

## **MEMORANDUM**

**FROM: Quintet Group<sup>1</sup> of Brussels-based NGOs**

**TO: Štefan Füle, European Commissioner for Enlargement**

**SUBJECT: Concerns and Recommendations on European Neighbourhood Policy**

**DATE: 6 September 2010**

### **1. ENP Political Conditionality**

#### **Problem statement**

The EU underuses its political conditionality. It is neither sufficiently publicised nor made an explicit part of policy that political conditions (including democratic reforms and human rights) are attached to enhanced relations. Where conditions are referred to, the criteria are too vague. The EU focuses increasingly on economic or technical conditionality when offering closer relations (e.g. enhanced status of relations, Association Agreements, new ENP Action Plans) and this undermines its political leverage.

#### **Recommendations**

- Elaborate and prioritise expectations per country which are not limited to economic or technical requirements but include concrete reforms in the political/judicial/human rights sphere as conditions for opening and completing negotiations (and do so publicly). These should include constitutional and electoral reforms.
- Provide clear commitments and tangible benchmarks: A new kind of document is needed to replace the Action Plans/Association Agenda which is a detailed guidebook with benchmarks, or at least more detailed implementation tools where the EU should spell out clearly its "democracy *acquis*".
- Use visa facilitation as an incentive to bring countries closer and follow it up with strictly conditioned visa liberalisation: This should involve a clear and benchmarked roadmap rather than a 'visa dialogue'. If this is linked to timely and substantive implementation of commitments on judicial reform, border management, data protection, non-discrimination etc. it will bring concrete results, as shown by the recent visa liberalisation process in the Balkans.
- Promote the Governance Facility when awarded, for example through a public announcement, in order to create informal competition among partners. Greater publicity of EU rewards (as well as criticism) would give the EU the room to manoeuvre in incentivising rewards for reform-minded governments and also reinforce public scrutiny and pressure on governments lagging behind.

#### **Rationale**

Political conditionality has been an important tool of enlargement. In the neighbourhood it has been used effectively in the case of Moldova where EU conditions took on an agenda-setting function. Developing country-specific benchmarks and privileging bilateral relations as part of the principle of differentiation will give the EU room to manoeuvre with regard to the upgrading of relations with each country. Linking the pace and completion of negotiations to sector specific reforms (including in the political and human rights fields) is more likely to deliver deeper and more lasting reforms.

The EU focuses on trade-related and technical conditions, but unless it tackles fundamental issues of state power, fair electoral rules, and independence of the judiciary, efforts to improve governance (including in important energy, trade and customs fields) will continue to fail. Another lesson learned from previous efforts is that a lack of clear-cut cause-effect links between conditionality and outcomes has a deleterious effect. This is why a clear and benchmarked roadmap for visa liberalisation would be more effective than numerous meetings of a "visa dialogue."

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<sup>1</sup> The Quintet Group is a collaboration of Brussels-based NGOs working on ENP and Enlargement issues. It meets regularly to engage in information-sharing and planning of joint activities.

To achieve change through conditionality, the EU nevertheless has to increase the incentives. Visa-free travel for citizens in the Schengen area is the EU's second best carrot (after a membership perspective). used to promote reforms down the line.

It is not enough to have a technical level human rights dialogue. Tools such as the Governance Facility can be better sold to serve the purpose for which they are intended – incentivising good governance and political reform. An annual announcement should be made and the money should not be tied to topping up ENPI Annual Action Programmes.

## 2. Human Rights

### **HR: Freedom of Association**

#### **Problem statement**

Freedom of association is a major human rights concern throughout the region which needs to be seriously addressed by the EU in the framework of the ENP.

#### **Recommendations**

- Use political conditionality as a tool that can encourage respect for key human rights when negotiating any new agreement or enhanced status of relations. Specifically, the EU should press for concrete commitments and actions to guarantee freedom of association in law and practice – with clear objectives, benchmarks and calendar – to be included in the new ENP Action Plans.
- Prioritise freedom of association as a core human rights issue, as well as raise individual cases of harassment and where the right of human rights defenders' to receive foreign funding is denied, in political and technical dialogues with ENP partners.
- Directly and strongly support human rights defenders and human rights organisations under threat. Strengthen the day-to-day implementation of the EU Guidelines on Human Rights Defenders by EU delegations and embassies through actions such as visits to human rights defenders and their organisations, offering meeting space, promoting their freedom of association and movement (including facilitating the deliverance of visas when needed) monitoring trials and issuing public statements when defenders are at risk.

#### **Rationale**

Freedom of association, alongside freedom of expression, is vital to the exercise of virtually every other civil and political right, and to the advancement of economic, social and cultural rights. Without freedom of association effective participation in public affairs is impossible.

The situation of human rights in general and of freedom of association in particular is of serious concern in the whole region with very few exceptions. Growing violations of freedom of association are being witnessed in Southern and East Mediterranean countries through the adoption of more restrictive legislation and increased attacks on this right<sup>2</sup>. Human rights groups in particular face numerous restrictions which range from the refusal to register independent organisations to interference in the organisation's board, closure of the association's offices, meeting restrictions travel bans (including restrictions on receiving visits and funds from abroad) and arrests. Similar trends are witnessed in the Eastern Neighbourhood, particularly in (though not limited to) Belarus and Azerbaijan.

The EU has a responsibility to raise this issue and individual cases as a priority during political and technical level discussions with its partners within the framework of the ENP. Making negotiations of any new agreement, advanced status of relations and ENP Action Plan contingent on improvement of the situation of freedom of association will give clear and unequivocal message that the EU views a robust civil society as critical to democratic development.

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<sup>2</sup> Cf. EMHRN's annual report on Freedom of Association in the Euro-Mediterranean Region 2009; [www.euromedrights.net](http://www.euromedrights.net)

## HR: Gender equality

### Problem statement

Gender equality is a key challenge, particularly in the Southern ENP region. Regional and national commitments in this regard should be implemented in law and practice.

### Recommendations

- Translate commitments taken at the November 2009 Marrakesh Union for the Mediterranean ministerial meeting on 'Strengthening the Role of Women in Society' into concrete actions at bilateral level within the framework of the ENP.
- Add concrete commitments and recommendations in the new ENP Action Plans to guarantee gender equality in law and practice – with clear objectives, benchmarks and calendar.
- Encourage the adoption of national action plans on gender equality with clear and explicit objectives for the short, medium and longer term with a calendar and indicators for regular evaluation.
- Push for the lifting of all reservations to the CEDAW, ratification of its optional protocol and to take necessary measures to harmonise constitutions and national laws with CEDAW and ensuring its full implementation by all ENP States.
- Ensure gender mainstreaming of all policies, programmes and project areas of the ENP while specific gender policies and programmes should also be identified and developed.

### Rationale

Women's rights are violated in all spheres of life, particularly in the Southern ENP region. We welcome the fact that the EU as well as states in the Mediterranean region have taken clear commitments to promoting equality between men and women, in particular at the EuroMed 2006 Istanbul and 2009 Marrakesh ministerial conferences. However, there is still a need for these good intentions to translate into effective practice. Commitments have been taken to follow-up at national level, in particular by adopting national plans on gender equality. The best framework for the EU to encourage the translation of these commitments into actions is the ENP.

## 3. Conflicts

### Problem statement

The EC recognised in its 2010 Communication on "Taking stock of the European Neighbourhood Policy" that the conflicts in its neighbourhood (Southern Caucasus, Transnistria, Middle East) constitute a serious obstacle to the economic, political and social development of these countries as well as the security of their populations.

The EU has increasingly sought to address some of these crises, the swift response in Georgia being a positive example of where the EU took advantage of the various instruments at its disposal (a CSDP mission, involvement of the EUSR in dialogue processes, EC development cooperation frameworks). Unfortunately, the EU has been more ambiguous in other cases, namely during the Gaza conflict (when the Council refrained from calling for an independent inquiry or from supporting the one conducted by the UN Fact Finding Mission). In the case of the Middle-East, the EU has traditionally tried to act more on the economic than on the political level, marginalising itself in the role of a 'payer' instead of becoming an active player in the conflict resolution process.

The EU needs to engage more proactively and strategically in conflict prevention and resolution. Each of these conflicts is specific and responses will need to be context-specific, but a few principles are fundamental to the way the EU should respond to all of them. In particular, respect for human rights is essential to the pursuit of just and lasting peace: intractable conflicts such as the Middle East have shown that attempts to build peace that do not tackle impunity and violation of international human rights law are doomed to failure.

## Recommendations

Overall, the ENP should address the issues of conflict resolution and prevention in a more effective way. This can be achieved through:

- *Adopting a clearer and more resolute political stance when supporting peace negotiations and political dialogues.* This requires the EU to shift from concentrating on economic aspects, to and includes speaking out about human rights abuses where they occur.
- *Elaborating conflict-sensitive Country Strategy Papers (CSPs) and National Indicative Programming documents (NIPs).* In practical terms this will entail engaging in more in-depth case-specific conflict analysis than has been done until now with view to highlighting opportunities to impact positively on the conflict dynamics.
- *Enhancing support for confidence-building and cross border cooperation measures both on the ground and at the level of discourse.* While continuing to express clearly the EU's rejection of military solutions to conflicts the EU can work consistently and assertively with all parties to identify and exploit opportunities for cooperation at all levels. Non-recognised entities should be included in bridge-building and confidence-building. Regardless of their final status, they are actors in the conflict and must be involved in the search for solutions.
- *Supporting civil society capacity to respond to conflicts.* The EU should build on good practice in involving local communities in consultations on responses to the conflict. The EU should systematise and promote these practices not only through the EaP Civil Society Forum, but also in-country when designing strategies and implementing programmes or initiatives that can have an impact on conflict dynamics. The creation of a Civil Society Facility and the improvement of policy consultations (referred to in more detail below) can support this.

## Rationale

The Lisbon Treaty provides the EU with the opportunity to develop a more robust role in its external action by bringing together different instruments that have the potential to back up strategic choices. The EU's response to the conflict in Georgia demonstrates that, in its Neighbourhood, the ability of the EU to come up with clear political lines, based on evidence provided by independent observers on the ground, will impact on the conflicting parties' room for manoeuvre in dialogue processes.

The EU has timidly supported confidence-building measures in some conflicts. However, through its various instruments (CSDP missions, development cooperation, mediation activities), it has the potential to do more to promote confidence-building and cross-border cooperation. These types of initiatives require years to secure trust among parties, communities, to achieve change and therefore deserve long-term support from the EU. With greater analysis of the specific dynamics of each conflict reflected in policy documents the EU will be better equipped to engage in conflict resolution on the ground.

In order to ensure responses to conflict are context-specific and locally owned, and therefore more sustainable, it is fundamental to consult civil society organisations (CSOs) and communities on the ground. The EC has increasingly reinforced these consultation and participation practices over the years, and has started to do so on conflict related matters (through some CSDP missions or some IfS programmes). This work can be usefully developed further.

## **4. Environment and Climate Change**

### Problem Statement

Neighbouring countries are subject to major environmental degradation that heavily impacts on the natural resources, ecosystems and the quality of life of people depending on them. Environmental degradation is exacerbated by climate change. Extreme events occurring during summer 2010 (floods, forest fires) show the need to address an issue that will irreversibly exacerbate existing conflicts (for water, for land, etc) or increase migration flows ("climate refugees") if not urgently tackled.

### Recommendations

- Promote innovative tools for environmental integration and the protection of natural resources, such as Payment for Environmental Services initiatives or the implementation of the

Ecosystem Based Approach to ENP projects<sup>3</sup>. Avoid “mal-adaptation” measures and instead support “no-regret” measures (e.g. constructed wetlands) with ENPI funds.

- Involve the ENP countries in EU preparations for upcoming climate change negotiations as well as in future European initiatives on climate change such as the proposed Clearing House Mechanism on adaptation to be established by 2011, research programmes or the shared Environmental Information System of the EEA.
- Promote enhanced convergence with key EU policies and approaches embedded in them, in particular the Water Framework Directive (integrated river basin and sustainable water use) and the Climate and Energy Package (domestic carbon markets and links to the EU market). Of relevance are also the Adaptation White Paper and the Floods Directive and Water Scarcity and Drought Strategy.
- Enhance the capacity of the EU delegations to deal with environmental matters. Ensure the EU delegations conduct a regular dialogue with local environmental groups on the assessment of the environmental impacts of projects funded by the EU as well as of the assessment of the implementation of the environmental policies.
- Enhance the capacity of civil society to deal with environment and climate change issues. Include CSOs in the development and implementation of planned flagship initiatives, such as the EaP Environmental Governance or Renewable Energy/Energy Efficiency flagship initiative or the UfM Mediterranean Solar Plan.

## **Rationale**

Environmental cooperation under the ENP needs to move forward. Economic growth in the neighbourhood has to be explicitly considered in the context of sustainable development. There is an urgent need to address the environmental impacts of all economic sectors (trade, transport, tourism, etc).

Convergence with key elements of EU environmental policies is one of the principles of the ENP. Individual countries are at different stages of integrating environmental protection in their internal laws, but there is still a lot to do to ensure full convergence and even more, to ensure full implementation in the field.

“Environmental type” flagship initiatives proposed in the two regional contexts, the Union for the Mediterranean (UfM) and the Eastern Partnership (EaP) are promising, but with the exception of Horizon 2020<sup>4</sup>, they are developing very slowly and un-transparently with little or no civil society involvement.

Such initiatives are designed to tackle specific problems (pollution, renewal energy, water management). Additional attention should be paid to forest and other wooded lands, to coastal zones, to biodiversity in general and to climate change adaptation. A maritime dimension including fisheries and marine protected areas should be developed under the ENP environmental cooperation.

## **5. CSO Participation in ENP and ENPI**

### **ENP Policy participation**

#### **Problem statement**

CSOs are not adequately consulted by the European Commission or consultations are mere box-checking exercises. Plus current lack of transparency of the policy (drafts are not available or made

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<sup>3</sup> The ecosystem approach highlights that damaging and/or neglecting the requirements of ecosystems negatively affects the economic and social status of communities whose livelihoods depend also on the services provided by them. The Integrated River Basin Management approach (under the EU WFD) is a good example.

<sup>4</sup> Which was established in 2006 before the UfM was launched and was well on track by then.

available too late) hinder meaningful CSO contributions to policy development. This of particular concern as it affects in-country CSOs in countries where there is no government-CSO dialogue.

### **Recommendation**

- Prioritise in-country consultations via delegations. A regular consultation process is politically important in closed countries and where possible the EU should push for tripartite dialogue anchored around specific processes (Action Plans' renegotiations, Association Agreements, review of Financial Perspectives etc).
- Ensure timely access to draft policy documents as well as dates and agendas of meetings (via internet publication or other channels, such as the Civil Society Forum network). Special consideration should be given to ensuring that information is available for local NGOs in their local language, including where training sessions are set up by the local delegation.
- Push for regular involvement of CSOs in regional and overall consultations (including Brussels-based processes such as the policy review).
- Associate CSO representatives to the Sub-Committees where these have been set up. Consult before and debriefing after Sub-Committees. For example, invite CSO representatives to the Sub-Committees.
- Allow representatives of the EaP Civil Society Forum to participate fully in the official platforms (not merely as observers, but able to suggest agenda items).
- Push for enhanced CSO visibility in the UfM and increased role for the Civil Forum beyond its current low-key profile and scope.

### **Rationale**

Holding an annual 'box checking' meeting disappoints both parties; for example, the annual ENP meeting held once a year for Brussels-based CSOs at which they are requested to do country-reporting. Consultations should engage both local and Brussels-based organisations recognising the differences between their functions: Local organisations have unparalleled access to information on the ground; Brussels-based organisations have clearer views on policy processes and requirements from institutions and work to identify entry points for local partners. There is a role for both.

The Structured Dialogue process is moving in the right direction in terms of inclusiveness and EC efforts to coordinate between services (RELEX and AIDCO as well as other institutions and different CSO sectors). However, the dialogue needs to be more explicitly anchored to policy processes otherwise CSOs will disinvest.

## **ENPI efficiency**

### **Problem statement**

CSOs are not sufficiently involved in monitoring ENPI programming and implementation, despite the fact that a large proportion of ENPI money goes direct to governments.

### **Recommendation**

- Engage CSOs more and sooner in the priority setting, programming, implementation, monitoring and evaluation of the ENPI regarding the national and regional levels<sup>5</sup>.

### **Rationale**

The impact of the EU's direct sectoral budget support under ENPI would be improved if CSOs were able to participate in planning, priority setting (NIPs and Annual Action Programmes), implementation and monitoring.

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<sup>5</sup> For further info see ICPS "Missing Out: Civil Society and ENPI"  
[http://www.icps.com.ua/files/articles/58/3/ENPI\\_Memo\\_ENG.pdf](http://www.icps.com.ua/files/articles/58/3/ENPI_Memo_ENG.pdf)

By holding their governments to account, CSOs strongly reinforce domestic accountability and domestic ownership within ENP partner countries, ensuring a much higher degree of effectiveness.

Further, since a major proportion of the EC assistance to ENP partner countries comes in the form of budget support, particular importance needs to be attached to ensuring that financial assistance is effective.

For this to happen, it is essential that flows of EU funds to partner countries be fully transparent. CSOs need to be able to access information about financial flows and details about (general and sector) budget support operations<sup>6</sup>.

## **ENPI Civil Society Facility**

### **Problem statement**

There is an absence of dedicated funding for capacity development and watchdog activities of CSOs that are active in ENP countries and that is aligned with ENP objectives. Even if the need to enhance CSO capacity to deal with the ENP policy and funding is regularly recognised, there are very few funding instruments that provide concrete support in this area<sup>7</sup>.

### **Recommendation**

- Set up a distinct Civil Society Facility under the ENPI, allowing for CSO activities that contribute to the achievement of ENP relevant objectives.

Drawing on the experiences of a similar mechanism under the Instrument for Pre-Accession (IPA) such a facility would fill a current funding gap, making it easier for CSOs that operate in several countries of the ENP (South and East) to design and run multi-country programmes, as well as engage in monitoring of the ENPI.

### **Rationale**

The current design of the ENPI, as principal financing instrument of the ENP, is nearly exclusively focused on support to partner countries, based mainly on bilateral cooperation between EU and partner countries and does not reflect the strategic importance that CSOs play. For example, only around 1.4% of EU funding going to the Eastern neighbours supports the efforts of civil society organisations<sup>8</sup>.

At the same time, while there are several EC thematic programmes available for CSOs in the ENP countries, such as Non-State-Actors and Local Authorities (NSA/LA), Thematic Programme for Environment and Sustainable Management of Natural Resources Including Energy, amounts are relatively low therefore competition is very high and access to funding for ENP CSOs is reduced. The global EIDHR instrument is a useful mechanism; however its calls for proposals are frequently restricted to human rights work in single country frameworks.

Given the current framework, it is extremely difficult for a wide range of CSOs to run multi-country projects in the area of ENP under existing EC programmes. It is therefore suggested to open the ENPI to CSOs, creating a distinct funding facility for CSO activities related to the objectives of the Action Plans (country and multi-country) and the general ENP policy framework.

From experience (in particular the IPA Civil Society Facility would enhance CSO capacity to actively contribute to the policy processes in each ENP country. The successes and challenges faced by the IPA Civil Society Facility would inform the design and implementation of such a facility for the ENP region.

In sum, a distinct Civil Society Facility would acknowledge the strategic importance that civil society organisations play in the long term reform process in these countries.

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<sup>6</sup> During the December 2009 consultation, it was announced that the EC would try to broaden the scope of CSO engagement with regard to oversight of Budget Support operations.

<sup>7</sup> The Horizon 2020 CB programme is one of them. The EaP flagship initiative on environmental governance was planned to be a similar tool but so far is only supporting the EEA and governmental bodies of the EaP countries.

<sup>8</sup> This is an average figure for 2007-9; it varies from 0.32% of EU funding in Ukraine, 1.2% in Moldova; 2% in Azerbaijan and Georgia and 3% in Armenia and Belarus. Only few ENPI regional programmes and initiatives are open to CSOs (in particular Horizon 2020).