



*European Economic and Social Committee*

**REX/234**  
**Freedom of association in**  
**the Euromed partner**  
**countries**

Brussels, 22 April 2008

**OPINION**  
of the  
European Economic and Social Committee  
on  
**Freedom of association in the Euromed partner countries**  
**(own-initiative opinion)**

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On 17 January 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

*Freedom of association in the Euromed partner countries.*

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2008. The rapporteur was Mr Moreno Preciado.

At its 444th plenary session, held on 22 and 23 April 2008 (meeting of 22 April), the European Economic and Social Committee adopted the following opinion by 99 votes with one abstention.

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**1. Summary and recommendations**

- 1.1 Respect for freedom of association is explicitly stated among the undertakings of the governments signatory to the November 1995 Barcelona Declaration, which set up the Euro-Mediterranean Partnership.

The association agreements signed between the EU and each of the Mediterranean Partner Countries (MPC<sup>1</sup>) include a clause to the effect that adherence to democratic principles and fundamental rights are an essential element of the association agreements.

The action plans that the European Union is concluding with the MPCs under the European Neighbourhood Policy introduced in 2004 also include references to "good governance and the promotion of human rights and fundamental freedoms".

- 1.2 The reality in the MPCs – although to differing degrees – is however that freedom of association is not guaranteed and a flourishing civil society is held back by political and administrative hurdles ranging from rejecting associations' constitutions in some cases, to banning or suspension orders in others.

Legally-recognised associations also run into obstacles in operating normally, with the imposition by the government of prohibitions or restrictions on access to international cooperation-based financial assistance being particularly serious.

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<sup>1</sup> Morocco, Algeria, Tunisia, Egypt, Jordan, Israel, the Palestinian Territories, Lebanon, Syria, Turkey, Mauritania and Albania (Mauritania and Albania have been part of the Barcelona process since December 2007).

- 1.3 The emergence of free associations of social groups in different sectors of civil society (workers, employers, farmers, social economy, women, young people, consumers, etc.) is a prerequisite for the process of democratisation in the Mediterranean partner countries. The well-established Euro-Mediterranean economic association, through the EU association agreements with the MPCs, must be extended to the social and democratic dimensions. The involvement of organised civil society is necessary for this purpose.
- 1.4 The political authorities interfere with trade unions at various levels, limiting the protection of workers' representatives in exercising their rights, including the right to strike.
- 1.5 The weakness of dialogue and social consultation illustrates the deficit in employers' and trade unions' associative work. This bipartite, or tripartite, dialogue is less developed in the Middle Eastern countries than in North Africa.
- 1.6 The EESC calls on the European Commission to ensure that the democratising commitments of the Euro-Mediterranean partnership, the association agreements and the neighbourhood policy action plans are fulfilled. The Commission should also make it clear to the governments concerned that associations cannot be subject to any measures of dissolution or administrative suspension, except by means of proper judicial procedure.
- 1.7 Similarly, the EESC asks the Commission to ensure that MPC governments guarantee that members and officials of associations may not be detained for carrying out their legitimate association tasks.
- 1.8 The EESC urges the European Commission to take account, in drafting the country strategy papers establishing the framework for Community cooperation under the action plans, of the level of compliance by the partner country governments with respect to freedom of association and human rights.  
  
This demand is also based on Article 1 of the Community Action Programme 2005-2010 for the Euro-Mediterranean area (political association and security) which establishes the main objectives of promoting civic participation: more involvement of women; ensuring freedom of expression and association; promoting the role of civil society; implementing international conventions.
- 1.9 The EESC asks the European Commission to require the involvement of MPC civil society as part of the follow-up to the association agreements and action plans.
- 1.10 At the Euro-Mediterranean Parliamentary Assembly, where it has observer status, the EESC will propose that partner country parliamentarians are informed of the need to reform any legislation which hampers freedom of association.

- 1.11 The EESC may (with the cooperation of Euromed networks of employers, trade unions, the social economy and others) draw up regular and detailed reports on the state of freedom of association and human rights in the MPCs, to be forwarded to the European Commission and the European Parliament. The present opinion will be discussed at the next summit of Economic and Social Councils and Similar Institutions, to be held in Morocco in 2008. The views and information gathered at the meeting will contribute to the follow-up.
- 1.12 The EESC will press ahead with its work of supporting the establishment of official MPC civil society consultative bodies, and reinvigorating those that already exist in Lebanon and Jordan, and will also recommend that such bodies be made up of representative organisations from the various civil sectors, and be equipped with the necessary resources for them to operate independently and effectively.
- 1.13 The EESC again stresses the need to strengthen the position of women in society, and particularly in the associative activities of the partner countries, in keeping with the recommendations of its opinion on promotion of women's entrepreneurship in the Euromed region<sup>2</sup>.

By the same token, it also emphasises the importance of the conclusions of the Euro-Mediterranean ministerial conference<sup>3</sup>, which back the promotion of women's representation and participation in economic decision-making positions, in particular in employers' associations, workers' unions and other socio-economic structures.

- 1.14 The EESC will facilitate meetings and dialogue between employers' organisations (UMCE) and trade unions (Euromed Trade Union Forum) and support their development, as well as that of other Euromed civil society organisations such as the Euromed Social Economy Network (ESMED) and women's organisations.

## **2. Foundations of the freedom of association with a view to achieving the democratising aims of the Barcelona Process**

- 2.1 The need for this new opinion arises from the shortcomings pointed out by the conclusions of the first Euromed Summit of Heads of State and Government (November 2005) concerning the role of civil society, and also comes in the wake of the Final Declarations of the most recent Euro-Mediterranean summits of Economic and Social Councils and Similar Institutions (Amman, November 2005, Ljubljana, November 2006 and Athens, October 2007). The purpose of the present own-initiative opinion is to contribute to the full exercise of the right of association in the southern Mediterranean partner countries.

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<sup>2</sup> REX/233 – CESE 1004/2007.

<sup>3</sup> Istanbul, 14 and 15 December 2006.

- 2.2 The commitments made by the countries that signed the Barcelona Declaration include the following:
- to act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law, in particular those arising out of regional and international instruments to which they are party;
  - to develop the rule of law and democracy in their political systems, while recognising in this framework the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system;
  - to respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms, including freedom of expression, freedom of association for peaceful purposes and freedom of thought, conscience and religion, both individually and together with other members of the same group, without any discrimination on grounds of race, nationality, language, religion or sex.
- 2.3 The First Euro-Mediterranean Summit of Heads of State and Government, held in Barcelona in 2005 to assess the first ten years of the Euromed process was generally judged to have been successful, since it contained a number of advances compared to the 1995 Declaration, and new provisions concerning the development of the role of civil society. The democracy and human rights aspect, however, continued to be a source of serious concern, as expressed at the summit itself.
- 2.4 In consequence, the 2005 summit made a commitment to extend political pluralism and participation to all citizens, particularly women and young people, by promoting a competitive political framework, to include free and fair elections and progress towards decentralisation and better public management.
- 2.5 For its part, the European Commission implicitly acknowledged the scanty progress made in connection with human rights. In its Communication to the Council and the European Parliament<sup>4</sup>, it placed human rights among the three priority themes for the Mediterranean region, and also for closer relations between the European Union and the partner countries, focusing principally on the objective of advancing human rights and democracy. The EESC shares the Commission's opinion, and considers it vital that democratising processes in the MPCs be launched and consolidated.

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<sup>4</sup> Communication from the Commission to the Council and the European Parliament of 12 April 2005 *Tenth Anniversary of the Euro-Mediterranean Partnership: A work programme to meet the challenges of the next five years*, COM(2005) 139 final.

- 2.6 Among the main recommendations of the 2004 United Nations Development Programme (UNDP) report<sup>5</sup> are a gradual shift towards more representative governance, the first stage of which should be to unleash the strengths of civil society and to allow the expression of the three fundamental freedoms: freedom of opinion, freedom of expression and freedom of association.

In this regard, and in order to make it easier for women to take part in every aspect of public life in the MPCs, changes must be made to legislation, especially laws on personal status, so that women can make free choices in exercising the fundamental freedoms.

- 2.7 The final declarations of the last two Summits of Economic and Social Councils and Similar Institutions addressed aspects touching upon the central theme of the present own-initiative opinion.
- 2.8 The 2006 meeting in Ljubljana noted the need to strengthen dialogue and cooperation between governments and non-governmental players in the Euromed region, especially associations of women and young people, and socio-occupational organisations. In this regard, the Final Declaration proposed that the Slovenian Council Presidency (first half of 2008) should organise a tripartite conference on progress in social dialogue.
- 2.9 The Final Declaration of the last Summit of Economic and Social Councils and Similar Institutions (Athens, 15 and 16 October 2007) included a number of significant references: (a) a call for regular monitoring of civil society involvement in defining and implementing national action plans, and the suggestion that ESCs and similar institutions could serve as a means of facilitating such monitoring (b) it called for resources, support and recognition to be given to ESCs so that they can speak out independently, and for a commitment on their part to remain open to civil society representatives not included in such bodies (c) point 12 explicitly demanded respect for the freedom of association in order to facilitate civil society dialogue.

### 3. **How freedom of association is faring in the Mediterranean partner countries**

- 3.1 Security and the pursuit of peace are essential to the creation of a conducive atmosphere for carrying forward a process of democratisation in all the Mediterranean partner countries.

The disastrous situation in the Palestinian territories, the war in Iraq and the rise of extremism and terrorism have had a very damaging effect on the prospects for developing the freedoms. Some governments have used these risks or on outside threats to justify clamping down on pro-democracy reforms. In certain countries, this has led to a clawing-back of individual freedoms and the right of association.

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<sup>5</sup> Arab Human Development Report 2004. UNDP (April 2005).

- 3.2 The guaranteed exercise of human rights is an absolutely crucial precondition for putting these declared democratising intentions into practice. The freedom of association, together with the promotion and development of associations, is in the interests of all sectors, and is a key factor in developing the Euro-Mediterranean Partnership, particularly with regard to the involvement in it of civil society and its various bodies.
- 3.3 It needs to be repeated that the right to free association includes the right to join, associate with, form and withdraw from groups, associations and societies of different kinds. It demands the non-involvement of the State in the establishment and affairs of all associations operating in keeping with the law. It also requires the support of the State in creating and maintaining an atmosphere in which the right to free association can be exercised.
- 3.4 The right to form and join associations cannot be isolated from the other civic and political rights, such as the freedoms of expression and opinion, freedom of movement and asylum. A flourishing civil society will, in turn, contribute to the introduction or consolidation of more pluralist political systems.
- 3.5 There is a contradiction in the majority of the MPCs between the international conventions (guaranteeing the right to the freedom of association) signed by their governments and their national laws, and between both these legal systems and the facts on the ground to which they are applied. With the exception of a few countries, the creation of associations and the exercise of their activities are subject to a raft of restrictions, on the grounds – or pretext – of safeguarding national security and unity.
- 3.6 This pretext is habitually used, through legislation, to limit (or sometimes even abolish) the rights to strike, assemble, demonstrate and set up associations. Strong centralisation of executive power, a widespread feature of the political systems in partner countries, is reflected in excessive supervision of associations.
- 3.7 Tolerance, control and repression are the three approaches used (sometimes in combination) by the authorities in dealing with associations. In some countries, there is an acceptable degree of freedom for associations, that is only restricted under specific circumstances; in others independent associations are allowed to operate but are constricted by administrative and financial controls; and then there are countries in which only pro-government associations are allowed.
- 3.8 Interference and control have a negative impact on the different stages in an association's existence, from its inception right through to dissolution. Where the establishment of associations is selective or discretionary, associations are frequently restricted to persons close to the authorities, and are generally a source of corruption. Where dissolution can be imposed arbitrarily, associations act timidly, and fail to live up to expectations or potential.

3.9 Three types of association are, for different reasons, particularly subject to surveillance: firstly, fundamentalist Islamicist associations, suspected of encouraging extreme political Islamism, which in some countries has become the main force for opposition, either legal or underground. Next, human rights associations, because they are sometimes also close to alternative political groupings. And then there are the trade unions, since they are in some cases mass organisations that can challenge a country's economic and social policy, and have close links with international organisations and institutions.

3.10 Although these restrictions are widespread, it must be pointed out that the level of freedoms concerning the right of association in the partner countries is far from uniform. In many countries it is possible, albeit with difficulty, for workers, the self-employed, employers, women, young people, farmers, etc. to organise independently.

#### 4. **Situation and features of the main associations in the MPCs**

4.1 Traditional organisations representing workers, farmers, employers, the social economy and other various activities cover all the countries, but they are relatively weak and subject to the restrictions described.

4.2 Other types of association are of a charitable and welfare nature, working with disadvantaged populations to provide services mainly on a community, religious, regional, tribal or family basis. In some cases, they amount to real, organised social services.

4.3 Other types of environmental and cultural association have emerged since the 1990s, seeking to involve themselves in public or state affairs by means of proposals, encouragement and direct action, and not simply to fill in the gaps left by state shortcomings. These new associations are often met with suspicion and obstructionism on the part of the administrative and political structures.

4.4 Other important associations are concerned with issues touching upon human rights, women's rights, defending minorities and developing democracy in general.

4.5 The situation at the workplace and in industrial relations in the MPCs was discussed at length at the last Summit of Economic and Social Councils, through the joint report presented by the Spanish ESC. Some of the views contained in it are included in the following four points.

4.6 The principal of trade union freedom is enshrined in the constitutions of the MPCs. In the last few years some progress has been made in ratifying the main ILO social conventions. The same has not however occurred in terms of their incorporation into national legislation. The ILO Trade Union Freedom Committee, responsible for examining complaints made by trade unions or business organisations against their governments in relation to violations of union



freedom, has received a number of complaints from MPCs, mostly concerning Morocco and Turkey<sup>6</sup>.

- 4.7 The model for trade union organisations varies from country to country. Some have a single, compulsory trade union (monopoly), while in others this unity is voluntary (single trade union), and a number of countries have a range of trade union organisations. There is also marked functional dependence with respect to the political powers.
- 4.8 In addition, there is a lack of clear and well-defined regulatory legislation on representation, affecting both union organisations and business organisations, leaving plenty of room for the discretionary exercise of power by the political authorities.
- 4.9 Most trade union organisations in the MPCs belong to wider international confederations, and coordinate their work with European trade unions through the Euromed Trade Union Forum. The forum comprises the European Trade Union Confederation (ETUC), the International Trade Union Confederation (ITUC), the International Confederation of Arab Trade Unions (ICATU) and the Trade Union Confederation of Arab Magreb Workers (USTMA). Their objectives include greater north-south cooperation, and the defence and promotion of workers' interests in the Barcelona Process.
- 4.10 Business associations are widespread in all the MPCs, and in general are not subject to as many legal, political or administrative restrictions in performing their representative function. Sector-based employers' organisations are the norm, with cross-sector employers' confederations gradually being set up. In addition to business associations, the important role played in the MPCs by chambers of commerce should be indicated.

Pluralism is better established among employers' organisation than among trade unions. Organisations in each country may join together in a single business confederation, as in Tunisia, where the UTICA<sup>7</sup> covers all the non-farm economic sectors, while in others a range of organisations exists, as in the case of Morocco, which has three employers' organisations<sup>8</sup>.

- 4.11 The business organisations of eleven partner countries<sup>9</sup> (and Malta) together form the Union of Mediterranean Confederations of Enterprises (UMCE), whose headquarters are in Tunisia, and whose objectives include the establishment on consultation on an institutional footing

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<sup>6</sup> The question of trade union rights in Turkey is currently being addressed by the EU-Turkey Joint Consultative Committee.

<sup>7</sup> Tunisian Union of Industry, Commerce and Crafts.

<sup>8</sup> The Moroccan Agricultural Union; the General Union of Industry and Commerce and the General Confederation of Moroccan Enterprises.

<sup>9</sup> CGEA-Algeria, OEB-Cyprus, FEI-Egypt, MAI-Israel, JCI-Jordan, ALI-Lebanon, MFOI-Malta, CGEM-Morocco, PFI-Palestine, FSCC-CCI-Syria, UTICA-Tunisia, TUSIAD-TISK-Turkey.

between socio-occupational organisations, and to contribute to setting up a Euro-Mediterranean free trade zone.

- 4.12 The social economy, in its various forms (cooperatives, mutual societies, development associations) gives work to a large sector of the population in the MPCs, and makes a decisive contribution to economic growth and employment, particularly in SMEs and micro-businesses, as well as playing an important part in providing social services.
- 4.13 Associative activity in the social economy sectors is not, in principle, restricted on political grounds, but is affected by the administrative controls indicated with regard to other groups. Associative activity is particularly widespread in agricultural cooperatives in countries such as Morocco, Palestine, Turkey, Egypt and Israel.
- 4.14 The various interest groups – social and socio-occupational partners, environmental organisations, family associations and consumer organisations, social economy groups, etc. – are striving to play an active role in implementing the partnership and neighbourhood policies, as set out in the EESC's recent information report<sup>10</sup>.
- 4.15 The Euromed Social Economy Network (ESMED) was set up in Madrid in 2000. At present, it brings together organisations from France, Greece, Italy, Portugal, Spain, Morocco and Tunisia. ESMED has contributed to various EESC and Euro-Mediterranean Partnership initiatives and meetings.
- 4.16 Albeit subject to the same difficulties outlined for other groups, non-governmental organisations and other associations with social aims also play a significant role, particularly in upholding human rights. Their work is also highly visible in carrying forward the objectives of the Barcelona Process. The Euromed Non-Governmental Platform, set up in 2005, comprises numerous networks and NGOs, including the Euro-Mediterranean Human Rights Network.

Brussels, 22 April 2008.

The President  
of the  
European Economic and Social Committee

The Secretary-General  
of the  
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Dimitris Dimitriadis

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<sup>10</sup> REX/223 – CESE 504/2007, *Civil society involvement at local level in the context of the implementation of action plans for the European Neighbourhood Policy and balanced and sustainable development.*