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The role of civil society in
EU-Serbia relations

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PRELIMINARY DRAFT OPINION

of the
Section for External Relations
on
The role of civil society in EU-Serbia relations

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Co-rapporteur: **Mr Christoph Lechner**

To the members of the Study Group on **The role of civil society in EU-Serbia relations**
(Section for External Relations)

N.B.: This document will be discussed at the meeting on **13 May 2013 beginning at 2.30 p.m.**

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Role of civil society in EU-Serbia
relations

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In a letter from Commissioner Šefčovič dated 12 December 2013, 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

At its ... plenary session, held on ... (meeting of ...), the European Economic and Social Committee adopted the following opinion by ... votes to ... with ... abstentions.

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The role of civil society in EU-Serbia relations

1. Conclusions and recommendations

1.1 The EESC recommends that the European Commission (EC) support efforts to enhance organisation of Serbian civil society in networks and coalitions, and to help it build partnerships so that it is more effective in engaging the authorities, in particular at local level. Building the capacity of CSOs to engage meaningfully in the EU integration process should be a priority area, for example by promoting simplified procedures for CSOs in project selection and implementation, as well as facilitating the use of institutional grants and of re-granting.

1.2 The EESC welcomes the annual summary report on funds allocated to associations and other civil society organisations from the state budget of the Republic of Serbia in 2011, issued by the Office for Cooperation with Civil Society, which helps to make funding for CSOs from the state budget more transparent. This has been a very positive start and it is acknowledged that the Office has started collecting data for the year 2012 from national, provincial and local levels of government. However, the Office needs to be better empowered to increase the response rate from government entities at all levels in order to ensure completion of data collection.

- 1.3 There are only a few active partnerships among CSOs. The EESC recommends that the EC use IPA II to specifically focus on increasing partnerships among NGOs, but also between CSOs and public authorities. In the latter area, the established SECO mechanism (Sectoral civil society organizations network) and KOCDs (Contact civil society organizations), the two mechanisms established by the Office, represent examples of good practice (SECO represents networking and capacity building in the area of EU integration and civil society involvement in the IPA programming process, and KOCDs are networks of organisations in the area of social protection for marginalised groups that jointly approach decision-makers in this area).
- 1.4 The most significant obstacles to the long-term viability of CSOs are the low level of state support, under-developed business sponsorship, the withdrawal of international donors, and under-developed cooperation with local authorities. The EESC recommends the introduction of a "percentage law" enabling citizens to allocate a share of their income tax to CSOs to further promote individual philanthropy (based on the existing model in CEE countries), as well as consideration of tax incentives for corporate philanthropy (reconsidering the narrow definition of donation in the public interest). Efforts and support should be engaged to develop CSOs' constituency. A limited membership base hinders their image, visibility and access to public funding, as well as their capacity to influence the social and political agenda or to put pressure on governments for proposed solutions.
- 1.5 The EESC would welcome greater engagement by CSOs in areas of particular relevance to Serbian society, such as judicial reform and anti-corruption measures, rural development and agriculture, anti-discrimination measures and minority rights, fighting for media freedom, economic development, consumer protection, and provision of quality (specialist) social and health services. Monitoring governance and democratic processes is a key area where civil society involvement is of the utmost importance.
- 1.6 The EESC welcomes the inclusion of the Office in the Prime Minister's Expert Group of the Coordination Body for the EU Accession Process. The EESC welcomes also the participation of CSOs, including representatives of social partners, in the Prime Minister's Council for EU Integration. This is acknowledged as a good practice that should be built upon by considering participation of CSOs, including representatives of social partners, in Serbia's future accession negotiation team. It is important to invite experts from CSOs to several expert sub-groups of this Expert Group of the Coordination Body, to discuss areas of concern to them.
- 1.7 The mechanisms for planning and disbursing co-financing of CSO-implemented EU projects need to be improved and co-financing increased. Figures from 2011 reveal that little funding was allocated and actually disbursed for co-financing programmes/projects even where donor support was assured, although this was highlighted as a priority in the Office's strategic framework and is a serious issue for CSOs (of the approximately EUR 27.3 million in co-financing allocated by the government, only around EUR 686 thousand was actually

disbursed). The Office has successfully co-financed 12 projects approved under the CSF IPA 2011.

- 1.8 Social dialogue and its institutions in Serbia should be further encouraged.
- 1.9 The government must fully respect the law and consult the Social and Economic Council of the Republic of Serbia (SEC) and CSOs on draft laws within their remit.
- 1.10 Tripartite consultations should be regular rather than ad hoc.
- 1.11 Consultation during the drafting of laws and strategies should be carried out from the outset with the active participation of social partners in tripartite working groups, rather than asking social partners to give their consent late in the process.
- 1.12 Local and national authorities should be made constantly aware of the advantages and importance of social dialogue.
- 1.13 The capacity of social partners to actively participate in social dialogue should be strengthened, by strengthening the partners' organisational structures and investing in their activity.
- 1.14 The institution of the SEC should be promoted and its reputation in society enhanced.
- 1.15 Collective bargaining should be further promoted at sectoral level. The signing of as many sectoral collective agreements as possible would stabilise industrial relations in Serbia and help bring about consensus on economic policies. In that way a friendlier environment could be created for both national and international investment.
- 1.16 Joint efforts to curb the grey economy would financially strengthen the country, preventing unfair competition and thereby creating equal conditions for business while helping workers to acquire labour rights. This would also help to restore confidence in institutions and promote the concept of the rule of law.
- 1.17 The cooperation of social partners with other representative civil society organisations should be encouraged. Social partners are in favour of this kind of cooperation. For them, such cooperation involves the establishment of expert working groups, cooperation with the standing working bodies of the SEC, and education programmes and campaigns.
- 1.18 The EU Delegation to Serbia should support the social partners and the other CSOs in capacity building.
- 1.19 Funds available under the Civil Society Facility (DG Enlargement) should target more projects carried out by the social partners.

- 1.20 The promotion of social dialogue should be among the key priorities of the EU institutions in their relations with Serbia and reflected in all EC programmes available to the country.
- 1.21 This would require closer involvement of the SEC, which should be formally involved and consulted at each stage of the future accession negotiations and involved in monitoring implementation of the future EU-Serbia Stabilisation and Association Agreement. The SEC should be entitled to express remarks and opinions to be brought to the attention of the EU institutions when evaluating Serbia's progress towards EU accession.
- 1.22 Reports on respect for trade unions and the basic rights of workers should be drawn up by the European Commission after consulting the social partners, the government, the relevant CSOs, European and international employer and trade union organisations, and the ILO.
- 1.23 Specific programmes should be set up in partnership with the ILO and international organisations of employers and trade unions to assist in reviewing and improving the existing rules on registration, recognition of employers and trade unions as negotiating partners, the composition and functioning of the SEC, and in the promotion of social dialogue, particularly in areas where it barely exists at present.
- 1.24 The EESC calls on the EC to provide more support to strengthen the capacity of civil society organisations, especially the social partners, through IPA II.

2. **Background of the opinion**

- 2.1 Since the turn of the century, Serbia has engaged in a huge effort to reform its institutions, legal framework and economic regulation, in order to comply with international and European standards and to promote an open and efficient market economy.
- 2.2 In 2008, signature of the Stabilisation and Association Agreement (SAA) by Serbia and the EU clearly expressed the Serbian authorities' wish to move towards EU accession, and gave a new impetus to the reform process. The SAA has already been ratified by all the EU Member States with the exception of Lithuania. In 2010, an Interim Agreement on Trade and Trade-related issues (part of the SAA) entered into force.
- 2.3 The new Government, set up after the 2012 presidential and legislative elections, has confirmed Serbia's commitment to EU accession. It has taken practical steps to continue the reforms undertaken so far, focusing in particular on the fight against corruption, consolidation of the rule of law, the protection of minority rights and economic recovery. It has also committed itself to constructive dialogue with its various neighbours. A Coordination Body for the EU Accession Process, chaired by the Prime Minister, has been set up to deal with SAA implementation and the negotiation process. The Office for Cooperation with the Civil Society is a member of the Expert Group of this Coordination Body.

2.4 In December 2012, the Council asked the European Commission to draft a report in spring 2013 assessing the progress made by Serbia in its dialogue with Prishtina. On the basis of this report, the Council will decide at its June 2013 meeting if conditions have been met to open EU accession negotiations with Serbia.

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

3.1 Serbia is still a country in transition, a transition that has not been made easier by the international crisis. There has been privatisation, but State-owned companies still represent a large part of the economy, and are often in dire need of restructuring. Unemployment has significantly increased recently (22.4 % of the workforce). Young and active people try to emigrate. The population is ageing. A large percentage of the population still works in agriculture and lives in rural areas, where a lack of investment hinders effective development. The informal economy is widespread, undermining the economy as a whole, weakening the state budget and leaving employees in this sphere of activities without any social protection. Corruption, sometimes related to organised crime, impairs not only economic development, but also institutional consolidation. The judicial system is also in urgent need of reforms to guarantee effective respect of citizens' and organisations' rights.

3.2 The Committee has highlighted these various problems in its opinion on "EU-Serbia relations: the role of civil society" (29 May 2008). But it has also underlined the efforts of public authorities to undertake the necessary reforms. Economic legislation has been overhauled, civil and constitutional legislation has been reviewed, and minority rights are now officially recognized. New institutions have been set up, for example to organise the dialogue with the social partners and other civil society organisations. This process is still incomplete; however, the main problem is to translate all these institutional and legal changes into effective practice.

3.3 The June 2011 report of the Council of Europe's Commissioner for Human Rights pinpoints these issues. Serbia has ratified the International Convention for the Protection of All Persons from Enforced Disappearance, but the problems of missing persons (14 000 cases) and of persons forcibly displaced during the war are still acute. In 2009, a law on Protection from Discrimination and on establishing an Office of the Commissioner for the Protection of Equality was adopted, but the country still faces the problem of hate crimes, often committed by extremist groups, discrimination (in education, housing, access to work...) against the Roma, and widespread homophobia.

3.4 The Commissioner also expressed its concerns about the situation in the media. This concern was shared by the European Commission in its 2012 progress report. Although the government adopted a Media Strategy in October 2011, violence and threats against journalists still occur, although slightly less frequently as of late. Past killings – during the war - are still waiting for investigation. Access to advertising remains under the control of a

few economic and political actors. Defamation is criminalised. All these problems threaten media independence and journalists' ability to do their job.

- 3.5 A similar situation exists in most areas. Serbia has ratified the core ILO Conventions, but trade unionists are still harassed or fired for being members or representatives of trade union organisations. Although in April 2012 Serbia ratified the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence, "violence against women remains a concern". The criminal code aims to combat corruption, but the wording of certain articles (Article 359, "abuse of office", as well as Article 234) and judicial procedures create legal uncertainty and arbitrariness for managers and employers who act in good faith.
- 3.6 The Committee considers that further consolidation of the reform process and implementation of the rule of law is a clear priority for Serbia. The SAA and EU-Serbia relations in general should focus on this. This is also a key issue for the CSOs and their active participation should therefore be encouraged by all means.

4. **The current state and role of civil society organisations**

- 4.1 Freedom of assembly and association is constitutionally guaranteed and generally respected.
- 4.2 According to figures available online from the Serbian Business Registers Agency, as of 26 February 2013 there were 19 431 associations, 45 foreign associations, 419 foundations and endowments, 16 representative offices of foreign foundations and endowments, and 9999 sporting associations, business companies and sports federations operating in Serbia.
- 4.3 Serbian civil society is predominantly based in cities and unevenly represented in the regions¹. Civil society in rural areas is very limited and its capacity is not well developed. Further support is needed to encourage associative movements, build capacity and support the networking of CSOs based in rural areas and/or small towns.
- 4.4 The EESC welcomes the improved legal framework for associations and foundations, with new legislation on associations (October 2009), endowments and foundations (November 2010), volunteering (May 2010), and simplified accounting procedures for small associations and foundations (December 2011). However, other important laws have been passed but not

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Assessment of the situation in civil society organisations in Serbia, Civic Initiatives, 2011: "The majority of CSOs are based in Vojvodina (36%), followed by Belgrade (28%), with the remainder spread relatively evenly over Western, Central, Eastern and Southeast Serbia. In Belgrade the majority are business/professional and other associations (51%) and CSOs involved in the field of law, advocacy and politics (42%)".

yet implemented, such as the Social Protection Act adopted in 2011²; this law further decentralises the social welfare system without lowering quality, allowing civil society organisations (CSOs) to compete in the market as social service providers. Efforts to define and adopt implementing rules to enable full implementation of the Social Protection Act are acknowledged. The EESC supports the development of a framework to ensure fair access by CSOs to public resources in support of social services.

4.5 The EESC welcomes the fact that work has begun on reforming Article 41 of the Government's Rules of Procedure on issues relating to public hearing, including detailed rules on aspects such as the minimum content, organisation and facilitation of public hearings. These rules also specify criteria for mandatory public hearings, while requiring public hearings to be the rule rather than an exception, and establishing reasonable timeframes for their duration. The EESC stresses the need for timely adoption of reforms, and for steps to ensure effective implementation of this mechanism. Awareness raising among public authorities on the advantages of cooperation with CSOs in the early stages of policy framing, as well as in implementation and monitoring, should be made a priority. Furthermore, overall standards and procedures regarding appointment of CSO representatives to various bodies at national and local level should be discussed and developed, taking into account best practices in neighbouring countries and CSO proposals.

4.6 The Office for Cooperation with Civil Society became operational in 2011, issuing a Strategic Framework for 2011-2014 with several clear targets to be achieved. The Office has also issued an Operational Plan for the period 2013-2014. There are some very important objectives for the development of civil society that need to be pursued:

- developing a Strategy to create an environment conducive to the development of civil society in the Republic of Serbia, and to establish a National Council for the Development of Civil Society;
- promoting new financing sources as a prerequisite for the long-term viability of CSOs: promoting institutional grants, corporate social activities, corporate philanthropy and social entrepreneurship, developing criteria for CSOs to play a public role, making public spending by local government more transparent, revising the system of CSO financing from gambling revenue, etc.;
- further developing an institutional framework conducive to civil society development, i.e. creating specific units or tasks in relevant government ministries, considering the possibility of establishing a Civil Society Development Fund; strengthening mechanisms for cooperation between CSOs and the Serbian National Assembly.

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By March 2013, ten different implementing rules had already been adopted, while a further three implementing rules regulating minimum standards of services as well as licensing of professionals and CSOs were in the pipeline. Altogether, 24 different implementing rules need to be drawn up and adopted to enable full implementation of the Social Protection Act. Reform of the Social Protection Act was scheduled for mid-2013.

5. The social partners

5.1 Social dialogue

- 5.1.1 Although effective social dialogue is essential to successful economic development, and to strengthening society and social cohesion, the role of the social partners in Serbian society remains relatively weak. Social dialogue therefore needs to be improved significantly, especially bipartite social dialogue at sectoral and regional level. Following expiry of the majority of collective agreements, the new General Collective Agreement agreed in 2008 with strong backing from the government was especially important. The global economic crisis has also weakened social dialogue amid higher unemployment (25% in 2012), higher informal employment, less investment, more bankruptcies and a fall in the standard of living after a period of growth. In April 2011 the Social and Economic Council of the Republic of Serbia (SEC) adopted a Social Economic Agreement signed by the leaders of the social partner organisations and the Serbian Prime Minister, which set out important undertakings by the government and the social partners. 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. In 2012 an agreement was signed at the level of the Social and Economic Council on a minimum wage. In 2011 and 2012 there were improvements at sectoral level, with four sectoral collective agreements in agriculture, the food and tobacco industry, water supplies, construction, chemicals and non-metals, and metals. After a recommendation adopted by the Social and Economic Council, the Labour Minister extended the scope of these collective agreements to include all employees in the country. A majority of public sector employees are also covered by collective agreements, including health workers, local and national civil servants, the police force, as well as those working in culture and education.
- 5.1.2 The SEC was legally established in 2005 and is the institutional platform for tripartite negotiations. In addition, there are now 19 economic and social councils at regional and local level, but fewer than half of them are fully operational. The SEC still has to contend with a number of problems that hinder its activities, above all a lack of financial and human resources. It has nevertheless managed to establish four permanent working groups on economic issues, legislation, collective agreements, and health and safety at work. Regular participation by representatives of the social partners in SEC meetings is now ensured; however, members of the government by contrast often have to be represented by officials. Their involvement has increased since the Council was re-established in September 2012. Even the prime-minister became a member of the SEC; however, the SEC is once again facing problems with organising its sessions.
- 5.1.3 The SEC is still not consulted on all draft legislation within its remit, or not at the right stage, and even when it is, its recommendations are often ignored by the government despite their unanimous approval. One exception is the Ministry of Labour which refers all draft legislation and strategies to the Council for an opinion. Recently it also set up a tripartite

working group to draft changes to labour law. There were also improvements in educational legislation since the Education Ministry submitted 3 draft laws to the Council for opinion. However, the Council is mostly ignored in consultation on economic policies and measures.

- 5.1.4 It is vital that the social partners be more closely involved in 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 participation in 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 forums of participatory democracy at EU level.

5.2 **Serbian employers' organisations and their current situation**

- 5.2.1 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 largest 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. These entrepreneurs, as well as the Serbian Chamber of Commerce, could contribute to social dialogue within their remit, for example by developing vocational training and promoting foreign trade. They should be further involved in decision-making on the employers' side. The SAE participates in the work of the South-Eastern Europe Employers' Forum and the International Organisation of Employers. The international dimension of the SAE's work will increase, now that it has been granted observer status in Business Europe.

5.3 **Trade unions and their situation**

- 5.3.1 The trade union sector is heterogeneous. According to current labour regulation, when trade unions organize members in a company or institution, that union organization must have legal status in order to operate legally. Such company-level organizations are members of trade union sectoral organisations, which in turn are members of confederations. Trade unions are members of confederations and follow policies defined by the Congress of their confederation; they are also required to follow decisions adopted by various trade union bodies. Many belong to one of Serbia's two largest union organisations: the Confederation of Autonomous Trade Unions of Serbia (SSSS) and the "Independence" Trade Union Confederation (Nezavisnost). There are still some small company-level trade unions which do not belong to confederations, but their number is not significant.
- 5.3.2 Over the past few years cooperation between two representative confederations, CATUS and Nezavisnost, has increased. They have a joint position within SEC, their experts work together in different working groups, and they also have joint negotiating teams at sectoral level and in many cases at company level.

5.3.3 Unfortunately, even though the number of employees in Serbia has dropped significantly over the past few years, there has been further fragmentation of the trade union scene due to the emergence of many small new organizations, which representative organizations find it difficult to cooperate with, for various different reasons.

5.3.4 All relevant workers' organisations need to be more strongly involved in social partnership decision-making on the employees' side. The role of trade unions in Serbia is essential to strengthening social dialogue. In terms of Serbian trade unions' international activities, both SSSS and Nezavisnost are members of the International Confederation of Trade Unions (ITUC) and observers in the European Trade Union Confederation (ETUC).

5.4 **Government bodies involved in social dialogue**

5.4.1 The Labour Department within the Ministry of Labour and Social Policy is responsible for labour market relations in Serbia. In particular, the Division for social dialogue, collective bargaining and wages is responsible for registering social partner organisations, collective agreements and other aspects of social dialogue.

5.4.2 The Agency for the Peaceful Settlement of Labour Disputes was established in 2005 based on the Peaceful Settlement of Labour Disputes Act (2004). The agency works 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. In collective dispute settlements (e.g. conclusion and implementation of collective agreements, strikes, etc.) the agency acts as a mediator. While it cannot force a settlement on the parties to a dispute in this role, it encourages them to voluntarily reach agreement.
