



European Economic and Social Committee

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**Situation of Ukrainian civil
society in the context of
European aspirations of Ukraine**

Brussels, 16 October 2014

OPINION

of the
European Economic and Social Committee
on the
Situation of Ukrainian civil society in the context of European aspirations of Ukraine
(own-initiative opinion)

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At its plenary session of April 2014, the European Economic and Social Committee decided, under Rule 29(2) of its Rules of Procedure, to draw up an own-initiative opinion on the

Situation of Ukrainian civil society in the context of European aspirations of Ukraine.

The Section for External Relations which was responsible for preparing the Committee's work on the subject, adopted its opinion on 18 September 2014

At its 502nd plenary session, held on 15 and 16 October 2014 (meeting of 16 October 2014), the European Economic and Social Committee adopted the following opinion by 173 votes to 2 with 15 abstentions.

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1. Conclusions and recommendations

- 1.1 The EESC should actively promote the political, social and economic consolidation of Ukraine, including a peaceful solution of the current conflict in the Donetsk and Lugansk regions. The EESC's activities in Ukraine will support the process of democratisation, territorial integrity, social and civil dialogue of all stakeholders with public legitimacy and representativeness.
- 1.2 It is the EESC's intention to invite a broad spectrum of Ukrainian civil society to take part in cooperation and to include also those who remain sceptical or hostile to recent political transition and rapprochement with the EU.
- 1.3 It is also recommended to further develop cooperation on a bilateral basis between partner organisations in the EU and Ukraine with a special focus on capacity building, best practices as well as strengthening social and civil dialogue.
- 1.4 Under the provisions of the Association Agreement, the EESC should contribute to the creation of a joint Civil Society Platform comprising members of the EESC and representatives of Ukrainian civil society. A similar body will be created under the provisions of the Deep and Comprehensive Free Trade Area (DCFTA) agreement so as to meet the requirement of setting up a monitoring mechanism for civil society. Both bodies should cooperate as closely as possible.

- 1.5 The EESC will develop information activities on the consequences of Ukraine's implementing the Association Agreement as well as on European integration, institutions and *acquis communautaire*.
- 1.6 Visa requirements should be lifted for Ukrainian citizens as soon as technically possible so as to foster contacts between people and as a confidence-building measure.
- 1.7 A European perspective for Ukraine should be formally included in the EU agenda.
2. **Eastern Partnership: the eastern dimension of the European Neighbourhood policy as an institutional framework for Ukraine's European aspirations**
 - 2.1 The dramatic events which have rocked Ukraine in recent months began with the public reaction to the government's decision to suspend arrangements to sign an Association Agreement within the framework of the Eastern Partnership.
 - 2.2 In addition to concluding bilateral Association Agreements, which will replace Partnership and Cooperation Agreements, the bilateral track of the Eastern Partnership also aims at achieving facilitation of visa free regimes as well as developing sectoral cooperation, including an opportunity for partner countries to join EU programmes and agencies. It also includes a Comprehensive Institution Building Programme, which is a tool intended to enhance the administrative capacities of partner countries to implement the reforms and provisions of the Association Agreements. The multilateral dimension of the Eastern Partnership is based on four multilateral platforms (Democracy, good governance and stability; Economic integration and convergence with EU policies; Energy security; Contacts between people) aimed at fostering cooperation between the EU and the partner countries, and between the partner countries themselves.
 - 2.3 One of the Eastern Partnership's priorities is to involve organised civil society in its implementation, both in the partner countries and the EU. To this end, the Eastern Partnership Civil Society Forum was set up in November 2009 with the participation of the EESC.
 - 2.4 However, the Eastern Partnership policy is now at a crossroads as a result of the unexpected change in direction of the engagement of some countries and the dramatic events in Ukraine. The difficulties faced by the Eastern Partnership over the past year in countries which until now have made the greatest progress towards signing Association Agreements are largely the result of manoeuvres by Russia, which is trying to prevent closer ties between partner countries and the EU.
 - 2.4.1 Despite the conclusion of negotiations with Armenia on the Association Agreement including the DCFTA, these documents could not be initialled as a result of Armenia's announcement in September 2013 that it intended to join the Eurasian Customs Union initiated by Russia.

- 2.4.2 Despite Russian pressure and the loss of two of its provinces (Abkhazia and South Ossetia), which are currently under Russian control, Georgia remains committed to the European path and ensured that the Association Agreement including the DCFTA were initialled at the Eastern Partnership summit in Vilnius in November 2013 and then signed in June 2014.
- 2.4.3 Moldova, which also signed the Association Agreement initialled in Vilnius, is also under pressure from Russia, which has stationed its armed forces in Transnistria and is now in control of the region. Also with Russian support, an illegal referendum took place in another Moldovan autonomous territory of Gagauzia, with the outcome in favour of joining the Eurasian Customs Union.
- 2.4.4 Membership of the WTO is a precondition for entering into talks on the DCFTA, therefore Azerbaijan and Belarus, which are not WTO members, cannot start negotiations. Moreover, because of a serious democratic deficit in Belarus, the bilateral EU policy in relation to this country remains at the level of critical dialogue.
- 2.4.5 Ukraine is the biggest and most important post-Soviet state after Russia, which, as a result of switching to a pro-European path, has lost control over Crimea and Sevastopol following annexation by Russia, and has been subject to further acts of Russian sabotage and subversion. Russia's actions are a particularly dramatic example of external interference, which in addition to threatening Ukraine's territorial integrity and sovereignty are also having an extremely destructive impact on civil society and its organisations. These acts are not only a clear violation of international law, but go against two principles which are the cornerstone of peaceful relations between independent states, firstly, that borders must not be changed by force and, secondly, that nations may take sovereign decisions about their future without external interference

3. Ukrainian civil society's European aspirations

- 3.1 The 2004 Orange Revolution contributed to a process of large-scale democratisation and the introduction of the rule of law in Ukraine - at least for a certain period - and to media freedom, which to this day remains intact. This was accompanied by closer ties with the EU.
- 3.1.1 In 2005, the EU-Ukraine Action Plan was adopted on the strength of the 1998 EU-Ukraine Partnership and Cooperation Agreement. In 2007, negotiations began on an Association Agreement. The adoption of the Eastern Partnership policy in May 2009 gave this cooperation fresh impetus.
- 3.1.2 Closer ties and the establishment of genuine cooperation in many areas as well as widespread enthusiasm following the Orange Revolution meant that a significant proportion of the population and many civil society organisations felt prospective EU membership for Ukraine was an obvious, foregone conclusion and that membership was dependent only on the timetable and pace of transformation and adaptation to European standards.

- 3.1.3 The Eastern Partnership did not bring the expected EU long-term accession perspective to Ukraine, which caused disappointment and frustration to the supporters of European orientation, made worse by the gradual abandonment of the democratic gains of the Orange Revolution, the deteriorating economic situation and growing social problems.
- 3.1.4 The public frustration, which translated into apathy among civil society organisations, became worse with the growing conflict between the leaders of the Orange Revolution, president Viktor Yushchenko and prime minister Yulia Tymoshenko. At times, this conflict paralysed decision-making on account of the unworkable provisions in the Ukrainian constitution. The cumulation of the global economic crisis and impotent policies of President Yanukovich (elected in 2010) even aggravated the situation.
- 3.2 The EESC has for a long time pursued an active policy of cooperation with Ukraine. However, the worsening political and social climate and the disappointment of partner organisations at the lack of accession prospects meant that relations stagnated to some extent in 2011-2012, with a lapse in activity on the Ukrainian side and lack of interest in relations.
- 3.3 After the Association Agreement had been initialled in December 2012 and intensive efforts had been made and negotiations conducted with a view to signing the Agreement at the Eastern Partnership summit in Vilnius in November 2013, there was renewed interest in cooperation among our Ukrainian partners and a revival of active ties with the EESC.
- 3.4 However, these renewed contacts showed that the social partners, both on the side of employers and trade unions, were divided over the issue of signing the Association Agreement. That said, a very broad range of NGOs and representatives of other interests presented a relatively united pro-European front.
- 3.5 Regardless of the position they adopted and the outcome of the negotiations with a view to signing the Association Agreement they predicted, civil society organisations and also governmental representatives were surprised by the fact that the Ukrainian government and presidential administration broke off talks and suspended preparations to sign the Agreement.
- 3.6 The fact that the talks were broken off unexpectedly, without any obvious reason, a few days before the summit in Vilnius, together with the Ukrainian government's surprising proposal for further negotiations with the EU to be conducted with Russian participation, led to the rapid mobilisation of Ukrainian civil society, expressing its views unambiguously in support of a European path for Ukraine.
- 3.7 "Euromaidan" was probably the biggest demonstration in history in support of European integration, and the longest ever to be conducted with such utter conviction. At a later stage the demonstrators were joined by forces introducing also political demands to change the regime which reacted by violent oppression leading to human victims. The demonstrations

resulted in the political changes which served as a pretext to provoke further dramatic and tragic events.

3.8 Now, after successful presidential elections, it seems clear that building close ties with the EU is becoming one of the priorities of the new administration. This change of course must be perceived as an enormous success of Euromaidan and the Ukrainian civil society. It remains to be seen whether the general situation will stabilise over the entire territory of Ukraine and whether civil society organisations will benefit from this political transformation.

3.9 The attitude to and the opinion about political changes within civil society in the East of Ukraine will remain unclear as long as armed mercenaries and guerrilla groups operate in the region and the freedom of expression is under threat. However, it should be noted that the East was considerably represented at Euromaidan.

4. **Consequences of signing the association agreement and the DCFTA**

4.1 The EU-Ukraine Association Agreement represents a new generation of agreements created for the benefit of countries cooperating within the framework of the Eastern Partnership, and provides for the development of cooperation with binding provisions in almost all areas. The Association Agreement sets out a reform plan for Ukraine based on the comprehensive harmonisation of its legislation with EU standards.

4.2 Apart from the DCFTA, which is a trade agreement with a significant effect on standards and regulations, the main areas of cooperation cover justice, the rule of law, combating corruption and organised crime, external policy and security, public administration reform, employment, social policy, equal rights and opportunities, consumer protection, industrial policy and entrepreneurship, energy, transport and environment. Implementation of the Association Agreement with DCFTA means that Ukraine will have to harmonise its national legislation with around 85 per cent of the EU trade-related and economic *acquis communautaire*.

4.3 The Association Agreement was signed on 27 June 2014 and subsequently ratified by the European Parliament and Verkhovna Rada of Ukraine on 16 September which allows for its provisional implementation even before the ratification by all 28 EU member states. However, the implementation of the DCFTA part of the Agreement will be delayed until the end of next year, but the EU will continue its relaxed trade rules on goods coming from Ukraine..

4.3.1 The implementation of the agreement provides for the creation of a Civil Society Platform as a joint forum for exchanging views, comprising members of the EESC and representatives of Ukrainian organised civil society. Given the broad spectrum of issues covered by the Association Agreement, the Platform should be as representative as possible of the whole of civil society and should thus include representatives of both the social partners and of various other interests.

- 4.3.2 Aside from being a forum for exchanging information and debate, the basic aim of the platform is to monitor the implementation of the Association Agreement and to put forward the views and proposals of organised civil society.
- 4.3.3 The Civil Society Platform will establish its rules of procedure itself. Talks are currently taking place between EESC representatives and the Ukrainian side on the procedure for setting up this body and its membership. Adoption of the following basic principles is envisaged:
- The number of representatives on the European and Ukrainian sides will be the same.
 - Members will have a 2.5-year term of office. Five meetings are due to take place during this period.
 - The platform has two co-chairs, one from each side, elected for a 2.5-year term.
 - The procedure for selecting platform members must be completely transparent.
 - The meetings of the platform must also be open to civil society organisations not represented on it.
- 4.3.4 The DCFTA agreement also provides for the creation of a monitoring mechanism for civil society within one year after its entry into force. A body created for this purpose should work together as closely as possible with the Civil Society Platform.

5. Future prospects for Ukrainian civil society and the EESC's role

- 5.1 The EESC should actively promote the political, social and economic consolidation of Ukraine including a peaceful solution of the current conflict in Donetsk and Lugansk regions. Once the situation in Ukraine has stabilised and the threat of external intervention and conflict stirred up by armed militias has been headed off, the situation of organised civil society both within individual organisations and vis-à-vis Ukraine's European aspirations will become clearer.
- 5.1.1 Ukraine is currently undergoing deep political transformation including constitutional reform, which may turn out to be deeper than the changes following the Orange Revolution. This may lead to restructuring and a change in the status of Ukrainian institutions and the practices both of social dialogue and of dialogue between the authorities and civil society. Such process should be facilitated by changes in Ukrainian legislation resulting in more inclusive institutions of social and civil dialogue for genuine and independent organisations. The EESC will follow the developments and positions that our partner organisations will adopt vis-à-vis these changes.
- 5.1.2 Both before the start of "Euromaidan" and during the demonstrations, the authenticity and independence of some of our partner organisations were called into question. This started a process of change regarding the way some organisations operate, which, if it does not turn out

to be a superficial exercise, may begin to restore public trust in these organisations. In particular, some trade unions and employer organisations were perceived by the public and NGOs as being part of the establishment and were denied the right to be affiliated with civil society.

- 5.1.3 The EESC is ready to intensify its bilateral contacts with partner organisations in both Ukraine and Russia in order to contribute to better links between their civil societies as a way towards normalisation of relations of both countries.
- 5.2 The EESC's activities in Ukraine will be based on the principle of support for the country's democratisation process, territorial integrity, civil and social dialogue among all stakeholders with public legitimacy and representativeness. The EESC will give priority to relations with its natural partners, i.e. Ukrainian civil society organisations.
- 5.3 It is the EESC's intention to invite as broad a spectrum as possible of Ukrainian civil society to take part in cooperation and to include also those who remain sceptical or hostile to recent political transition and rapprochement with the EU, ensuring that no important and representative organisation is overlooked. The National Platform of the Eastern Partnership Civil Society Forum and the National Tripartite Social and Economic Council will help select partner organisations.
- 5.4 It is also recommended to further develop cooperation on a bilateral basis between partner organisations in the EU and Ukraine with special focus on capacity building, exchange of best practices, as well as strengthening of social and civil dialogue. Cross-border cooperation may be used as one of the instruments to this end.
- 5.5 Apart from institutional activities based on the Association Agreement and, in the longer term, the DCFTA, the EESC will become involved in broader information activities on the consequences for Ukraine of implementing the agreements, as well as on European integration, the way in which the European institutions operate, and on the *acquis communautaire*.
- 5.6 Given the absence of reliable information or simply the disinformation sometimes propagated in the media, as a result of the lack of knowledge about the EU or intensive Russian propaganda, there is a need to plan regular cooperation with journalists and media associations.
- 5.7 Cooperation with partner organisations in Ukraine on the issue of facilitating access to reliable information and also providing such information to all civil society groups may turn out to be crucial for Ukraine's European aspirations. Indeed, experience shows that signing, ratifying and implementing an Association Agreement may become problematic and that there are many internal and external factors which could reverse the pro-European stance

among civil society organisations if a general consensus, involving all social groups, is not achieved.

- 5.8 A significant proportion of Ukraine's population has never gone beyond its borders, and the destination country for those who do is mostly Russia. One of the reasons for this, as well as being a considerable nuisance for Ukrainian society, is the continued requirement for visas to visit EU countries. The introduction of streamlined visa application procedures is, of course, important, but the obligation to acquire a visa before travelling to the EU does not build trust and makes it much more difficult to foster contacts between people.
- 5.9 Euroscepticism and the lack of enthusiasm from some sections of Ukrainian society for closer ties with the EU stems from the absence of prospects for accession. At the present time, this is not a question of starting accession negotiations, but the fact that the matter persistently and repeatedly does not appear on the EU agenda means that the reforms based on the Association Agreement are perceived by part of society as an expensive whim leading Ukraine down a blind alley. This is especially the case of Eastern Ukraine where the EU is perceived as a threat to social and economic interests.

Brussels, 16 October 2014

The President
of the
European Economic and Social Committee

Henri Malosse
