social situation in the Western Balkan countries and in EU-Western Balkans relations. Furthermore, the Contact Group promotes cooperation between the EESC and Western Balkans civil society organisations.

3. Political developments in Kosovo

3.1 *Main facts and figures about Kosovo*

3.1.1 By end 2011, Kosovo had been recognised by 86 UN Member States, including 22 EU Member States.

3.1.2 Kosovo, with a population of roughly 2 million, is one of the poorest countries in Europe. The World Bank estimates that the Gross Domestic Product (GDP) per capita is EUR 1 760. 45 % of the population is estimated to be living below the national poverty line, while 17 % are extremely poor, according to latest available data, of 2006. It has a large diaspora and one of the youngest populations in Europe.

3.1.3 Albanians constitute 90 % of the population, Serbs 6 % and Bosniaks, Turks, Roma, Ashkali and Egyptians together the remaining 4 % of the population. The Albanian majority and non-Serb minority accept the Kosovo state as legitimate. Most of the Serbian community opposes the statehood of Kosovo. The social distance between Kosovan Albanians and Kosovan Serbs remains significant. Kosovan Serbs maintain a strong de-facto autonomy in the northern part of the country. In the other parts of Kosovo, they have become concentrated in

rural enclaves. Aside from political motivations, language remains a serious cause of isolation of the Serbian community. Kosovan Serbs living in the enclaves suffer from discrimination, which affects their day-to-day life, and are missing job opportunities. Their access on an equal basis with Kosovan Albanians to Kosovan administration and various social services, such as hospitals, is precarious. Their freedom of movement throughout Kosovo is limited in practice. Serb population continues to leave Kosovo.

3.1.4 In northern Kosovo and in most Serbian populated areas, parallel institutions in health care, education, justice and social services have been functioning since 1999. They receive aid from Serbia and are largely under its control. A large part of Serbian Kosovans continue to boycott national elections and cooperation with Kosovan authorities, particularly in the north. In the rest of the country, Serbian Kosovans have shown increased participation in elections and are represented in local and national institutions (including the government and the Assembly). A decentralisation process foreseeing the creation of new municipalities in which ethnic minorities would constitute a majority with enhanced municipal powers has been boycotted in the Serbian-majority municipalities.

3.2 *Relations with neighbouring countries*

3.2.1 Of all neighbouring countries Kosovo maintains the best relations with Albania. Albania has been and continues to be very active in securing recognitions for Kosovo and lobbying for Kosovo's inclusion in regional initiatives.

3.2.2 Kosovo has proper relations with the former Yugoslav Republic of Macedonia. The demarcation of the border has been completed and good diplomatic relations have been established.

3.2.3 Kosovo and Montenegro have agreed to complete the border demarcation process with Montenegro. Montenegro has previously requested for the Montenegrin minority to be constitutionally recognised in Kosovo before both countries exchange ambassadors and demarcation is completed. The Montenegrin community has been recognised by the Law on Communities and the two countries are expected to establish diplomatic relations in the near future.

3.2.4 Bosnia and Herzegovina and Serbia are the only neighbouring countries with which Kosovo has no formal political relations. Economic relations continue to be asymmetrical as while Serbia is the biggest exporter in Kosovo, until recently, Kosovo could not export to this country. The EU is acting as a mediator for technical negotiations between Prishtina and Belgrade. The agenda of the negotiations with Serbia includes the unblocking of trade with Kosovo, the use of air space over Serbia, the transit of passengers with Kosovo passports or vehicles with a Kosovan registration, the participation of Kosovo in regional fora. At the end of February 2012, Kosovo and Serbia reached an agreement on regional cooperation and management of border crossings.

3.3 *The current issues*

3.3.1 There continue to be tensions in interethnic relations caused by the instability of northern Kosovo and the refusal of the Kosovo Serb minority and Serbia to accept the independence of Kosovo and its new institutions. There are also Kosovo Albanian groups that do not accept the international supervision of Kosovo independence.

3.3.2 At the end of July 2011, the situation escalated in northern Kosovo when Kosovo decided to impose an embargo on Serbian goods in retaliation to a Serb blockade of goods since 2008 on the grounds of the non recognition of the 'Kosovo Customs' stamp. The unilateral deployment of Kosovo police at two northern border checkpoints with Serbia led to violence, resulting in the death of a Kosovo police officer. Calm was restored with the help of KFOR, the NATO-led military presence.

3.3.3 In September 2011, the issue of customs stamps was resolved in the context of the EU mediated Belgrade/Prishtina dialogue. The implementation of the agreement resulted in widespread blockades in the north. Violent incidents also occurred. In the light of the situation in northern Kosovo, Serbia interrupted its participation in the above mentioned EU mediated dialogue at the end of September, and reverted to the negotiation table in November 2011.

4. Economic situation in Kosovo

4.1 *Post-conflict state of play*

4.1.1 With an official rate of over 40 %, Kosovo has the highest share of unemployment in the region and it is far above European Union average. These data should be considered with cautiousness as being lower than reality, in the context of Kosovo's large informal sector of economy. The rate of unemployment is higher among women and is particularly affecting the young population. Some 30 000 young people enter the job market each year, a rate which is impossible to sustain through the current economic growth. Poverty is also a critical issue, with around 20 % of the population living on less than one euro per day.

4.1.2 The economy remains largely dependent on remittances and donor aid. The economy of Kosovo is affected by post-war uncertainties, broken trade links and insufficient investment in infrastructure. Fuelled by a huge emergency and reconstruction effort led by international donor aid, economic growth was in double digits in the first years of 2000. The growth has proven to be unsustainable due to an extremely high trade deficit and lack of foreign direct investments (FDI). The amount of net foreign investments in Kosovo since 2007 has continually decreased from 19 % to 7,1 % of GDP. The informal sector is large, and tax collection is poor.

4.1.3 Although the global financial and economic crisis has had relatively little impact on the economy, due to Kosovo's limited international integration, its negative effects were transmitted mostly through a decrease in remittances, exports and FDI.

4.1.4 Kosovo's economy is overwhelmingly based on the service sector (68 %), while other fields have relatively low shares: industry (20 %), and agriculture (12 %). Most of Kosovo's population lives in rural areas. Agricultural activities are fragmented on small plots causing a mostly inefficient, subsistence farming. This situation prevents also the development of a strong and representative civil society working on agriculture and rural development issues.

4.1.5 Corruption remains widespread and is heavily influencing the economic growth prospects of the country. In the Transparency International Corruption Perceptions Index, Kosovo is ranked 110th, assessed as one of the most corrupt countries in Europe.

4.1.6 The government lacks a national strategy for economic development that should be drafted in consultation with social partners and other actors of civil society.

5. The current state and role of civil society organisations

5.1 *Social dialogue*

5.1.1 It is estimated that the total number of trade unions' members is around 60 000. The unionisation of the public sector is very high, with an estimated 90 % of the public servants belonging to a trade union⁽²⁾. Now that the law allows for trade unions to be set-up in the private sector, establishing them at enterprise level is the key challenge for the trade unions in the period ahead. Surveys indicate that 5,09 % of the population declare their affiliation to labour unions⁽³⁾.

5.1.2 The **Labour Law**, which came into force in December 2010, was considered in Kosovo one of the most crucial legislations that have ever been passed⁽⁴⁾. Various consultations took place on the draft of this law, mainly between the associations of employers and trade unions, but also with the involvement of the specialised assembly committee and civil society organisations. The law was approved unanimously in the last plenary session of the third legislation period, the same day of the assembly's dissolution in spite of repeated opposition by the government concerned with its high budgetary burden. Trade unions threatened to boycott the election process if the law was not approved.

(2) Kushtrim, Shaipi (2011), Annual Review 2010 on Labour Relations and Social Dialogue in South East Europe: Kosovo, Regional Project for Labour Relations and Social Dialogue in South East Europe, Friedrich Ebert Stiftung, January 2011.

(3) Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

(4) Labour Law: its implementation in the first six months, GAP Policy Brief, The Institute for Advanced Studies GAP, September 2011.

5.1.3 The **Social Economic Council of Kosovo** (SEC) was established in 2009. Since its very establishment its activity has been disrupted by the opposition of the Kosovo Chamber of Commerce and the Union of Independent Trade Unions of Kosovo (BSPK) to the participation of other employers' organisations (Kosovo Business Alliance) and trade unions (Confederation of Free Trade Unions of Kosovo – KSLK). Despite internal disagreements, the SEC has held its regular meetings.

5.1.4 The Social Economic Council of Kosovo lacks the capacity and resources in order to effectively operate.

5.1.5 **Social partners do not play an important role in European integration process and economic development process.** The Kosovan government should create an adequate legal base in order to increase the role and representation of the social partners into the above mentioned processes.

5.1.6 The Ministry of Labour is currently funding social partners' projects but there are no transparent criteria and rules of procedure in place.

5.2 *Civil dialogue*

5.2.1 The origins of civil society in Kosovo date back from the late 1980s and beginning of the 1990s, following the fall of communism in Central and Eastern Europe. Due to the very specific situation in Kosovo at that time, civil society developed itself as an important part of an entire parallel system and civil resistance to the Serbian regime. Humanitarian aid and human rights protection, as well as civic movements with a widespread support from society were the main fields of activities of civil society. Following the boycott of Serbian institutions by the entire Albanian population in Kosovo and the absence of social and health services, civil society positioned itself as the main service provider⁽⁵⁾.

5.2.2 After the war civil society swiftly adapted in order to respond to the new needs, such as emergency aid and reconstruction, or interethnic reconciliation. In the context of large scale financial and technical support from international donors, the number of CSOs increased substantially. At present, however, from more than 6 000 registered NGOs in 2010, less than 10 % are estimated to be still active or partially active⁽⁶⁾.

5.2.3 At present Kosovo CSOs face similar challenges as in other countries of the region⁽⁷⁾ as most of the sector remains

highly dependent on international funding (it is estimated that over 70 % of CSOs' resources come from foreign donors). Consequently CSOs have become more donor driven, less responding to the needs of the community and with a questionable sustainability in a context of any future decrease of international funds for civil society. Instead CSOs are facing a problem of legitimacy as they have become less connected to their constituencies.

5.2.4 Many donors have started to withdraw from Kosovo and the total amount of the funds available for civil society is decreasing. The dominance of short-term project based support in comparison to institutional long-term support makes CSO financial and human resources sustainability a very difficult task to be accomplished⁽⁸⁾.

5.2.5 In December 2011, the European Commission committed to find an agreement on Kosovo's participation in EU programmes, without prejudice to Member States' positions on status. In this regard, both the EC and Kosovo government should make sure that civil society organisations are involved in developing and implementing specific projects.

5.2.6 The problems with the international recognition of Kosovo have a direct impact on the international linkages of Kosovo's civil society. A number of international and EU based networks do not accept members from Kosovo. In spite of these obstacles, Kosovan civil society is represented in different regional and European platforms and forums and it enjoys a higher international exposure than any sector of the country. The participation of Kosovan civil society organisations in regional programmes should be facilitated

5.2.7 The 2008 Constitution protects freedoms of expression and the press, with exceptions for speech that provokes ethnic hostility. Civil society considers itself generally free to engage in criticism of the government, with few CSOs reporting illegitimate restrictions or attack by local or central government. Nevertheless, there are reports of media close to the government being used against civil society initiatives and individuals who criticise the government. Although a wide variety of print and electronic media operate in Kosovo, investigative journalism is rare due to fear of retribution. The media's financial dependence on government advertisement calls into question its editorial independence.

⁽⁵⁾ Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

⁽⁶⁾ Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

⁽⁷⁾ The 2010 NGO Sustainability Index for Central and Eastern Europe and Eurasia, United States Agency for International Development (USAID).

⁽⁸⁾ Better Governance for a Better Impact. A Call for Citizens, The CIVICUS Civil Society Index Analytical Country Report for Kosovo, Kosovar Civil Society Foundation (KCSF), March 2011.

5.2.8 The basic **NGO law** allows for a quick and easy registration procedure and ensures the main principles of establishing, operating and dissolution of NGOs. The complementary legal framework for civil society is considered unsatisfactory: public benefit organisations have very limited benefits, there are few tax exemptions for potential donors and civil dialogue processes are still not formalised. Laws on value added tax (VAT), customs, corporate income tax and personal income tax are needed to specify the fiscal benefits for NGOs with Public Benefit Status. Local philanthropy is still in a nascent phase. Changes in the corporate culture are needed for philanthropic giving to make a real impact. There is a great need for an enabling environment for the financial sustainability of NGOs enabling them to access public funds through legislation on sponsorship, corporate income tax, and personal income tax.

5.2.9 Cooperation with civil society tends to be limited to advocacy on legislative initiatives, while attempts by CSOs to tackle transparency and corruption are less successful. Access to information remains a barrier to cooperation between NGOs and the government, mainly because of a poor enforcement of the Law on Access to Public Documents.

5.2.10 **A formal dialogue between civil society and government is not happening.** The European Commission should support the Kosovan government to create formal structures for cooperation with civil society. Public authorities should establish regular mechanisms and bodies for consultation with civil society and public servants should be appointed and trained to act as liaison contacts with CSOs.

5.2.11 Following efforts of civil society organizations, the government has initiated the drafting of a *Strategy for cooperation between government and civil society*. This process is in its early stage and is coordinated by CiviKos Platform, a civil society network.

5.2.12 There are no specific mechanisms for the government to contract with civil society and no legal framework governing selection for the few government grants given to NGOs, which are awarded on rather personal preferences. The European Commission should provide technical assistance to the Kosovan government for the creation of such mechanisms.

5.2.13 Without clear regulatory provisions providing incentives for volunteers, it is extremely difficult for NGOs to attract individuals or groups to volunteer. European models of legislation in the field of volunteering can be recommended to the Kosovan government.

5.2.14 In the field of environmental protection, cooperation between government and civil society should be strengthened

and CSOs should be consulted and involved in a structured way in policy-making and public debates.

6. Civil society organisations in Kosovo and IPA

6.1 Access to IPA funds

6.1.1 Between 1998 and 2009, the EC's assistance to Kosovo totalled over EUR 2,3 billion, including the financing of the EULEX mission, the EUSR, and the International Civilian Office. The main bilateral cooperation partners of the European Commission have been Germany, Switzerland, Norway, Sweden (Sida), the Netherlands, UK (DFID) and USAID.

6.1.2 According to the Multi-annual Indicative Planning Document for 2009-2011, adopted by the European Commission in 2009, four major cross-cutting issues to be tackled in Kosovo were identified: **Civil society**, Environment, Equal opportunities, and Good governance. IPA funding is following three major axis: supporting the achievement of political criteria, economic criteria and European standards.

6.1.3 As the most influential donor in terms of the amount of assistance and in its funding categories, the EU has the potential to determine the focus of democracy promotion agendas and assistance. It also means that the effectiveness of the Commission's intervention is a critical driver of how international assistance in Kosovo is perceived and legitimized.

6.1.4 Under the political criteria, the IPA funding supports the improvement of administrative capacity and institution building in Kosovo, the rule of law and the fight against corruption and organised crime, promoting human rights and the protection of the Serb and other minorities, contributing to the consolidation of civil society and the public media through mainstreaming civil society issues in all programmes. **For the period 2009-2011, 2 - 5 % of the total assistance for Kosovo has been earmarked to support civil society.**

6.1.5 Although the European Union funding for civil society has continuously increased, complex bureaucratic application procedures and relatively high minimum grant amounts exclude most organisations from benefiting from these funds. The same conditions have deepened the gap between large and small CSOs. The language and the technicality of the applications remain barriers for community and grass roots CSOs to access EU funding.

6.1.6 The EC funding available for civil society is targeting actions promoting democracy and rule of law, and less those promoting socio-economic development.

6.1.7 Under IPA assistance, there are no initiatives of the social partners supported nor targeted programmes that would allow them to reinforce their capacities.

6.1.8 There are still concerns regarding the limited capacity of Kosovo authorities for the absorption of IPA funds. The government should involve the CSOs in defining the priorities for IPA assistance.

6.1.9 Taking into consideration that a structured dialogue between CSOs and the government is missing in Kosovo, the EESC welcomes the European Commission plans to finance projects in 2012 that will set-up up networks of CSOs in view of easing the dialogue with the authorities.

6.1.10 The EESC recommends that the calls for proposal under IPA be planned in such a way that gaps of funding can be avoided.

Brussels, 28 March 2012.

The President
of the European Economic and Social Committee
Staffan NILSSON
