



European Economic and Social Committee

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The role of civil society in
EU-Serbia relations

Brussels, 10 July 2013

OPINION

of the
European Economic and Social Committee
on
The role of civil society in EU-Serbia relations

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In a letter from Commissioner Šefčovič dated 12 December 2012, the European Commission asked the European Economic and Social Committee, in accordance with Article 262 of the Treaty and Article 9 of the cooperation protocol between the EESC and the European Commission, to draw up an exploratory opinion on

The role of civil society in EU-Serbia relations.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 June 2013.

At its 491th plenary session, held on 10 and 11 July 2013 (meeting of 10 July 2013), the European Economic and Social Committee adopted the following opinion by 171 votes to 1 with 1 abstention.

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1. Conclusions and recommendations

- 1.1 The EESC welcomes the efforts made by the governments of Serbia over the last decade to reform the country's economy and institutions. It sees the process of Serbia's accession to the EU as an opportunity to consolidate and effectively implement the reforms undertaken. It underlines the importance of civil society involvement in the process of aligning Serbian legislation with the EU *acquis*. It calls upon the Government of Serbia and the EU institutions to step up their support to civil society organisations (CSOs) and to involve them closely in the upcoming steps leading to EU accession.
- 1.2 The EESC welcomes the decision of the European Council to open accession negotiations with Serbia no later than January 2014. The EESC congratulates Belgrade and Prishtina on the signing of the *First agreement of principles governing the normalisation of relations* (Brussels, 19 April 2013) and of its Implementation Plan adopted in May. It now calls on both parties to implement the agreement, assisted by the EU. The EESC stresses that CSOs must be involved in the implementation phase, as they can make a decisive contribution to reconciliation.
- 1.3 The EESC encourages Serbian public authorities to carry out more public hearings and consultations with CSOs in both the early stages of shaping policies and in the implementation phase. The EESC emphasises the importance of involving them in key areas of the reform process, such as the rule of law, regional cooperation and reconciliation,

socio-economic development, the environment, agriculture, minority rights and the fight against discrimination.

- 1.4 The EESC recommends that the Government pay particular attention to combating trafficking in human beings and corruption and organised crime. It further insists that the safety of human rights defenders and of the CSO activists involved in fighting organised crime must be acknowledged as a need and guaranteed by the Government.
- 1.5 The EESC points out that, even if significant progress has been made in promoting a more inclusive society, much remains to be done to build a society in which everyone is equal, regardless of their gender, sexual orientation, origin, or religion. The EESC asks the Government to lose no time in implementing the Anti-Discrimination Strategy adopted in June 2013. The EESC recommends that, working closely with CSOs, the European Commission (EC) use its annual progress reports to monitor the strategy's implementation.
- 1.6 The EESC welcomes the inclusion of the Office for Cooperation with Civil Society (OCCS) in the Prime Minister's Expert Group of the Coordination Body for EU Accession. The EESC also welcomes the participation of CSOs, including representatives of the social partners, in the Prime Minister's Council for EU Integration. This is a good practice that should be built upon by considering the participation of CSOs, including representatives of the social partners, in Serbia's future accession negotiation team. Frequent and wide-ranging consultations with CSOs should nevertheless be ensured in order to identify key common opinions and recommendations. It is important that experts from CSOs are invited to join a number of expert sub-groups within this Expert Group of the Coordination Body.
- 1.7 The EESC calls on the EC to use IPA II to provide greater support for building the capacity of CSOs (including the social partners) and to focus on increasing support for partnerships, not only among CSOs but also between CSOs and public authorities. Funds available under the Civil Society Facility should be increased and target more projects carried out by the social partners as well. Building the capacity of CSOs to engage meaningfully in the EU integration process should be maintained as a priority area, by promoting simplified procedures for the selection and implementation of projects, the use of institutional grants and re-granting. It is not only financial support that is desirable, but also support for mechanisms to improve dialogue between civil society and the public authorities.
- 1.8 The EESC urges the EU Delegation to Serbia to continue allowing re-granting for smaller CSOs through bigger CSOs as a step forward in making these funds available to the wider CSO community.
- 1.9 Increasing transparency in public spending must be maintained as a key action in the civil society development strategy, whilst the mechanisms for planning and disbursing co-financing for CSO-implemented EU projects need to be improved and the co-financing increased.

- 1.10 The EESC calls upon the Serbian Government to increase efforts to implement an institutional and legislative framework conducive to civil society development and sustainability. The EESC recommends considering the introduction of a "percentage law" enabling citizens to earmark a share of their income tax for CSOs to promote individual philanthropy (based on the existing model in Central and East European countries), as well as introducing tax incentives for individual and corporate philanthropy.
- 1.11 The EESC recommends that the newly adopted Law on Public Procurement, which has created obstacles for CSOs when competing for public tenders, be reviewed. The law introduces mandatory financial guarantees that CSOs cannot have. This might prevent them from competing in public tendering procedures, not only in the area of social services but also of health and educational services.
- 1.12 The EESC calls upon the Government of Serbia to set up a comprehensive strategy to combat and limit the grey economy. This would improve the country's financial situation, prevent unfair competition and thereby create a better economic environment, while guaranteeing better respect for workers' social rights. This would also help restore confidence in institutions and promote the concept of the rule of law.
- 1.13 The EESC underlines the importance of social dialogue and calls upon all stakeholders to make the best use of the existing institutions, especially the Social and Economic Council (SEC). It calls upon the Government to further promote the SEC and to consult it more systematically on all policies in which employers and workers have a legitimate interest. The EESC considers that social dialogue should be regular and structural in nature and not *ad hoc*, and that it should also be more effective and result-driven.
- 1.14 The EESC asks that the promotion of social dialogue be included among the key priorities of the EU institutions as regards Serbia, and that it should therefore be reflected in all EC programmes available to the country. This would require greater involvement of the SEC, which should also be formally involved and consulted at each stage of the accession negotiations and involved in monitoring the implementation of the EU-Serbia Stabilisation and Association Agreement. The SEC should be able to submit comments and opinions for the attention of the EU institutions when they assess Serbia's progress towards EU accession.
- 1.15 The EESC considers that social dialogue should be further encouraged at regional and local level, building on the SEC's regional structures. It should also be more systematically developed at sectoral level, particularly in the private sector. The signing – and enforcement – of as many branch collective agreements as possible would stabilise industrial relations in Serbia. Local and national authorities should be constantly reminded of the advantages and importance of social dialogue.

- 1.16 The EESC notes that a tripartite working group has been set up to review labour legislation, including the laws on striking, trade union registration and the law on the representativeness of social partners. The EESC calls on the International Labour Organization (ILO) and the EC to support this ongoing work in order to bring Serbian legislation and practice fully into line with international and European standards.
- 1.17 The EESC considers that strengthening the social partners' capacity to participate actively in social dialogue should be included in the priorities of EU assistance programmes. Assistance is needed to develop their ability to participate effectively in all economic, social and legal issues, including in EU accession negotiations. Their organisational structures, internal communication and capacity to serve their members should be strengthened.
- 1.18 The EESC points out that the fundamental rights of workers are still regularly violated in Serbia and that the mechanisms for preventing and sanctioning those violations are not sufficiently effective. The EESC calls upon the Serbian Government to review the functioning of the Agency for the Peaceful Settlement of Labour Disputes. The EESC suggests considering the possibility of establishing specialised courts for labour disputes. Moreover, the EESC asks the EC to include in its annual reports a chapter on trade union rights and fundamental workers' rights in close consultation with national and European trade unions and the ILO.
- 1.19 Serbian female entrepreneurs play an important role across the Balkan region and have effective networks. A cohesive regional approach is now taking shape to further develop female entrepreneurship at the local level. The EESC recommends that support from the European, regional and national levels be increased to significantly speed up the economic and social benefits. Additionally, recognition is needed of the economic and social imperative of supporting female entrepreneurship in Serbia.
- 1.20 The EESC recommends that an EU-Serbia Civil Society Joint Consultative Committee (JCC) be established between the EESC and Serbian CSOs. This joint civil society body should be established once the negotiations on Serbia's accession to the EU have been formally opened. The JCC will enable CSOs from both sides to pursue more in-depth dialogue and to provide input to the political authorities on the chapters of the accession negotiations.

2. **Background to the opinion**

- 2.1 Over the last decade, Serbia has made a huge effort to reform its institutions, legal framework and economic regulations, in order to comply with international and European standards and to promote an open and efficient market economy.
- 2.2 In 2008, the signing of the Stabilisation and Association Agreement (SAA) between Serbia and the EU clearly expressed the choice of the Serbian Government in favour of EU accession

and gave new impetus to the reform process. In 2010, an Interim Agreement on Trade and Trade-related issues (part of the SAA) entered into force.

- 2.3 The new Government, which took office in 2012, has confirmed Serbia's commitment to EU accession. It has taken practical steps to pursue the reforms undertaken so far, focusing in particular on the fight against corruption, the consolidation of the rule of law, the protection of minority rights and economic recovery. It has also pursued efforts to improve regional cooperation.
- 2.4 In December 2012, the Council asked the EC to draft a report by Spring 2013 assessing the progress made by Belgrade in its dialogue with Prishtina and in its EU-oriented reforms. On the basis of this report, which issued a positive recommendation, the European Council decided on 28 June 2013 that conditions have been met to open EU accession negotiations with Serbia.
- 2.5 On 19 April 2013, Belgrade and Prishtina finally agreed on the future of Serb-run North Kosovo in the tenth round of EU-led talks, signing the *First agreement of principles governing the normalisation of relations*. In May, an Implementation Plan was adopted by the two sides. An implementation committee has been established by the two sides, assisted by the EU.

3. **Political, economic and social developments**

- 3.1 Serbia is still a country in transition. There has been some privatisation, but a large part of the economy still consists of public companies, often in dire need of restructuring. Unemployment has increased significantly (24% of the workforce in 2012). Young people are trying to emigrate. The population is growing older. A large part of the population still works in agriculture and lives in rural areas, where the lack of investment hinders effective development. The informal economy is widespread, undermining the economy as a whole, weakening the state budget and leaving employees without any social protection. Corruption, sometimes linked to organised crime, hampers not only economic development but also consolidation of the institutions. Furthermore, the judiciary is badly in need of reform if it is to guarantee genuine respect for the rights of individuals and organisations.
- 3.2 The EESC highlighted these different problems in its opinion on *EU-Serbia relations: the role of civil society* (29 May 2008), but it has also underlined the efforts made by the public authorities to undertake the necessary reforms. Many new regulations have been introduced; new institutions, in particular for organising dialogue with the social partners and other CSOs, have been set up; and the rights of minorities are now officially recognised. Although this process has not yet been completed, the main problem is to translate all these institutional and legal changes into practice.

- 3.3 Serbia has ratified 77 treaties and conventions of the Council of Europe (CoE), including key ones such as the Conventions on the Protection of Human Rights and Fundamental Freedoms, the Protection of National Minorities, the Prevention of Torture, the Protection of Children, Action against Corruption and the European Social Charter. Eight additional conventions have been signed but are still awaiting ratification, including the Convention on Preventing and Combating Violence against Women and Domestic Violence. At international level, Serbia has ratified 75 ILO conventions (73 are now in force).
- 3.4 As the CoE's Commissioner for Human Rights has emphasised¹, many of these conventions still require further action for proper enforcement. The CoE Commissioner highlighted the problem of the missing persons and of the persons forcibly displaced during the war; rampant discrimination against Roma; violence against women; and widespread homophobia.
- 3.5 Although the Government adopted a Media Strategy in October 2011, violence and threats against journalists still exist. Economic and political interference in the media is also a reality, which threatens the independence of the media and journalists' ability to do their job. Furthermore, trade unionists are still harassed or fired for being members of a trade union organisation.
- 3.6 The EESC considers that further consolidation of the reform process, the reform of the judiciary system and the enforcement of civil, social and human rights are clearly the priority for Serbia. EU relations with Serbia should clearly focus on those aspects. This is also a key issue for CSOs and their active participation should therefore be encouraged by all means.
4. **The current state of play and the role of civil society organisations**
- 4.1 Freedom of assembly and association is constitutionally guaranteed and generally respected. However, freedom of association is jeopardised by increased threats from violent nationalist groups.
- 4.2 Serbian civil society is predominantly based in cities and is unevenly represented across the regions. Civil society in rural areas is very limited and its capacities are not well developed. Further support is needed to encourage associative movements, build capacities and support the networking of CSOs based in rural areas and/or small towns.
- 4.3 Particular attention should be paid to agriculture, to developing agricultural interest groups, and to agricultural involvement in social dialogue. Agriculture continues to play a key role in Serbia - around a quarter of the working population is employed in farming, and the agricultural sector is also a key economic sector. Agriculture and agricultural policy will be of

¹ Thomas Hammarbergh. Commission for Human Rights of the Council of Europe. Report following his visit to Serbia on 12-15 June 2011. CommDH(2011)29.

great importance in the future EU accession process; at the same time, alignment with EU legislation will be a particular challenge for the Serbian agricultural sector.

- 4.4 Not only could well-organised and structured interest groups help to promote agricultural interests, above all they could provide useful support for the forthcoming integration process, not least in terms of framing and implementing specific support programmes for agriculture, rural areas and the people who live there.
- 4.5 There are several active partnerships and coalitions among CSOs, but their resources and support are too limited to enable them to become more active and influential. With respect to partnerships between CSOs and public authorities, the established SECO² and KOCDs³ mechanisms are examples that may become good practice, so long as their input is taken into consideration and if continuous and systematic funding and support are provided.
- 4.6 The most significant obstacles to the sustainability of CSOs are the fact that state support is neither sufficient nor based on well-defined priorities, under-developed business sponsorship, lack of individual giving, withdrawal of international donors, under-developed cooperation with local authorities and the limited accountability of decision-makers in general. Efforts should be made and support provided to develop CSOs' constituencies. A limited membership base hinders CSOs' image and recognition, while public funding is still not properly regulated at all levels. CSOs' ability to influence the social and political agenda is generally weak, with the exception of a dozen strong CSOs, most of which are based in Belgrade.
- 4.7 The EESC welcomes the efforts to improve the legal framework of associations and foundations, including *the Law on Associations* (October 2009), *the Law on Endowment and Foundations* (November 2010), *the Law on Volunteering* (May 2010), and *Simplified accounting procedures for small associations and foundations* (not yet adopted). However, other important laws have been passed but not yet implemented, such as the Social Welfare Law (2011). The EESC supports the development of a framework, as provided for by the law, which could ensure fair access by CSOs to public resources intended to support social service provision.
- 4.8 The EESC welcomes the changes made to Article 41 of the Government's Rules of Procedure on public hearings that lays down the criteria for mandatory public hearings, making them the rule rather than an exception, and providing reasonable timeframes for their duration. The EESC stresses the need to ensure that the mechanism is properly implemented. Priority should be given to raising awareness among public authorities as to the benefits of cooperation with CSOs, both in the early stages of designing public policies and later, when

² SECO represents networking and capacity-building in the area of EU integration and the participation of civil society in the IPA programming process.

³ KOCDs are networks of organisations in the area of social protection for marginalised groups that jointly approach decision-makers in this area.

they are implemented. Furthermore, procedures regarding the appointment of representatives of CSOs to different public bodies at national and local level should be considered, taking into account some best practices in neighbouring countries and CSOs' proposals.

4.9 The Office for Cooperation with Civil Society (OCCS) became operational in 2011. The Operational Plan for 2013-2014 includes key objectives that need to be pursued:

- developing the Strategy for Creating an Environment Conducive to the Development of Civil Society and establishing a National Council for the Development of Civil Society;
- promoting new sources of financing as a prerequisite for sustainability: institutional grants; corporate social activities; corporate philanthropy; social entrepreneurship; developing criteria for the use of public spaces by CSOs, etc.;
- making further progress on an institutional framework conducive to civil society development, i.e. creating specific units or tasks within the relevant government ministries; considering the possibility of establishing a Civil Society Development Fund and strengthening mechanisms for cooperation between CSOs and the Serbian National Assembly.

4.10 The EESC welcomes the OCCS's efforts to make the funding for CSOs from the state budget more transparent, by issuing an Annual summary report on funds allocated to associations and other civil society organisations from the state budget of the Republic of Serbia. The OCCS should be given greater powers, however, to increase the response rate from government bodies at all levels, with the aim of ensuring that data collection is complete and published annually. The EESC therefore welcomes the support provided by the EU Delegation to the OCCS, through the three-year Technical Assistance programme started in December 2012⁴.

4.11 Figures from 2011 reveal that little funding was allocated and actually disbursed for co-financing programmes/projects, even where donor support was assured, despite the fact that such funding is greatly needed by CSOs.

5. Social dialogue

5.1 Social dialogue is essential for economic development and to ensure the social cohesion that Serbia requires. A General Collective Agreement was signed in 2008. In April 2011, the Social and Economic Council of the Republic of Serbia (SEC) adopted a new Social Economic Agreement signed by the leaders of the social partners and the Prime Minister, which included important undertakings by the parties. The agreement affirmed that social dialogue is a prerequisite for achieving shared development goals, successfully overcoming problems linked to the economic crisis, and ensuring economic and social progress in Serbia.

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The budget of the TA programme is EUR 1.2 million, focusing on support for further amendments to the CSO-related legal framework, introducing a framework for transparent state funding and engaging CSOs in the decision-making process.

In 2012, an agreement was signed by the SEC on the minimum wage. At sectoral level, four branch collective agreements were signed in 2011 and 2012 in the agriculture, construction, and chemical and metal industries. The Labour Minister extended these collective agreements to all State employers. Collective agreements also apply to most of the public sector, covering health workers, local and national government, culture, education and the police.

- 5.2 The SEC was legally established in 2005 and is the institutional platform for tripartite negotiations. In addition, there are now 18 Social and Economic Councils at local level, although, mainly due to the lack of commitments by the regional authorities, less than half of these are fully operational. The SEC still has to contend with a number of problems that hinder its activities, the most significant of which is the lack of financial and human resources. It has nevertheless managed to establish permanent working groups on economic issues, legislation, collective agreements and occupational health and safety. Representatives of the social partners now participate regularly at the SEC's meetings, in contrast with the Government, which is often represented by officials. Their involvement has increased since the Council was re-established in September 2012. Even the Prime Minister is now a member of the SEC, but the SEC continues to face problems with organising its sessions.
- 5.3 However, if social dialogue has succeeded in delivering results, it still needs to be consolidated and expanded. The social partners are weak, particularly in the private sector. Collective agreements when signed are not necessarily enforced; and there are vast areas that are simply not covered by social dialogue. At national level, the SEC is not systematically consulted on all the issues that fall within its remit, or the consultation is purely formal, its recommendations being too often ignored by the Government. One positive exception is the Ministry of Labour, which submits all draft laws and strategies for the Council's opinion. Moreover, it proposed recently to set up a tripartite working group to draft changes to labour law. There were also improvements in the legislation related to education, with the Ministry of Education and Science submitting three draft laws for the Council's opinion. In spite of these more positive signs, the SEC continues to be largely ignored, on general economic policies and measures that however have a direct impact on enterprises' and workers' activities.
- 5.4 An Agency for the Peaceful Settlement of Labour Disputes was established in 2005 to settle both individual and collective labour disputes. Its main focus is on individual cases where an arbiter can make a binding decision and has the same legal means as a court. However, in practice, it appears that the Agency did not really succeed in establishing itself as an alternative and that most of the conflicts are still submitted to the courts, which are notoriously overburdened. In collective dispute settlements, the Agency takes on the role of mediator and thus may not force the disputing parties into any settlement but tries to make both parties voluntarily accept a peaceful settlement.
- 5.5 In 2013, the Government should sign a "Decent Work Programme" with the ILO. This programme should help to review the different aspects of social legislation and procedures to

bring them fully into line with international standards, and to build the capacities of the social partners in order to contribute effectively to social dialogue, supported by EU funding and programmes.

- 5.6 It is vital that the social partners be better integrated into the Government's economic, social and employment policies, not least in view of the EU accession negotiations. They should also be involved in preparations for Serbia's eligibility for the European Social Fund and other EU funds. Only then will it be possible for the Serbian social partners to effectively fulfil their future role in the forums of participatory democracy at EU level.

6. **Social partners - current situation**

- 6.1 The Serbian Association of Employers (SAE) is the main national interest group of employers. It represents Serbian entrepreneurs in the SEC. However, the fact that most of the biggest businesses operating in Serbia, as well as other organisations such as the Association of Small and Medium-sized Entrepreneurs (ASME), are not members of the SAE weakens its legitimacy as a participant in social dialogue.

- 6.2 The Chamber of Commerce and Industry of Serbia, which is the largest business association, was not included in the work of the SEC in the past, due to a compulsory membership system. However, on 1 January 2013, the voluntary membership system was adopted in Serbia and the chamber is strongly committed to contribute to social dialogue, particularly in the areas of vocational training, foreign trade promotion and regional development. It supports the strengthening of the position of the Serbian Association of Employers in the SEC, providing it would be able to voice the broadest range of employers' interests through an efficient consultative process involving all employers' associations.

- 6.3 In view of the high unemployment rate, employers should be able to have a stronger influence on the development of a good business environment. It should encourage entrepreneurship and faster establishment of new enterprises, particularly small and medium-sized enterprises, one of the major sources of new jobs in Europe. Major obstacles to a better business climate include lack of transparency and predictability of the legislative framework, unattractive tax system including some para-fiscal charges, access to finance, business registration procedures, administration related to foreign trade, etc. The overall assessment of the business community in Serbia is that it is insufficiently involved in the legislative process and its impact assessment, particularly regarding the effects on SMEs.

- 6.4 Trade unions are fragmented and weak. Many of them are members of one of Serbia's two largest confederations: the Confederation of Autonomous Trade Unions of Serbia (SSSS) and the "Independence" Trade Union Confederation ("Nezavisnost"). There are also two other confederations, the Association of Free and Independent Trade Unions of Serbia (ASNS) and the Confederation of Free Trade Unions (KSSS), which claim to be representative. Under a new law of representativeness, currently under debate, this claim is to be checked. Moreover,

according to the Ministry of Labour, there are around 2 000 union organisations in companies that are not members of a national confederation. All relevant workers' organisations need to be more closely involved in social partnership decision-making on the employees' side. The role of trade unions in Serbia is essential to strengthen social dialogue.

- 6.5 The difficulties of the transition and the economic crisis have accentuated the fragmentation and weakening of trade unions. The heavy registration procedure for trade unions, the opposition and the harassment, sometimes, of managers who are not ready to accept social dialogue at enterprise level, all hinders the normal development of workers' representation and undermines social dialogue. However the effective cooperation that has emerged in recent years between the two representative confederations SSSS and Nezavisnost should, against this background, be welcomed.

Brussels, 10 July 2013.

The President
of the
European Economic and Social Committee

Henri Malosse
