The EU and the Western Balkans

Grassroots Peacebuilding and Enlargement

The Quaker Council for European Affairs
Produced by the Quaker Council for European Affairs (QCEA)

This report is based on one year of research through interviews with NGO staff in Bosnia-Herzegovina, Croatia and Serbia; interviews with staff from European Commission Delegations and with European Commission staff in Brussels, and through desk-based research. It is available to download at: www.quaker.org/qcea

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The Quaker Council for European Affairs (QCEA) was founded in 1979 to promote the values of the Religious Society of Friends (Quakers) in the European context. Our purpose is to express a Quaker vision in matters of peace, human rights, and economic justice. QCEA is based in Brussels and is an international, not-for-profit organisation under Belgian Law.

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I would also like to thank all the European Commission officials in Brussels and the Delegation staff in Bosnia-Herzegovina, Croatia and Serbia who took the time to meet with me and discuss the issues this report deals with.

Finally, Dieter Hartwich who made valuable comments on the draft report and Richard Condon who proofread the final report.
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<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>BIA</td>
<td>Serbian Security Information Agency</td>
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<tr>
<td>BiH</td>
<td>Bosnia-Herzegovina</td>
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<tr>
<td>CAP</td>
<td>Common Agricultural Policy</td>
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<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>CWWPP</td>
<td>Coalition for Work With Psychotrauma and Peace</td>
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<td>CHC</td>
<td>Croatian Helsinki Committee for Human Rights</td>
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<td>DEI</td>
<td>Department for European Integration</td>
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<td>DIS</td>
<td>Decentralised Implementation System</td>
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<td>DPA</td>
<td>Dayton Peace Agreement</td>
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<td>DSS</td>
<td>Democratic Party of Serbia</td>
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<td>EC</td>
<td>European Community</td>
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<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<td>EDIS</td>
<td>Extended Decentralised Implementation System</td>
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<td>EEA</td>
<td>European Economic Area</td>
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<td>EFTA</td>
<td>European Free Trade Area</td>
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<td>EIDHR</td>
<td>European Instrument for Democracy and Human Rights</td>
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<td>EU</td>
<td>European Union</td>
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<td>EUSR</td>
<td>European Union Special Representative in Bosnia-Herzegovina</td>
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<td>FBIH</td>
<td>Bosnian-Croat Federation</td>
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<tr>
<td>HCHR BH</td>
<td>Helsinki Committee for Human Rights in Bosnia-Herzegovina</td>
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<td>HDSSB</td>
<td>Croatian Democratic Alliance of Slavonia and Baranja</td>
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<td>HLC</td>
<td>Humanitarian Law Centre</td>
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<td>ICJ</td>
<td>International Court of Justice</td>
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<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
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<td>IPA</td>
<td>Instrument for Pre-accession Assistance</td>
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<td>JNA</td>
<td>Yugoslav National Army</td>
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<td>MIFF</td>
<td>Multi-annual Indicative Financial Framework</td>
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<td>MIPD</td>
<td>Multi-annual Indicative Planning Document</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
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<td>NGO</td>
<td>Non-Governmental Organisation</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OHR</td>
<td>Office of the High Representative in Bosnia-Herzegovina</td>
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<td>OSCE</td>
<td>Organisation for Security and Cooperation in Europe</td>
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<td>OTR</td>
<td>occupancy and tenancy rights</td>
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<td>PBC</td>
<td>United Nations Peacebuilding Commission</td>
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<td>PIC</td>
<td>Peace Implementation Council</td>
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<td>RDC</td>
<td>Research and Documentation Centre</td>
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<td>RECOM</td>
<td>Regional Commission for Truth-seeking and Truth-telling about War Crimes</td>
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<td>RS</td>
<td>Republika Srpska</td>
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<td>SAA</td>
<td>Stabilisation and Association Agreement</td>
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<td>SANU</td>
<td>Serbian Academy of Arts and Sciences</td>
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<td>Sap</td>
<td>Stabilisation and Association process</td>
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<td>SB</td>
<td>Serbian Security Service</td>
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<td>SDA</td>
<td>Bosniac Party for Democratic Action</td>
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<td>SDSS</td>
<td>Independent Democratic Serbian Party</td>
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<tr>
<td>SID</td>
<td>Serbian Research and Documentation Department</td>
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<tr>
<td>SRS</td>
<td>Serbian Radical Party</td>
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<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organisation</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>VBA</td>
<td>Serbian Military Security Agency</td>
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<td>VOA</td>
<td>Serbian Military-intelligence Agency</td>
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<td>VOPP</td>
<td>Vance Owen Peace Plan</td>
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<tr>
<td>YUCOM</td>
<td>Lawyers Committee for Human Rights</td>
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This map of the Balkan Peninsula\textsuperscript{1} is shown here as a reference so that readers can orient themselves within the geographical area which is the subject of this study.

\textsuperscript{1} Map provided by: \url{www.worldatlas.com}
Executive Summary and Recommendations

Introduction

This report aims to assess the extent to which the European Union’s enlargement process is supporting the work of local grassroots peacebuilders in the countries of Bosnia-Herzegovina, Croatia and Serbia. The report deals with the 7 broad issues that concern local peacebuilders the most: Nationalism; transitional justice; returnees; regions of concern; education; civil society and peacebuilders; and the Instrument for Pre-accession Assistance. The report also looks at the Common Foreign and Security Policy’s involvement in Bosnia-Herzegovina. The report examines the response of the EU’s enlargement process to these issues and makes recommendations where it finds the need for further EU action.

How this report was researched

This report is the product of both field and desk top research. The field research for this report consists of over 50 interviews conducted between 31 May 2008 and 8 July 2008. EU officials working in Brussels were also consulted as a part of the research. The desk top research was undertaken in Brussels over the course of 2008. A full list of interviewees can be found in annex I of this report.

Why this report was written

The decision to write this report was taken following a trip to the region taken by QCEA joint representative Martina Weitsch in April 2007. She met with the former Quaker Peace and Social Witness peaceworkers Goran Bubalo, Goran Božičević and Zorica Trifunović. She also met and spoke with other peacebuilders. It was apparent to QCEA as a result of this visit that the EU’s involvement in the region could do more to help build peace and that the EU enlargement process represented the perfect opportunity.

Who this report is for

This report is intended both for policy makers (at the EU and local levels) and for other interested readers from the region and beyond. The report is intended to strike a balance between the need for ready access to clear and evidence-based recommendations and well research background information.

Some Issues of Terminology

The report uses the terms peace and peacebuilders. We recognise that there are a number of definitions of these terms and we do not attempt in the context of this report to analyse or critique them. The QCEA publication ‘Peace and Peacebuilding - Some European Perspectives’ discusses this in more detail. For the purpose of this report, we have adopted the definition of peacebuilding suggested by the Conflict Management Program at the Johns Hopkins University School for Advanced International Studies.

‘Peacebuilding, or post-conflict reconstruction, is a process that facilitates the establishment of durable peace and tries to prevent the recurrence of violence by addressing root causes and effects of conflict through reconciliation, institution-building and political as well as economic transformation.’

References:

It is clear that even this definition still leaves room for debate; the people referred to in this report as peacebuilders are civil society organisations and the people within them who focus their work on peacebuilding as defined above.

**Enlargement in the Western Balkans - a different kind of process**

The issues and complexity of an enlargement process in the Western Balkans are different to previous enlargements of the EU. The issue of national identity (for example in BiH) or the overemphasis of national identity (for example in Serbia), the question of share values, the differences in terms of the economy, culture, and religion, have never been such a large issue in any acceding country before. As a result, the phases and instruments of the stabilisation/association/enlargement process have to be used more flexibly. Peacebuilding and the support of civil society are good examples. There was very little or no need for this in previous enlargements. Finally, where in previous enlargements the outcome and time horizon were more or less clear once the process had started, this is not necessarily so in the case of the Western Balkans.

**Recommendations**

This report makes over 80 different recommendations concerning nationalism, transitional justice, returnees, regions of concern, education, civil society & peacebuilders, the Instrument for Pre-accession Assistance, the Multi-Beneficiary Multi-annual Indicative Planning Document and the Common Foreign and Security Policy in Bosnia-Herzegovina. All of our recommendations are important. However, some of them are very specific whilst others are more general. We have tried to offer a list of key recommendations that cover as many of the themes this report touches on as possible and that represent the needs of local peacebuilders as best as possible.

1. **Nationalism**

Nationalism was identified by peacebuilders as being the biggest obstacle to lasting peace and stability in the region. Section 4.1 of this report looks at the main issues relating to nationalism as identified by peacebuilders on the ground in each country in detail; here we give only a brief outline. Section 5.1 of this report examines the European Union’s response to nationalism in each country in detail; here we only set out what further action we think the EU needs to do in order to combat nationalism. Although there is a need for further action on the part of the EU, it must be noted that the EU is doing a great deal to tackle nationalism in the Western Balkans.

1.1 **Bosnia and Herzegovina**

Bosnia-Herzegovina (BiH) is a divided country. Nationalism and ethno-politics are preventing real political dialogue and the legislative and reform processes have practically ground to a halt. The Republika Srpska’s calls for independence are particularly destabilising. There is a need to strengthen the BiH state which is unable to coordinate policy and weak in comparison to the entities. The country’s constitution needs to be reformed so as to remove the ethnically defined provisions and the development of a Bosnia-Herzegovina identity that is inclusive of all constituent nations and minorities is needed.

We recommend that:

- The EU publicly confirms that the integrity of the BiH State is essential to the enlargement process and that it may only accede as a unified State;
- Any project promoting EU awareness must pay special attention to the EU values epitomised by its motto of unity through diversity;
- The EU includes in the MIPD provisions that support projects that help foster, advocate and promote a unified BiH identity; and that
The EU maintains the provisions in the current partnership and MIPD that support a stronger BiH state and that reform of the constitution in order to remove ethnic bias.

1.1.2 Croatia
Nationalism in Croatia is most pronounced at a local level and often manifests in various forms of discrimination. Ethnic nationalism is also a rhetorical mainstay of local politics in multi-ethnic regions such as Eastern Slavonia, where the areas economic hardship and levels of trauma are contributing factors.

We recommend that:

- The EU continues to prioritise the adoption and implementation of anti-discrimination and minority rights legislations in the 2010 accession partnership;
- In the 2010 accession partnership the EU calls on the Croatian authorities to tackle extreme nationalism more pro-actively;
- The EU includes provisions promoting greater support to the victims of discrimination in both the accession partnership and the MIPD; and that
- The EU includes provisions in the MIPD that address trauma and its negative consequences.

1.1.3 Serbia
Nationalism in Serbia has not only been a big obstacle to closer cooperation with the EU but has also been a source of discrimination, principally against minorities but also against individuals and organisations that have advocated and promoted ‘European’ values. The influence of Radical Nationalism systemic and is presence within Serbia's institutions is extensive.

We recommend that:

- The EU makes the call for the Serbian authorities to adopt a comprehensive anti-discrimination law one of the 2010 partnership’s key priorities if such a law has not been adopted and fully implemented by the end of 2009;
- The EU continues to support projects that promote values such as inter-ethnic tolerance, pluralism and multi-ethnicity in the MIPD; and that
- The EU publicly supports organisations that promote such values.

1.2 Transitional Justice
Transitional justice was identified by peacebuilders as being the most essential aid to establishing lasting peace and stability in the region. Section 4.2 of this report looks at the main issues relating to transitional justice as identified by peacebuilders on the ground in each country; here we give only a brief outline. Section 5.2 of this report examines the European Union’s response to transitional justice in each country in detail here we only set out what further action we think the EU needs to take in order to support transitional justice. Although there is a need for further action on the part of the EU, it must be noted that the EU is doing many things that assist some of the mechanisms of transitional justice.

1.2.1 Bosnia and Herzegovina
It is largely through insisting on compliance with the International Criminal Tribunal for the former Yugoslavia (ICTY) that the EU has supported transitional justice in BiH. A more grass roots and local approach is felt to be needed when it comes to ensuring the legacy of the ICTY is a positive one and that it affects the general public. Local war crimes trials are felt to be falling short and not addressing the scale of the atrocity. Efforts are hampered by the lack of an extradition agreement between BiH, Croatia and Serbia. Official truth-seeking initiatives in BiH have largely failed; civil society initiatives in this area are proving more successful. Lustration still needs to be pursued and carried out more thoroughly. Reports in
the media continue to indicate that individuals implicated in war crimes are still working in
the police force and as officials.

We recommend that:

• The EU makes the settlement of an extradition agreement between BiH, Croatia
  and Serbia a key priority of the 2010 European and accession partnerships;
• The EU continues to support BiH efforts on war crimes trials in the 2010 partnership
  and includes support for lustration, reparations and restitution;
• The EU calls on BiH authorities to support the Coalition for RECOM; and that
• The EU supports civil society initiatives to ensure the legacy of the ICTY as part of
  the MIPD, especially the establishment of regional ICTY archive centres in BiH.

1.2.2 Croatia
The functioning of the Croatian judiciary, specifically its performance on war crimes trials,
is one of the leading concerns of the country’s peacebuilding community. The war crimes
investigation centres around the country are in need of more technical support, more staff
and better equipment. Peacebuilders report that County Courts are not dealing with the
crime of concealment in accordance with ICTY practice. There have been no official
discussions relating to the establishment of a truth commission in Croatia. In contrast to
this there is a strong response from civil society, as peacebuilders across the region work
towards the formation of an official regional body which could establish the facts about war
crimes committed and enable victims to tell and share their experiences.

In general, there is no public consensus and little political will surrounding the issue of
lustration and institutional reform in Croatia. In 2007 a war crime indictee won a
parliamentary seat with the Croatian Democratic Alliance of Slavonia and Baranja (HDSSB). The
issue of war trauma is being overlooked by the EU and the Croatian authorities.

We recommend that:

• The EU makes the settlement of an extradition agreement between BiH, Croatia
  and Serbia a key priority of the 2010 European and Accession Partnerships;
• The EU calls on Croatian authorities to support the Coalition for RECOM and their
  initiative for a regional truth commission;
• The EU supports civil society initiatives to ensure the legacy of the ICTY under the
  MIPD, in particular through the establishment of regional ICTY archive centres in
  Croatia;
• The EU includes support for the war crimes investigation centres over the short-
  term in the MIPD and call for Croatian authorities to improve the centres over the
  medium-term in the partnership;
• The EU insists all courts in Croatia deal with the crime of concealment in
  accordance with ICTY practice;
• The EU calls on Croatian authorities to change the law on immunity from being held
  in custody of MPs accused of war crimes; and that
• The EU includes support for the treatment of war trauma in heavily affected
  regions as part of the partnership and the MIPD.

1.2.3 Serbia
Despite some progress, peacebuilders in Serbia see a great need for transitional justice in
their country. They are concerned by the political pressure being put on the War Crimes
Prosecutor’s Office. Peacebuilders feel that there is insufficient discussion in the public

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4 RECOM stands for Regional Commission for Truth-seeking and Truth-telling about War Crimes. See section 4.2.4.
realm about the responsibilities and obligations of the state towards victims of the war and towards future generations. A big part of the problem is that there are very few agreed upon facts about the war as no official truth commission has been successfully established. Serbian peacebuilders raise the question of the ICTY legacy once it completes its mandate and call for its archives to be accessible to the people of the region.

We recommend that:

- The EU makes the settlement of an extradition agreement between BiH, Croatia and Serbia a key priority of the 2010 European and accession partnerships;
- The EU calls on the Serbian authorities to support the Coalition for RECOM and their initiative for a regional truth commission;
- The EU makes the adoption of legislation dealing with reparations for human rights violations committed in the past by the Serbian government, especially during the Milošević era, a priority of the partnership; and that
- The EU supports civil society initiatives to ensure the legacy of the ICTY under the MIPD, especially the establishment of regional ICTY archive centres in Serbia.

1.3 Returnees

The issue of returnees was identified by peacebuilders in Bosnia-Herzegovina and Croatia as being a big obstacle to lasting peace and stability in the region. Section 4.3 of this report looks at the main issues relating to returnees as identified by peacebuilders on the ground in those two countries in detail; here we give only a brief outline. Section 5.3 of this report examines the European Union’s response to returnees in those countries in detail; here we only set out what further action we think the EU needs to take in order to address the issue of returnees. Although there is a need for further action on the part of the EU, it must be noted that the EU is doing many things to address this issue.

1.3.1 Bosnia and Herzegovina

One of the primary goals of Annex VII of the Dayton Peace Accords (DPA) is the restoration of the socio-demographic structure of BiH society, which had been drastically altered by the war. Peacebuilders report that nothing is being done to address this issue and that data on returnee’s frequently includes the return of property and other facts related to return, which do not necessarily represent an actual return. The ethnic composition of municipal administrations is supposed to proportionally represent the ethnic composition of the area they administer as recorded by the 1991 census. However, many administrations are falling short of this requirement.

We recommend that:

- The EU maintains the current provisions in the partnership and the MIPD concerning returnees;
- The EU explicitly refers to the importance of areas returning to their pre-war socio-demographic composition in the 2010 partnership; and that
- The EU calls for an improvement in the classification of data collected on returnees so that returned property is not recorded as a person or people returning to live in their pre-war community.

1.3.2 Croatia

The main issues identified by Croatian peacebuilders surrounding returnee’s are the obstacles to housing and employment they face. Returnee’s are experiencing discrimination from public and private sector employers and face difficulties gaining access to housing if they are former occupancy and tenancy rights (OTR) holders. There are also issues surrounding restitution of occupied properties and the reconstruction of damaged or destroyed residential properties.
We recommend that:

- The EU pays more attention to the issue of returnees in the MIPD, especially concerning the issue of OTRs and employment;
- The EU includes provisions for initiatives that address the restitution of temporarily occupied housing and the reconstruction of property in the MIPD;
- The EU includes provision in the MIPD that address inter-community relations and the social integration of returnees; and that
- The EU makes the adoption of an adequate plan for employment in the administration at county, town and municipal levels a short-term priority of the Partnership.

1.4 Regions of concern

There are a number of regions in the Western Balkans that peacebuilders identified as being at risk of destabilisation due to the problems they face. Section 4.4 of this report looks at the main issues relating to these regions as identified by peacebuilders on the ground in each country in detail; here we give only a brief outline. Section 5.4 of this report examines the European Union’s response to these regions in detail; here we only set out what further action we think the EU needs to take in order to address the problems faced by each region. Although there is a need for further action on the part of the EU, it must be noted that the EU is doing many things to address this issue.

1.4.1 Bosnia and Herzegovina

As outlined in section 4.4.1 we consider BiH as a whole to be a region of concern. We therefore make no specific recommendations under this heading because all the recommendations regarding BiH would otherwise have to be repeated here.

1.4.2 Croatia

Eastern Slavonia is highlighted by peacebuilders as a region of concern in Croatia and in need of particular attention. The region’s peacebuilders identified the region’s lack of economic development and job opportunities, ethnic nationalism, the presence of minefields, the lack of professionalism of public administration in dealing with rights violations, discrimination, psychological trauma and the general appearance of the region as obstacles to a sustainable and lasting peace and as possible sources of instability.

We recommend that:

- The EU includes the economic re-development of Eastern Slavonia amongst the 2010 partnerships priorities;
- The EU pays more attention to the situation on the ground in Eastern Slavonia in the 2009 progress report;
- The EU maintains the current provisions in the MIPD concerning support under component II and adds explicit references to truth-telling and dealing with the past; and that
- The EU includes measures in the partnership and the MIPD that address the trauma suffered by the region during the war, such as support for mental health programmes and organisations dealing with trauma.

1.4.3 Serbia

The region of Sandžak is a concern for Serbian peacebuilders. Ethnic tensions are high and felt to be kept so by ‘agent provocateurs’. The economic backwardness of the region and the crippling in-fighting within the Bosniac community make the situation worse. Furthermore, many Bosniacs think that local war crimes trials have fallen short of delivering justice and feel aggrieved.
We recommend that:

- The EU pays greater attention to the situation in Sandžak in both the 2010 partnership and the MIPD; and that
- The EU calls on all government agencies in Serbia to actively promote stability in the region and good intra and inter-ethnic relations as part of the Partnership’s priorities.

1.5 Education

Education is identified by peacebuilders as being a big obstacle to lasting peace and stability in the region. Section 4.5 of this report looks at the main issues relating to education as identified by peacebuilders on the ground in each country in detail; here we only give a brief outline. Section 5.5 of this report examines the European Union’s response to education in each country in detail; here we only set out what further action we think the EU needs to take in order to address the issues surrounding education. Although there is a need for further action on the part of the EU, it must be noted that the EU is doing a great deal in this area.

1.5.1 Bosnia and Herzegovina

The two main issues in the area of education that concern peacebuilders are the practice of ‘two schools under one roof’ and the teaching of history. As well as legitimising segregation and preventing dialogue between the young people of the two communities, the practice of two schools under one roof is wasteful and expensive. The history curriculum in BiH schools is not unified and children from each ethnic community are taught from a different text book. Peacebuilders feel that how and what young people are being taught in BiH is sowing the seeds of future conflict. Peacebuilders would prefer a unified history curriculum and advocate a regional history text book.

We recommend that:

- The EU makes regional cooperation on the adoption of a regional history text book a priority of the 2010 partnership.

1.5.2 Croatia

Peacebuilders identify the practice of two schools under one roof and the teaching of regional history as their main concerns with respect to education. They also feel the introduction of basic human rights education into the secondary school curriculum along with the teaching of civic, political, economic, social, cultural and other rights are essential to a society undergoing a transition from authoritarian to democratic rule. They also see a lack of adequate university courses that provide policy level knowledge of similar issues. The effect of trauma on communication skills and socialisation in heavily traumatised areas is having a negative impact and teaching of communications skills in non-formal educational programmes is therefore seen as highly relevant and necessary.

We recommend that:

- The EU re-opens the chapter on education and culture until the practice of two schools under one roof is abolished throughout Croatia;
- The EU makes regional cooperation on the adoption of a regional history text book a priority of the partnership;
• The EU includes in the MIPD support for the non-formal education of communications skills in traumatised regions such as Eastern Slavonia;
• The EU calls on Croatian authorities to include the teaching of basic rights at secondary school level and the role of civil society in democracy; and that
• The EU works with Croatian universities to develop degree level courses dealing with civil, human and democratic rights.

1.5.3 Serbia
The main concerns of peacebuilders in this field are the teaching of languages, the lack of reform to the Serbian education system and the promotion of contemporary European values. Young Serbs have a poor knowledge of their country’s minority languages and many young members of national minorities have an increasingly poor command of the Serbian language. Such a situation is not geared to conflict prevention. Vocational training in Serbia is felt to be outdated, training young people for jobs that no longer exist. In the classroom history text books that prepare student for life in an ideological, closed and monopolistic society are still being used. On the whole, civic education and the promotion of values such as tolerance, equality, non-violence, pluralism, human rights and democratic participation is still something that is carried out by the NGO sector.

We recommend that:
• The EU makes the quality of civic and history teaching a short-term priority of the 2010 partnership;
• The EU maintains the provisions in the partnership and the MIPD regarding vocational training and the Bologna Process;
• The EU makes the teaching of languages a priority of the partnership and an area supported by provisions in the MIPD; and that
• The EU maintains the current provisions in the partnership and the MIPD concerning vocational training and the Bologna process.

1.6 Civil Society and peacebuilders
The role of civil society and the treatment of peacebuilders are also important issues that affect and to a certain extent reflect the stability of the region. Section 4.6 of this report looks at the main issues relating to civil society and peacebuilders in each country in detail; here we give only a brief outline. 5.5 of this report examines the European Union’s response to this area in each country in detail; here we only set out what further action we think the EU needs to take. Although there is a need for further action on the part of the EU, it must be noted that the EU is doing a great deal in this area.

1.6.1 Bosnia and Herzegovina
What the EU is trying to do is strengthen the role of civil society in the policy process in Bosnia and Herzegovina and is asking that civil society responds by becoming more effective and professional. The EU is involving civil society more in the preparation of the enlargement package’s documents this year. This is a welcome development and can act as an example to government at all levels in BiH. However, civil society needs to have an increasing stake in the enlargement process. An active and effective civil society that is included in the policy process is a vital ingredient for a strong democracy.

We recommend that:
• The EU includes civil society in the 2010 partnership thereby making it a partner in the enlargement process; and that
• The EU makes the inclusion of civil society in the democratic process a key priority of the 2010 partnership.
1.6.2 Croatia
The grant scheme for Croatian civil society focuses on areas that peacebuilders have identified as needing attention; however areas such as transitional justice and education are not explicitly included. Furthermore, no reference is made here to the inability of civil society to carry out ad hoc advocacy and monitoring work with EU grants. The expansion of IPA cross-border cooperation to Serbia and BiH is promising, especially in the area of transitional justice and in particular the truth-seeking and truth-telling aspects of transitional justice, which peacebuilders agree require a regional approach. An explicit reference by the EU to such activities would be welcome here. Croatian civil society needs to have an increasing stake in the enlargement process.

We recommend that:

- The EU includes civil society in the 2010 partnership thereby making it a partner in the enlargement process;
- The EU includes transitional justice and education in the civil society grant scheme;
- The EU provides more support in the MIPD for peacebuilding activities; and that
- The EU explicitly refers to transitional justice initiatives when providing for cross-border cooperation in the MIPD.

1.6.3 Serbia
The major concern of peacebuilders in Serbia is the demonization of their work by radical nationalist political parties and groups. Peacebuilders in Serbia have to endure constant verbal attacks and on occasion physical attacks. Peacebuilders also feel that the government in Serbia does not recognise the role of civil society in the policy process as a ‘normal’ democratic government would do. Peacebuilders also worry that NGOs established by political parties will be used to gain access to EU funds in the future and the line that distinguishes them is thin. As with Bosnia-Herzegovina and Croatia, Serbian civil society needs to have an increasing stake in the enlargement process.

We recommend that:

- The EU publicly denounce the attacks on peacebuilders in Serbia;
- The EU calls for greater protection for civil society organisations;
- The EU includes civil society in the 2010 partnership thereby making it a partner in the enlargement process;
- The EU continues to pursue the partnership priorities relating to civil society; and that
- The EU maintains the provisions in the MIPD supporting genuine dialogue and partnership between the Serbian authorities and civil society.

1.7 The Instrument for Pre-accession Assistance

Peacebuilders feel that measures supported under the IPA should foster peacebuilding as a precondition for political, economic and social development of the beneficiary countries. The best way to ensure this is to amend the Council Regulation establishing the IPA. Another big concern of peacebuilders regarding the programming of IPA is that difficult areas such as human rights and transitional justice will largely be excluded due to the involvement of their government in this part of the IPA process.

The technical requirements of EU grants are considered to be too complex and amount to a restriction of access to funding for many smaller organisations. The language in which applications must be made is also a barrier to access as currently all applications must be

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made in English. The lack of core funding complicates the financial situation of many organisations to a degree that they are in danger of collapse.

Finally, the feedback offered by the EU in the application process is minimal and does little to help organisations learn and although significantly improved on compared to previous years, the EU consultation strategy is still too ad hoc.

We recommend the EU make the following changes to the Council regulation establishing the IPA:

- Add the following provision to Articles 8 and 9 (components I & II): ‘Assistance under this component may also support capacity building measures to improve dialogue between civil society and government institutions’;
- Add the following provision to Articles 8 and 9 (components I & II): ‘Assistance under this component may also support peacebuilding, post-crisis rehabilitation and reconstruction’;
- Add the following provision to Article 9 (components II): ‘Assistance under this component may also support joint actions of state and non-state actors that are contributing to peacebuilding, reconciliation and the promotion of peace’;
- Add the following provision to Articles 11 and 12 (components IV & V): ‘All projects supported under this component must be conflict sensitive’.

Regarding IPA programming we recommend that:

- The EU replaces the phrase ‘civil society and other stakeholders shall be associated where appropriate’ in Title I, Article 6, paragraph 1 of the Council Regulation establishing the IPA with the phrase ‘civil society and other stakeholders shall be consulted regularly and on a systematic basis’;
- EU officials should support transitional justice when programming the IPA project fiches;
- The EU makes more regional calls for proposal in the area of transitional justice;
- Civil society is involved in the drawing up of the MIPD’s ‘action areas’.

Regarding the difficulties for civil society posed by EU funding we recommend that:

- The EU reduces the technical nature of grant applications and provide better advertised, more frequent and more accessible training to civil society organisations (CSOs) on how to make applications;
- The EU provides core funding for regional civil society networks dealing with transitional justice and human rights;
- The EU establishes a civil initiatives instrument which provides smaller grants that do not require co-financing;
- The EU allows larger well established NGOs and CSOs to issue sub-grants for local or community initiatives that cover inter-ethnic tolerance, pluralism, anti-discrimination, gender equality, democracy and multiculturalism; and that
- The EU increases the capacity of the EC delegations to manage applications in the local language and accept grant applications in both the local language and a number of other EU languages.

Regarding communication and consultations we recommend that:

- The EU holds systematic and regular consultations, sector by sector every 3 or 4 months;
- The EU holds a large, cross-cutting plenary consultation once or twice a year;
- The EU provides more detailed feedback following the narrow rejection of a promising grant application; and that
- The EU provides more frequent and accessible trainings for CSOs on how to make grant applications.
1.8 The Multi-Beneficiary MIPD

The Multi-beneficiary MIPD has the potential to provide a great deal of support to peacebuilding activities in the Western Balkans. It aims to support regional solutions to problems that cross frontiers and are best tackled through close cooperation between those affected. The first area of activity that a peacebuilder is likely to think of when considering the aim of the Multi-beneficiary MIPD is transitional justice.

Unfortunately this area is still not being addressed by the Multi-beneficiary MIPD, at least not directly. The Multi-beneficiary MIPD aims to develop regional cooperation in 11 difference fields, or areas of intervention. Two of these areas are of particular interest to peacebuilders:

Area vi) Supporting Civil Society; and
Area vii) Education, Youth and Research.

Despite the potential for peacebuilding activities contained in these areas, we feel a 12th area should be added to the Multi-Beneficiary MIPD that specifically addresses peacebuilding, transitional justice and initiatives aimed at dealing with the past.

Area vi) supports civil society in the three sub-areas of civil society dialogue, refugee return and social inclusion. Area vii) supports initiatives concerning the Bologna Process, Erasmus Mundus and intercultural youth exchanges that promote dialogue and tolerance. With the aim of promoting civil society dialogue (the first sub-area of Area vi) an IPA Programme on Civil Society has been established. No such facility has been established for refugee return, social inclusion, education or youth exchanges.

The fact that the Multi-beneficiary MIPD is targeting these areas and providing support for activities that contribute to the building of peace is very positive and the EU deserves credit here. None-the-less, we feel there are some improvements that can be made to the Multi-beneficiary MIPD. We recommend that:

- The EU establishes a 12th area of focus for the multi-beneficiary MIPD that deals with peacebuilding, transitional justice and reconciliation;
- The EU establishes within the 12th area an IPA Programme on peacebuilding Facility;
- The EU establishes within the 12th area an IPA Programme on transitional justice Facility;
- The EU establishes within the 12th area an IPA Programme on Dealing with the Past Facility;
- The EU includes within the scope of the IPA Programme on Civil Society Facility’s People 2 People Programme joint actions of state and non state actors that are contributing to reconciliation, peacebuilding and the promotion of peace;
- The EU establishes an IPA Programme on Refugee Return Facility;
- The EU establishes an IPA Programme on Social Inclusion Facility; and that
- The EU establishes an IPA Programme on Education and Youth Facility.

1.9 The impact of the Common Foreign and Security Policy in BiH

There is an intrinsic contradiction between ESDP missions (both civilian and military) in a country which is on the road to EU accession. There is also an intrinsic contradiction between the role of the High Representative/EUSR in a country which is working towards

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EU membership. The fact that the EU is present in BiH both through the ESDP pillar and through the enlargement pillar makes these contradictions visible and, in our view, calls for change. Our recommendations are as follows:

- **The position of the HR:** there should be coordination between the end of the mandate of the HR and the accession process; in other words, until such time as the role of the HR becomes unnecessary in BiH, the country should not receive candidate country status;
- **One voice for the EU:** The EU should coordinate its presence by ensuring that it is represented by one single body, chaired by the double-hatted EUSR/Head of EC delegation. The enlargement process should be the umbrella for all EU activities in the country. This comprehensive approach will ensure a maximum of conflict sensitivity;
- **Maximum of sovereignty:** Accession to the EU requires that the acceding country has ownership of its own democratic processes and structures and that there is no further need for external intervention. Only if this is a given, can BiH be seen to be deciding on accession on the basis of local ownership. The EU should ensure that the accession process does not proceed to formal candidate status until local ownership, national sovereignty and reasonable democratic cohesion within BiH are established on a firm basis.
2 Introduction

Stimulating and facilitating economic prosperity is seen by many as being the best way to avoid conflict and generally reduce social tensions - ethnic or otherwise. The EU’s approach to the Western Balkans is principally informed by this belief. This report is not an attempt to refute the merits or the effectiveness of this approach, but rather to look in detail at other methods and approaches to peacebuilding which has to complement an economic focus and which can help ensure that the peace is stronger and not dependent on economy prosperity alone.

This report aims to assess the extent to which the European Union’s enlargement process is supporting the work of local grass roots peacebuilders in the countries of Bosnia-Herzegovina, Croatia and Serbia. The report deals with 7 broad issues that concern local peacebuilders the most: Nationalism; transitional justice; returnees; regions of concern; education; civil society and peacebuilders; and the Instrument for Pre-accession Assistance. The report also looks at the Common Foreign and Security Policy’s involvement in Bosnia-Herzegovina. The report examines the response of the EU’s enlargement process to these issues and makes recommendations where it finds the need for further EU action.

2.1 The why and how of this report

2.1.1 Why this report was written

The decision to write this report was taken following a trip to the region taken by QCEA joint representative Martina Weitsch in April 2007. She met with the former Quaker Peace and Social Witness peacemakers Goran Bubalo, Goran Božičević and Zorica Trifunović. She also met and spoke with other peacebuilders. It was apparent to QCEA as a result of this visit that the EU’s involvement in the region could do more to help build peace and that the EU enlargement process represented the perfect opportunity.

However, there was also unease about the drive towards accession at the political level, both in the EU, in some of the existing Member States and in the countries concerned, as it was leading to an apparent willingness to skate over the difficult problems faced by the region following the break up of Yugoslavia. The subsequent concern is that the potential accession of the countries that have evolved from this conflict may bring both a latent conflict and unresolved issues into the EU. Therefore there is a need for the EU to be clear about how it will deal with this in a way that does not cement division.

2.1.2 How this report was researched

This report is the product of both field and desk based research carried out in 2008. The field research consisted of over 50 interviews conducted between 31 May 2008 and 8 July 2008 in Bosnia-Herzegovina, Croatia, Serbia and Macedonia. Most interviewees were local civil society peacebuilders, whilst a small number were European Commission Delegation officials. EU officials working in Brussels were also consulted as a part of the research. A full list of interviewees can be found in annex I of this report. The desk top research was undertaken in Brussels over the course of 2008.

The decision was taken to focus purely on Bosnia-Herzegovina, Croatia and Serbia once it became clear that, although related and very similar, the challenges Macedonia is currently facing are distinct from those faced by the other three countries whose problems are even more interconnected due to the war they fought during the 1990’s.

2.1.3 Who this report is for

This report is intended both for policy makers (at the EU and local levels) and for other interested readers from the region and beyond. The report is intended to strike a balance between the need for ready access to clear and evidence-based recommendations and well research background information.
2.1.4 The report’s structure

The executive summery, chapter 4 and chapter 5 are structured around the broad issues this report deals with. The issues are dealt with in the same order in each chapter to make moving between chapters as easy as possible for the reader. For example, nationalism is dealt with in sections 1.1 (the first section of the executive summery), 4.1 (the first section of chapter 4) and 5.1 (the first section of chapter 5) respectively. Chapter 3 follows its own structure because it does not deal with issues highlighted by peacebuilders. Chapter 3 looks at EU enlargement and is meant to introduce readers to the process.
3 Peacebuilding and EU Enlargement

3.1 Peace and peacebuilding

To assess the effects of the enlargement process on peacebuilding in the region we must first clarify what we mean by the term ‘peacebuilding’ and in particular its prefix ‘peace’. As highlighted by the QCEA report ‘Peace and Peacebuilding: Some European Perspectives’, many definitions exist of both words. Here we will largely follow the discussion offered in that earlier report as it provides a good introduction to some of the questions that are posed in defining these concepts.

3.1.1 Peace: some definitions

In the English language ‘peace’ is a noun which has its origins in the old French word ‘pais’, which in turn comes from the Latin ‘pax’. The Romans defined ‘pax’ as ‘absentia belli’ or the absence of war. This is a rather narrow definition of peace; however it is a definition that lies behind much of the political discourse surrounding peace and so must be taken into consideration.

Given the importance of war to the above definition it makes sense for us to look also at the term ‘war’ and its meaning. The Oxford English dictionary defines war as: 1) a state of armed conflict between different nations, states, or armed groups; 2) a sustained contest between rivals or a campaign against something undesirable.

This popular definition of peace is a negative one; that is, it consists of the absence of armed conflict, but not necessarily the absence of the underlying issues and causes of war, nor other phenomena that accompany war, such as a certain mentality or state of mind. We shall see later the importance of such phenomena when assessing the quality of peace that prevails in Bosnia-Herzegovina and examining whether or not one can describe it as being at peace.

It is also a narrow definition of peace. Wider conceptions of peace require justice. As Gandhi said, peace requires not only the absence of violence but also the presence of justice. In this context, justice can be understood as addressing the root causes of conflict in a way that is meaningful and acceptable to all parties to the conflict, potential or actual. This opens up yet more issues concerning definitions and understanding, a particular question being posed by the term ‘root causes’. However, it is not necessary for us to explore this term here.

Rather, we should conclude our brief look into the definition of peace by reminding ourselves of an approach to the concept that is arguably the very basis of Quaker work in this field. The Quaker and writer on international affairs, Sydney Bailey, described peace as a process; as a way of interacting, of behaving, of relating to others - from a personal level right through to international relations. This is a more qualitative, inclusive and all-encompassing approach to understanding peace and, when applied to the Western Balkans, it highlights the work that remains to be done there in order to achieve a lasting, qualitative and sustainable peace.

In summary, it would be useful to offer a definition of peace that the reader can refer to whilst reading this report.

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A definition of ‘peace’:
A qualitative process characterized by the absence of armed conflict, the presence of justice and a certain way of interacting, behaving and relating to others - from a personal level right through to international relations.

Peace and the EU
How important is peace to the EU? If we look at the Treaties, we find that peace has an important place among its founding principles and its current aims. The eighth recital in the preamble to the Treaty Establishing the European Community (the Treaty of Rome) signed on 25 March 1957 states that the Member States are:

‘RESOLVED by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join their efforts...’

This reference to peace is a reflection of the historical and political context in which it was written; 12 years after the end of the Second World War and in the midst of the cold war. The preamble of the Treaty on European Union (the Maastricht Treaty) signed 7 February 1992, adopted 35 years later, refers to peace in a more aggressive context, including it in a recital on the common foreign and security policy:

‘RESOLVED to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence [...] thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and the world.’

The Treaty of Lisbon (yet to be ratified) attaches an importance to peace that has previously been only latent in the ideas underpinning the establishment of the European Project but never explicitly provided for in the treaties. Under Lisbon, peace is an aim of the EU, indeed it is a principal aim, as Article 2 paragraph 1 provides:

‘The Union’s aim is to promote peace, its values and the well-being of its peoples.’

In principle Article 2 paragraph 1 of the Lisbon Treaty represents a positive development and one from which the peacebuilding community can take heart. However, much depends upon which definition of peace the EU may be using at any given moment. The definition offered in the box above requires a different approach from that offered by the Romans when it comes to its promotion.

3.1.2 Peacebuilding: Some definitions
The term ‘peacebuilding’ can be traced back to a report made by the Secretary-General of the United Nations, Boutros Boutros-Ghali, in 1992. In his report, Boutros-Ghali laid the

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foundations for two broad conceptions of peacebuilding, one being characterised by short-term measures and the other by more long-term measures.\textsuperscript{15}

The short-term approach is typical of the international community’s involvement in peacebuilding. It is usually coordinated centrally and primarily entails political intervention measures. Its aims are usually to promote good governance and measures to settle disputes as a means to establish a relatively stable situation in which the country or countries emerging from conflict do not fall back into conflict. Such actions are largely carried out by external actors who, ideally, seek the consent and support of local actors.

The long-term approach is typified by efforts made, on the whole, by local actors to promote political and economic development, and a sustainable solution to the root causes of the conflict. This entails action in the political, economic, social and humanitarian spheres in a broad, comprehensive effort that can only be carried through by a range of diverse actors. Inherent in this long-term conception of peacebuilding is an idea of diversity that emphasizes the emergence of local NGOs and an active civil society.

Implicit in this division of peacebuilding into long-term and short-term concepts is the reality that the transformation required to build lasting and deep-rooted peace is a slow and long process. However, the resources and patience of the international community and international organizations are limited. Furthermore, the prevailing attitude within the international community is that peace efforts should not be perceived by the host nation as the responsibility of others - a situation likely to emerge in the case of long-term external involvement and something the EU is demonstrably mindful of.

National ownership of any peacebuilding process is vital for its eventual success. It is doubtful whether external, short-term involvement can do anything but provide an enabling environment or an initial impetus towards finding solutions for the root causes of conflict, which should be carried out by local actors.

It is, however, often hard to find consensus about when the situation on the ground is ready for local ownership and to what extent an international withdrawal would help or hinder the local peacebuilding community. Later we shall see that the situation on the ground in the Western Balkans is complicated by issues surrounding powerful local actors and civil society and by the difficulties peacebuilders face in the form of unfavourable political pressure and a precarious financial situation.

However, at this stage it is useful to look at how peacebuilding is defined elsewhere and to which category the following definitions belong too, before then looking at how the EU approaches the term.

The UN Peacebuilding Commission
The UN Peacebuilding Commission (PBC)\textsuperscript{16} describes its mandate as follows:

‘To marshal resources and to advise on and propose integrated strategies for post-conflict peacebuilding and recovery. The PBC focuses attention on reconstruction, institution-building and sustainable development, in countries emerging from conflict.’\textsuperscript{17}

As one might expect, peacebuilding is approached by the PBC more in accordance with the first, short-term conception, with a focus on reconstruction and institution-building.


\textsuperscript{16} The Peacebuilding Commission is a recently established intergovernmental advisory body of the United Nations that supports peace efforts in countries emerging from conflict. It adds to the capacity of the International Community in the broad peace agenda. For more information visit their website at: \url{http://www.un.org/peace/peacebuilding/}

\textsuperscript{17} United Nations Peacebuilding Commission Website [online], accessed 1 October 2008. Available at \url{http://www.un.org/peace/peacebuilding/qanda.shtml}
The NATO-Russia Glossary

Another definition that fits into the short-term conception is offered by the NATO-Russia Glossary. The glossary contains a lot of useful information that can be used as a gauge of how issues of peace, security and other related matters are seen by a predominantly military community. The glossary defines peacebuilding as:

‘Post-conflict action to identify and support structures which will tend to strengthen and consolidate a political settlement in order to avoid a return to conflict. It includes mechanisms to identify and support structures which will tend to consolidate peace, advance a sense of confidence and well-being and support economic reconstruction, and may require military as well as civilian involvement.’


Johns Hopkins University

The ‘Conflict Management Toolkit’, a project of the Conflict Management Program at the Johns Hopkins University School for Advanced International Studies, suggests a definition that corresponds more with the second, long-term conception of peacebuilding:

‘Peacebuilding, or post-conflict reconstruction, is a process that facilitates the establishment of durable peace and tries to prevent the recurrence of violence by addressing root causes and effects of conflict through reconciliation, institution-building and political as well as economic transformation.’


It then goes on to list a range of tasks that might fall under the broad heading of peacebuilding, which are as follows:

- Create an environment conducive to self-sustaining and durable peace: Resolve the problems of willingness to cooperate. Social and economic transformation is paramount for the establishment of durable peace.
- Reconcile opponents: Consider the psychological and emotional components of protracted conflict and the relationships between antagonist groups.
- Address structural and social factors: Direct efforts towards transformation of the conditions that caused the conflict.
- Prevent conflict from re-emerging: Create mechanisms that enhance cooperation and dialogue among different identity groups in order to manage conflict of interests with peaceful means.
- Integrate civil society in all efforts: Include all levels of society in the post-conflict strategy. Design political transformation to include civil society in decision-making (bottom-up and top-down approaches).
- Establish mechanisms to handle issues of justice: Set up institutions that aim to avoid impunity of crimes that were committed during the conflict (truth commissions, war crime tribunals, fact-finding missions).

In the following chapters, when this report refers to ‘peacebuilders’, it is referring to individuals and activists who are involved in and contribute to one or more of the tasks listed by the Johns Hopkins University ‘Conflict Management Toolkit’ above. Such a term is inclusive of individuals or organisations promoting transitional justice, the protection of human and minority rights, the facilitation of reconciliation and dealing with the past.
3.1.3 Peacebuilding and the EU

It is important to look at the EU’s approach to peacebuilding and to determine into which category its approach falls. This will help us understand in a broader sense some of the decisions it takes and policies it pursues in the Western Balkans when we look at them later.

The Treaties

Title V of the Maastricht Treaty, which deals with the Common Foreign and Security Policy, does not refer to peacebuilding. Article 11 paragraph 3 provides for the objective:

‘to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;’

Article 11 is elaborated on by Article 17. Paragraph 2 provides the following:

‘Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis-management, including peacemaking.’

Chapter 1 of the Lisbon Treaty deals with the Union’s External Action. Article 10 A paragraph 2c provides that the EU will work to:

‘preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;’

The inclusion of the phrase ‘prevent conflicts’ is an interesting development. Chapter 2 Section 2 Article 28 B paragraph 1 provides:

‘The tasks referred to in Article 28 A(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict-prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.’

The Financial Instruments for External Action

The Financial Instruments for EU External Action over the period 2007 to 2013 mention peace and peacebuilding to varying degrees. Reference to peace and peacebuilding by these instruments is important as they form the legal basis for all expenditure on EU external action over that period and are thus an indicator of the EU’s current approach to peace and peacebuilding.

Neither word appears in the European Neighbourhood and Partnership Instrument. The Development Cooperation Instrument mentions peace once, recognising that peace and stability are, among other factors, fundamental to long-term development. The Stability Instrument mentions peace once, recognising that peace, security and stability, among


21 Ibid., Chapter 2, Section 2, Article 28b paragraph 1.

other factors, are essential for sustainable economic growth and the eradication of poverty. It also mentions the UN Peacebuilding Commission once, allowing this Instrument to be used for measures designed to implement relevant recommendations made by this Commission.\textsuperscript{23}

**Instrument for Pre-accession Assistance**

The Instrument for Pre-accession Assistance (IPA) is the EU’s main financial instrument for the pre-accession process during the period 2007-2013. It is through the IPA that the Enlargement process delivers the majority of its financial assistance to the countries currently engaged in this process. The Council regulation that establishes this instrument does not mention peace or peacebuilding once. Rather, in its scope, it refers to some of the notions that peacebuilding encompasses, such as reconciliation, confidence-building measures and institution-building.\textsuperscript{24}

One of the spheres of activity that the instrument was established to support is called ‘Cross-Border Cooperation’ which has amongst its objectives the promotion of ‘good neighbourly relations, fostering stability, security and prosperity in the mutual interests of all countries concerned, and of encouraging their harmonious, balanced and sustainable development.’\textsuperscript{25}

Whilst the regulation refers to some of the notions common to an understanding of peacebuilding, in line with the second, long-term conception, it mentions them in a context and with an approach more aligned with the first, short-term conception. This illustrates an aspect of the EU’s approach to enlargement in the region until now. Its main partners have been the countries’ governments, not local grassroots actors, hence the focus of the language being upon the countries and their inter-relations. Yet the very nature of the enlargement process necessitates a long-term involvement in order to build institutions and nurture sustainable development and a complete transition to democracy.

Indeed, as enlargement is a long-term process it is well placed through the IPA to support local peacebuilding efforts at a grassroots level. In section 3.4 of this chapter we will see that for various reasons the IPA is not currently supporting local peacebuilders as much as it could. If the EU is to realise fully its commitment to supporting local reconciliation efforts, it will have to support more activities reflecting the second conception of peacebuilding. To facilitate such support the Commission could explicitly include in the IPA’s ‘Scope’ and ‘Cross-border Cooperation’ sections: peacebuilding, confidence-building, conflict-prevention and reconciliation, in particular with relation to ‘People-to-People actions’.\textsuperscript{26}

Further aspects of this instrument will be looked at in more detail later in this chapter (section 3.4) as it is central to the enlargement process in the Western Balkans.

**European Instrument for Democracy and Human Rights (EIDHR)**

The European Instrument for Democracy and Human Rights (EIDHR) was established to enable the EU to support ‘the development and consolidation of democracy and the rule of law, and of respect for human rights and fundamental freedoms’ in non-member states, or ‘third countries’ as they are officially referred to.\textsuperscript{27}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{23} Ibid., p.6.
\item \textsuperscript{25} Ibid., Title II, Article 9, Cross-Border Cooperation Component.
\item \textsuperscript{26} Ibid., Title II, Article 9, Cross-Border Cooperation Component.
\item \textsuperscript{27} Ibid., Title II, Article 9, Cross-Border Cooperation Component.
\item \textsuperscript{28} Official Journal of the European Union, Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of
\end{itemize}
\end{footnotesize}
Although not formally a part of the ‘Enlargement Package’ the Instrument does have an impact on the process and is worth noting. Within the scope of EIDHR there is support for:

‘…measures [that] facilitate the peaceful conciliation of group interests, including support for confidence-building measures relating to human rights and democratisation.’

Although peacebuilding is not explicitly mentioned in the Regulation, such measures fall within the scope of peacebuilding. In this instance they also fall within the scope of the second, long-term conception of peacebuilding, in so far as the promotion and protection of human rights contribute to the creation an environment conducive to self-sustaining and durable peace (point one from the Johns Hopkins University ‘Conflict Management Toolkit’) and democratisation can help address structural factors that lead to the conflict (point two from the above-mentioned ‘Conflict Management Toolkit’). Furthermore, the EIDHR is designed primarily to support work carried out by civil society.

3.2 EU Enlargement: background

3.2.1 A brief history of EU Enlargement

The basic principle of enlargement and the relevant conditions were set out in the Treaty of Rome and are now contained in the Treaty on European Union in Articles 6 and 49. Article 6 stipulates that ‘The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.’ Article 49 then specifically provides for enlargement: ‘Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union.’

The first enlargement of the European Union took place on 1 January 1973. Denmark, Ireland and the United Kingdom became the first countries to join the ‘inner six’ of Belgium, France, Germany, Italy, the Netherlands and Luxembourg. All three acceding countries plus Norway had applied for membership 6 years earlier in 1967; however the United Kingdom’s application was blocked by the French President, Charles de Gaulle. This led the other three applicants to withdraw their applications. Once de Gaulle had left office the process continued and Denmark, Ireland and the United Kingdom became members. Norway would have acceded at this point too but had to drop out of the process when a referendum showed that the majority of its population opposed membership.

The 1970’s also saw the fall of right-wing dictatorships and the restoration of democracy in the southern European countries of Greece, Portugal and Spain. In 1975 Greece applied for membership and became the next country to join on 1 January 1981. Spain and Portugal soon followed, applying in 1977, and constituted the third enlargement, acceding five years after Greece on 1 January 1986. In 1987 Morocco and Turkey applied for membership. Morocco’s application was turned down by the European Council as the country was deemed not to be European. Turkey’s application was accepted; however it only received candidate country status as late as 2005.

The end of the 1980s heralded the end of the cold war and an end to German division, which saw East Germany join through unification with West Germany. Malta and Cyprus applied for membership in 1990. In 1991, negotiations with the members of the European Free Trade Area (EFTA: Norway, Sweden, Finland, Iceland, Switzerland, Liechtenstein and Austria) for an agreement to establish the European Economic Area were concluded.


Ibid., Article 2, paragraph 1, indent vii, Scope.

Prior to the signing of the Treaty on European Union on 7 February 1992 the European Union as such did not exist. Enlargement prior to this date was technically an enlargement of the European Economic Community. For simplicity’s sake the author will use the term ‘European Union’ throughout this report.
This agreement was intended to integrate these countries’ economies into the EU without giving them a role in the institutions. Indeed, some saw this agreement as a substitute for membership.

However, before the EEA Agreement had even come into force, most of the EFTA countries had applied to join the EU. Switzerland dropped out of negotiations when its electorate rejected the EEA, but Austria, Finland, Norway and Sweden stayed the course. All four held membership referenda and all but Norway’s electorate approved accession.

Thus, on 1 January 1995, Austria, Finland and Sweden became Member States and constituted the fourth EU enlargement. Whilst this process was taking place preparations were being made for the possible integration of former communist countries from Central and Eastern Europe with whom the EU had made association agreements. During June 1993 the European Council met in Copenhagen and agreed that, should they wish, former communist bloc countries would be able to begin negotiations for membership provided they met the core criteria.31

There are four so-called ‘Copenhagen Criteria’: 32

- Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- The existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
- The ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union;
- Appropriate administrative and judicial structures for implementing EC legislation.

This invitation was duly taken up. Applications were received from Hungary and Poland in 1994 and from Bulgaria, Estonia, Latvia, Lithuania, Slovakia and Romania in 1995. The Czech Republic and Slovenia soon followed with applications in 1996. The huge amount of restructuring and reform that each of these countries was faced with in order to meet the standards required for membership led the EU to sign a bilateral accession agreement with each applicant and create special ‘instruments’. The instruments took the form of contractual obligations and financial assistance with the pre-accession reform process.

The accession agreements were a contract between the EU and each applicant country and defined the relationship between them in the run-up to membership. The instruments, or pre-accession instruments as they are technically known, were designed specifically to assist the applicant countries from Central and Eastern Europe in their preparations for membership.

On the 1 May 2004 Cyprus33, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia acceded to the European Union. Bulgaria and Romania later completed the fifth and largest ever enlargement on 1 January 2007. The size and nature of the fifth enlargement posed many challenges to the EU, some of which are also found in the present enlargement process, namely the challenges that accompany a former communist country with political and economic structures that seemingly contradict the

32 They were originally threefold; however a fourth was added by the European Council that met in Madrid two years later in 1995. It was felt that a certain administrative capacity was also required in order for EU legislation not only to be adopted, but to be put into practice. The fear was that some former communist countries would not have this capacity and that EU standards, in particular its agricultural and structural policies, would suffer as a result.
33 Cyprus applied for membership in 1990 along with Malta. Both stand out somewhat from the rest of the countries that acceded in 2004.
principles laid out in Article 6 of the Treaty, which was the case with all except Cyprus and Malta, the two smallest of the ten new Member States.

However, despite certain similarities the current enlargement process is distinct and it would be an error to make strong comparisons with the fifth enlargement, not least because it involves Turkey, which has never been a communist state, but also because it involves a region of Europe that has recently experienced war and violent conflict. The current process of enlargement will be dealt with in more detail below.

First it would be useful to explore some of the reasons why enlargement is pursued and resisted.

<table>
<thead>
<tr>
<th>Year</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973</td>
<td>Denmark, Ireland and the United Kingdom</td>
</tr>
<tr>
<td>1981</td>
<td>Greece</td>
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<tr>
<td>1986</td>
<td>Portugal and Spain</td>
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<tr>
<td>1995</td>
<td>Austria, Finland and Sweden</td>
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<tr>
<td>2004</td>
<td>Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia</td>
</tr>
<tr>
<td>2007</td>
<td>Bulgaria and Romania</td>
</tr>
<tr>
<td>2010?</td>
<td>Croatia</td>
</tr>
</tbody>
</table>

### 3.2.2 Why enlarge?

Despite being a largely reactive policy, responding to requests for membership, enlargement is thought by many analysts to be the EU’s most effective foreign policy tool. The fifth and most recent enlargement has re-united a continent divided by the Cold War and brought into the European fold nations that had previously hovered on the edges of the West. The process through which Central and Eastern European countries had to pass greatly contributed to and consolidated their transition from communism to democracy, just as it had helped - some 20 years earlier - Greece, Portugal and Spain strengthen their transitions as they moved from dictatorship to democracy.

Such a transition requires a substantial amount of reform and restructuring of political, legal, administrative and economic systems, which in itself requires considerable financial resources and technical expertise. Through the conditionality of the enlargement process and the provision of resources the EU has become a major driving force behind the implementation of democratic, human rights and economic reforms. Perhaps the most commendable aspect of the enlargement process is the spread of values such as democracy, respect for human rights and the protection of minorities.

**In favour of enlargement**

Proponents of EU enlargement argue that the promotion of such values, along with the institutions and institutional practices to protect, promote and implement them, contributes to stabilising the continent as a whole and its direct neighbourhood. They point to the extension of the ‘zone of peace, stability and prosperity’ in Europe as something which has enhanced the security of all Europe’s peoples and contributed to the spread of higher standards of living as enjoyed in Western Europe.

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34 At the time of writing Croatia is expected to accede before 2012, perhaps as early as 2010. The other candidate and potential candidate countries are expected to take considerably longer.
Indeed, advocates of enlargement point out that economic benefits resulting from enlargement are enjoyed by both new Member States and old alike. EU accession is said to strengthen the economies of the new Member States through high growth in foreign direct investment, which in turn contributes to modernisation and an increase in trade. Old Member States benefit economically from the opening up of labour markets, which exposes them to competition from countries with lower production and labour costs, preparing them for the challenges of global competition.\(^{35}\)

**Against Enlargement**

However, the discussion surrounding enlargement is not completely positive and there are arguments against a larger EU. Opposition often cites the risks it can create within old Member States regarding effects on the labour market and the social and political tensions that accompany it. Some commentators have cited Enlargement as being a decisive factor in the erosion of ‘European Solidarity’. It has also increased the concern among citizens of a further lack of communication and participation in decision-making processes.

Doubts have also been raised about the positive economic impact of enlargement. Various commentators have claimed that the economies of the new Member States are too small to have a great impact on the macroeconomic aggregates of the EU as a whole and that the low GDP of the new Member States disperses the EU’s income per capita whilst it also increases the relative contributions of the older Member States.

In some quarters the process is accompanied by disquiet among officials and analysts who feel an enlarged EU will face integration problems and constitutional crises. A number consider the EU is over-stretching itself and runs the risk of exceeding its ‘absorption capacity’, leaving it unable to integrate new Member States fully into the single market and to assure strategic security. Furthermore, they argue, without a tailored constitutional arrangement the increased number of actors in the Council will lead to gridlock on difficult issues and thus obstruct effective decision-making, disrupting the institutional structure in the process. However, the fears of irresolvable disputes, constitutional gridlock, economic relocation and massive labour migration that accompanied the fifth enlargement seem to have been overstated.

**3.2.3 Why Enlargement in the western Balkans?**

‘The Western Balkans is a particular challenge for the EU. Enlargement policy needs to demonstrate its power of transformation in a region where states are weak and societies divided. A convincing political perspective for eventual integration into the EU is crucial to keep their reforms on track. But it is equally clear that these countries can join only once they have met the criteria in full.’\(^{36}\)

Although many politicians felt the rest of Europe had let the Western Balkans down in previous decades, the prospect of EU membership was not offered just in response to a sense of guilt or regret. Self-interest was a key motivating factor as it was with all previous enlargements. The Western Balkans represent untapped and eager markets. Regional stability on Europe’s south-eastern frontier is a geo-political priority that cannot be overlooked\(^{37}\) and the dominant perspective is that ‘the EU will be able to better address

\(^{35}\) Centre for Enlargement Studies, Commentary No.3, 20 December 2006, ‘A New Consensus on Enlargement’


the challenges of its internal security with the Balkan countries inside the EU and under the jurisdiction of its joint structures than outside of it.”

As with the fifth enlargement, the EU is using the prospect of accession as a lever to drive reforms on its own doorstep. As noted above, the pull of the EU helped transform Communist regimes into modern democracies and the EU hopes to repeat previous successes by tying economic incentives, peace, stability and institutional reform together.

Other commentators have highlighted other, more cultural dimensions as factors that support enlargement in the Western Balkans. Paddy Ashdown, who served as the first ‘double-hatted’ High Representative and EU Special Representative in Bosnia-Herzegovina (hereafter BiH) from 2002 to 2006, combines cultural reasons with geo-political ones in his argument for enlargement:

“We have an asset in the Western Balkans that we do not sufficiently value and that is European Islam. It is not Islam as we see it on the streets of our cities […], a generation or two generations old; it is Islam that goes back 400 years, quintessentially European in its nature. Walk down the streets of Farahadia in Sarajevo, go to the Sandžak, and you will see Europeans who have been Islamic for 400 years. This is ancient European Islam. In the dialogue of the deaf we have between ancient Christendom and modern Islam, they are a uniquely valuable asset to us, acting as a bridge. What would it be saying in that wider geopolitical dialogue that we need to have if, in the one country in Europe in which Islamic people were the largest proportion, they were rejected and left behind?”

No matter what the reasons are for enlargement in the Western Balkans, the challenge posed by the region is unique. It is a complex and diverse region that has been the subject of outside interest for many years. Struggles between great powers such as the Ottoman Empire, the Austro-Hungarian Empire and the Russian Empire often centered on the Balkans, with each power competing for control over the territory and its people. Each power promoted its own customs and religion in efforts to extend their socio-political influence. Today the religious diversity of the region continues to have an intimate relationship with the socio-political diversity and many of the longer lasting problems faced by the region have roots that stretch back hundreds of years. To be successful the enlargement process must take this into consideration and appreciate that the region is diverse, complex and unique.

3.3 The EU Enlargement process in the Western Balkans

3.3.1 The Stabilisation and Association Process: its beginnings

The EU Enlargement strategy in the Western Balkans is contained within a broader approach to the region involving stabilisation and association. Stabilisation can be understood to mean the establishment of a stable and lasting peace and stable state institutions to foster and maintain such peace. Association describes the bilateral relations between the EU and the country concerned and in this case a progressive movement by the latter towards the former in the political, economic, legal and social fields in terms of values and practices.

This approach is called the Stabilisation and Association process (SAp) and its development can be traced back to the conclusions of the general affairs Council of 26 February 1996 where the EU outlined in broad terms its approach to the region. It identified lasting peace and stability as a primary objective:

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38 Christoph Zöpel, former minister of Germany, speaking at speaking at the conference ‘Ever-Expanding Union?’ at the Central European University, 23-24 February, 2007

'Implementation of the broad approach, which must be carefully prepared through direct contacts between the European Union and the countries of the region, will be part of a gradual consolidation of peace. With this in mind, the agreements with each of the countries concerned must be designed as a substantial incentive to political stability and as an instrument for economic development and cooperation between them, between those countries and their neighbours, and with the European Union.'\textsuperscript{40}

Back then, as is the case today, the main obstacles to a lasting peace and stability in the region were shared by all the countries concerned and some had a cross-border dimension. Consequently the EU identified a regional approach as being the most fitting. In its conclusion it sought regional cooperation amongst the countries and paved the way for the creation of association agreements with each country.

The broad method of economic development and cooperation between Balkan states is also outlined here, with the incentives for such cooperation being provided by the EU. A year later the conclusions of the General Affairs Council of 29 April 1997\textsuperscript{41} signalled the next important development in relations between the Western Balkans and the EU.

Conditionality was formally introduced in the areas of financial assistance, economic cooperation and trade. Political and economic conditions had to be met in order for further development of relations in these fields to take place. The ‘carrot and stick’ approach to transforming the region was underway.

Three years later, the European Council meeting in Santa Maria da Feira on 19 and 20 June 2000 dangled a considerable ‘carrot’ in front of the region’s countries by announcing the ‘European perspective’ of all the Western Balkan countries and its intention to support their movement towards the European mainstream:

‘The European Council confirms that its objective remains the fullest possible integration of the countries of the region into the political and economic mainstream of Europe through the Stabilisation and Association process, political dialogue, liberalisation of trade and cooperation in Justice and Home Affairs. All the countries concerned are potential candidates for EU membership.’\textsuperscript{42}

Later that year the Heads of State or Government of the five Balkan countries concerned\textsuperscript{43} met the EU’s representatives in Zagreb on 24 November. The final declaration strengthened relations between these states and the EU and underlined the connection between the progress made by the countries towards democracy, rule of law, regional reconciliation and cooperation on the one hand and the prospect of possible accession to the EU on the other.

The most encouraging development from the perspective of the Western Balkans and effective confirmation of their European future came in Thessaloniki on 16 June 2003. In its Council conclusions the EU made a formal promise to the region that membership was a possibility and it set out the extent of its commitment to the Western Balkans and what it expected in return for closer integration:


\textsuperscript{43} Namely Albania, Bosnia- Herzegovina, Croatia, the Federal Republic of Yugoslavia and Macedonia.
The EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 inspire and encourage the countries of the Western Balkans to follow the same successful path. Preparation for the integration into the European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead [...]. The speed of movement ahead lies in the hands of the countries of the region. The countries of the region fully share the objectives of economic and political union and look forward to joining an EU that is stronger in the pursuit of its essential objectives and more present in the world.44

The ‘Thessaloniki Agenda’ confirmed the SAP as the policy framework of the countries’ EU course. It identified ways and means of intensifying the stabilization and association process through the establishment of new, additional, instruments, of which the most far-reaching were the European and Accession Partnerships. In short, it effectively established the current enlargement process as it applies to the Western Balkans.

3.3.2 The Enlargement process

European Partnerships
The European Partnerships are Council decisions that facilitate the move of the Western Balkan countries towards the European Union. A Partnership is drawn up for each country individually and identifies areas in which the country must take action in order to progress towards meeting the accession criteria. The areas requiring action are categorised and divided into key, short-term and medium-term priorities. The authorities of the country concerned are expected to develop a plan including a timetable and specific measures intended to address the priorities. Key and short-term priorities are expected to be completed within one or two years and medium-term priorities within three or four years.

Each Partnership is adapted to the specific needs of the country concerned and its stage of preparation. The Partnerships are updated as necessary, which has worked out to be roughly every two years. They also provide guidance for financial assistance to the country concerned and inform the preparation of each respective country’s Multi-annual Indicative Planning Document, which in turn covers the main areas of intervention envisaged by the Commission for that country (see section 3.4.2 below).

The implementation of the European Partnerships was examined through other ‘mechanisms’ established under the Stabilisation and Association process, the principal mechanism being the annual progress reports, which are written by the Commission.

Progress Reports
Progress Reports are written by the European Commission for each country in the Stabilisation and Association process and are published every November. Broadly speaking, they assess the implementation of the Stabilisation and Association process. In doing so the reports describe the relations between the country in question and the EU, they analyse the political situation in the country; assess the economic situation; review the capacity of the country to implement EU standards and examine the extent to which the country has addressed the European Partnership priorities in each of these areas.

The reports measure progress on the basis of decisions actually taken, legislation actually adopted and the degree of implementation. As a rule, legislation or measures which are in various stages of either preparation or parliamentary approval are not taken into account. The Commission claims the approach ensures equal treatment for all countries and permits an objective assessment of each country in terms of their concrete progress in implementing the Stabilisation and Association process.

44 http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm
The reports draw on numerous sources of information. The countries themselves are invited to provide information on progress made. Council deliberations and European Parliament reports and resolutions are taken into account as well as assessments made by various international organisations, in particular the contributions of the Council of Europe, the OSCE, the international financial institutions, non-governmental organisations. Since 2008 civil society in general is also consulted.

**Candidacy Status in the Enlargement Process**

The aspiring Member States of the EU are divided into two categories, with each category corresponding to the progress the country has made in implementing the SAP and to the degree of support it can thus expect from the EU. ‘Potential candidate countries’ belong to the first and less advanced category or ‘status’, whereas ‘candidate countries’ belong to the second, more advanced status.

Both Candidate and Potential Candidate countries have available to them the four technical assistance instruments the EU employs. Technical assistance is provided to complement the financial assistance delivered by the IPA and can also be divided into two categories, or types. The first type of technical assistance concerns the transfer of ‘know-how’ and the second concerns ‘physical investments’. Both types of technical assistance target the country’s administration and judiciary with the aim of assisting modernisation.

The most significant difference between the two is the level of financial support each receives from the EU through its Instrument for Pre-Accession Assistance. The potential candidate countries have available to them two of the five components that compose IPA, whereas Candidate countries are able to access all five components. IPA will be explored in more detail below in section 3.4 of this report. The most important point to make here is that Candidate countries receive more aid.

This distinction made in a country’s status thus has three broad objectives:

- to acknowledge the country’s readiness to step up its European integration;
- to reward the progress it has made in the SAP; and
- to act as both an incentive and example to other, less advanced, aspiring Member States.

The later objective is crucial to the carrot and stick method employed by the EU.

**Stabilisation and Association Agreements**

The Stabilisation and Association Agreement (SAA) is essentially a contract between the EU and the country in question. It is described as ‘the centre piece of the Stabilisation and Association Process’ by the Commission and it formally creates a relationship of mutual rights and obligations. The potential candidate country enjoys a series of economic benefits as the European market is opened up to specified sectors of its economy, boosting external trade. Visa-free travel and improved arrangements for university students to study in and travel to the EU are also regularly referred to as positive aspects of the SAAs.

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45 At the time of writing the Potential candidate countries consisted of Albania, Bosnia and Herzegovina, Kosovo (under UN Security Council Regulation 1244), Montenegro and Serbia.

46 At the time of writing the Candidate countries consisted of Croatia, Macedonia (aka FYROM, Former Yugoslav Republic of Macedonia) and Turkey.


48 Physical investments consist of assistance with investments in infrastructure vital to the implementation of the ‘aquis’.

49 See ‘The main components of the Stabilisation and Association process’ on the Commission website at: [http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/history_en.htm#sap_agreement](http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/history_en.htm#sap_agreement)
The SAA also contributes to the pre-accession preparations of the country by introducing EU values and standards across a whole range of policy areas, ranging from human rights to market regulations, well ahead of accession. It differs from the European and Accession Partnerships in that the Partnerships are Council decisions that identify short- and medium-term priorities for reform, whereas the SAA is a contract that sets the broad standards to which the country must aspire and, in the case of some Balkan countries, will act as an important framework for society as a whole as democracy takes deeper roots and it moves towards Western Europe.

The SAA has a significant political value and the discourse that surrounds the agreement reflects this. Described as ‘the choice for Europe made by the Western Balkan countries and the membership perspective offered to them by the EU’, the SAA has been used by both EU and Balkan political strategists as a tool to further their mutual and respective interests. The offering of an SAA to Serbia two days before the country's parliamentary elections in spring 2008 is widely thought to have had a critical impact on the outcome, with Boris Tadić’s bloc, ‘Coalition for a European Serbia,’ registering a marginal and unexpected, victory.

However, some commentators have argued the use of the SAA in this manner betrays the supremacy of political interests over what is presented as and is thus supposed to be a technical process. The interface between the technical and the political is blurred and potentially dangerous for the process as much of its ‘pull’ depends on rewards for meeting strict conditionality. In the case of Serbia it appears the EU felt that it was better to have Serbia signed up to an SAA than to leave it brooding dangerously on the outside and drifting further away from Europe and its values.  

Indeed, Sonja Biserko of the Helsinki Committee for Human Rights in Serbia welcomed this move by the EU. She believes the SAA will provide the framework that human rights organisations and peacebuilders need to improve conditions in Serbia. Many other peacebuilders lamented the perceived softening of the EU’s stance on compliance with the ICTY at the time.

Other potential candidate countries have complained about the favourable treatment Serbia is thought to have received despite not delivering on conditionality. This perceived injustice can dissipate the positive tension that binds a country’s political will to the process and maintains its momentum. The worst case scenario would be that the process as a whole is brought into question. So the balance between tailoring the process, maintaining its technical character and ensuring that it is flexible enough to respond to political dilemmas is clearly a difficult one to strike.

Accession Partnerships
When the EU Council decides to open accession negotiations with a candidate country the European Partnership is replaced by an Accession Partnership. For example, the EU opened negotiations with Croatia on 3 October 2005 and on 20 February 2006 an Accession Partnership was produced to mark this advance. An Accession Partnership functions in the same way as a European Partnership.

Candidate country status and accession negotiations
Once the EU Council is satisfied that sufficient progress has been made by a potential candidate country it grants it the status of ‘candidate country’. In theory the progress towards accession accelerates at this point as the country has all five components of the Instrument for Pre-Accession Assistance available to it and thus more support for the necessary reforms.

50 ibid.
If the Council agrees to open membership negotiations, monitoring will continue in the form of progress reports and a ‘negotiating framework’ will be agreed. This document acts as the framework for the accession negotiations and lists 35 different areas or ‘chapters’ in which the candidate country must align its laws with the EU’s.\textsuperscript{52}

The negotiations start with a ‘screening process’ carried out by the Commission. The screening process is a careful and very detailed analysis of the legislation of the Candidate country, for the purpose of identifying the existing differences between the country’s own law and EU law that will need to be corrected. Once the Commission is satisfied that it has sufficient information, a recommendation is made to open negotiations on the chapter in question.

The candidate country then adopts EU law accordingly and integrates this into national law and in so doing it meets the EU’s ‘benchmarks’ for the chapter. When the Commission considers the benchmarks have been met the Council of the European Union must then unanimously agree to close the chapter.

The main purpose of the negotiations is to ensure that the Candidate country is able to adopt and implement EU law by the time of accession, not in order to accede.\textsuperscript{53} In some cases, where specific difficulties make it impossible to apply EU law fully from the date of accession, the EU can accept transitional arrangements. However, the EU is quick to add that ‘such arrangements must be limited in scope and duration.’\textsuperscript{54} New Member States have in the past been able to phase in their compliance with certain laws and rules by a date agreed during the negotiations.

Throughout the negotiations and up to accession, the Commission monitors the actual progress made by a candidate country in preparing for accession. The Commission informs the Member States and the candidate country of its assessment on a continuous basis, and regularly publishes reports. This monitoring is an integral part of the accession process as progress in the negotiations needs to go hand-in-hand with progress on the ground. All the chapters have to be closed before candidate countries can move to the final stage of the stabilisation and association process.

\textsuperscript{52} The EU’s body of existing law that new Member States must adopt as a precondition for accession is called the ‘aquis communautaire’ or often just ‘the aquis’ for short.

\textsuperscript{53} Which in the final analysis is a political decision.

\textsuperscript{54} See ‘Croatia becomes a candidate for EU membership’ on the Commission website at: \url{http://ec.europa.eu/enlargement/pdf/croatia/croatia04_14-06_en.pdf}
Flowchart 1: The Stabilisation and Association Process

- Association Agreement
  - European Partnership
    - Potential Candidate Country
      - Stabilisation & Association Agreement
        - Candidate Country
          - Opening of Negotiations
            - Screening
              - Open Chapter
                - Accession Treaty
                  - 35 Chapters
                    - Close Chapter
                      - Ratification
                        - New Member State
        - MIPD’s
          - • IPA Components I & II
            - • Technical Assistance
                - MIPD’s
                  - • IPA Components I, II, III, IV & V
                    - • Technical Assistance
                        - MIPD’s
The Accession Treaty and Post-Accession Assistance

If all goes well, the final stage of the process sees the candidate country accede to the EU. The results of the negotiations are incorporated in a draft Accession Treaty, which is agreed between the Council and the acceding country. The draft is then sent to the Commission for its opinion and to the European Parliament for its assent. Once signed, the Treaty is then submitted to the Member States and to the acceding country for ratification. Depending on the constitutional requirements in each country, this usually involves an act of the national parliament, preceded in some cases by a referendum.

Once the ratification process is complete and the Treaty takes effect, the acceding country becomes a Member State. The new Member State may then benefit from the Transition Facility which provides a continuation of financial assistance for areas requiring further reinforcement. Such areas are identified in the last Comprehensive Monitoring Reports made before the country accedes. Assistance is then implemented under the Extended Decentralised Implementation System (EDIS), a modified version of the system put in place under IPA and described briefly in the following section.

3.4 The Instrument for Pre-accession Assistance (IPA)

3.4.1 Brief outline

The Instrument for Pre-accession Assistance (IPA) is EU enlargement’s main financial instrument for the pre-accession process during the period 2007-2013. It is through the IPA that the EU enlargement process delivers the majority of its financial assistance to the countries currently engaged in this process. Broadly speaking, the assistance the IPA provides is intended to help candidate and potential candidate countries make progress in the Stabilisation and Association process and, ultimately, meet the Copenhagen criteria (see section 3.2.1) and thus be ready and able to accede to the European Union. Or in other words, the IPA helps candidate and potential candidate countries introduce the necessary political, economic and institutional reforms needed in order to complete their transition to free market democracies that meet the EU’s standards.\(^{55}\)

The instrument’s designers have tried to make the IPA more flexible than previous EU instruments utilized during prior enlargements, so that it responds better to the specifics of each country. Meanwhile, it is also intended to be more coherent than previous instruments as it marshals several components that address different issues under one single structure.\(^{56}\) The total amount of pre-accession funding set aside by the EU under the current financial framework (2007-2013) is €11.5billion.

‘Assistance under the IPA can take, inter alia, the form of investment, procurement contracts or subsidies; administrative cooperation, involving experts sent from the Member States; action by the Community acting in the interest of the beneficiary country; measures to support the implementation process and management of the programmes; and budget support (granted exceptionally and subject to supervision).\(^{57}\) A key focus of assistance is to ‘support political reform, in particular institution-building, strengthening the rule of law, human rights, protection of minorities and the development of civil society.’\(^{58}\) To achieve this, the IPA delivers support through five ‘components’, each having a general focus within which a multitude of activities fit.

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\(^{55}\) In this respect Turkey is an exception in the current enlargement process as it is not under going a transition from communism to democracy, unlike the countries from the Western Balkans.

\(^{56}\) In doing so it replaces previous enlargement programmes such as Phare, SAPARD, ISPA, Phare CBC and CARDS.


Components I & II are available to candidate and potential candidate countries. They focus on:

- Component I: ‘Transition Assistance and Institution-Building’;
- Component II: Cross-Border Co-operation (with EU Member States and other countries eligible for IPA)*.

The remaining three Components are only available to candidate countries. They focus on:

- Component III: Regional Development (transport, environment and economic development);
- Component IV: Human Resources Development (strengthening human capital and combating exclusion);
- Component V: Rural Development.  

### 3.4.2 Structure

There are three parts to the overall structure of IPA; the political framework, the budgetary process, and the delivery of pre-accession aid (see flowchart 2, below).

#### IPA Political framework

The political framework of the IPA is in line with the general policy framework for pre-accession, which is broadly defined by the European and Accession Partnerships (see section 3.3.2 above). Within the broad framework that the Partnerships put in place the Commission produces an annual Enlargement Package, which is composed of an Enlargement Strategy Paper and the annual Progress Reports.  

As stated in section 3.3.2, the Partnerships identify priorities for action in order to support the country’s move towards the European Union. The priorities are divided into short-term priorities, which are expected to be completed within one or two years, and medium-term priorities, which are to be completed within 3 or 4 years. Importantly, the Partnerships also provide guidance for financial assistance to the country concerned. In other words, any pre-accession assistance provided through the IPA, be it technical assistance or the programme of calls for project proposals, must fall within the priorities the Partnerships identify.

Given this, it is important for peacebuilders advocating the inclusion of a particular issue to engage with the EU during the drafting of the Partnerships. The next Partnerships are likely to be adopted early in 2010, consequently 2009 will be an important year for advocacy on this.

#### IPA Budgetary process

The next part of the IPA’s structure is the budgetary process. The first stage of the budgetary process and the link between the process and political framework is the ‘multi-annual indicative financial framework’ (MIFF). The MIFF is based on a rolling three-year programming cycle and represents a financial translation of the political priorities set out within the political framework. Essentially, it takes the form of a table presenting the Commission’s intentions for the allocation of funds for the three-year period, broken down by country and by component, on the basis of the needs and the administrative and

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management capacity of the country concerned and its compliance with the Copenhagen criteria. All of these are assessed by the mechanisms of the political framework. The next stage in the budgetary process is represented by the ‘multi-annual indicative planning documents’ (MIPD’s), which are established for each beneficiary country and cover the main areas of intervention envisaged by the Commission for that country. The MIPD sets out priorities for action that are more specific than those outlined in the Partnerships and it presents the priorities under the corresponding IPA component.

Component-by-component, the MIPD gives a brief overview of the current situation in relation to each component’s concern. It specifies the major areas of intervention, the main priorities, the expected results of any actions, followed by the forms of assistance to be provided and finally the financial indications. The financial indications offer a breakdown of how much of the component’s ‘envelope’ will be set aside for each identified area of intervention and serve as the basis for annual programming of EU funds under IPA. Henceforth, the MIPD is a strategy document that acts as the bridge between the MIFF and action on the ground.62

The priorities in each MIPD are identified by means of a three-stage process. The first stage is undertaken by experts from Brussels and local experts either from the local government or consultants hired by the government to work for them and represent them. In the second stage, the priority, which will have a more concrete form than the broader priorities laid down by the Partnerships, is then shared with civil society experts. Civil society in general is not consulted at this stage. The experts are invited to make written comments which will be considered before the final decision is taken to include it in the MIPD.

Complementing the MIPD is the Multi-Beneficiary MIPD. It has been developed to tackle issues that the MIPD, which deals with national issues, is not well placed to, such issues with a cross-boarder dimension. It does so by ‘facilitating networks’ and establishing ‘harmonised approaches’.63 In doing so it aims to develop regional cooperation in a specific set of fields, namely:

i) Regional Cooperation;
ii) Infrastructure development;
iii) Justice and Home Affairs;
iv) Internal market;
v) Public Administration Reform;
vi) Supporting Civil Society;
vii) Education, Youth and Research;
viii) Market Economy;
ix) Nuclear Safety and Radiation Protection;
x) Interim Civil Administrations; and
xi) Administration.64

About 10% of funds set aside for the IPA will be allocated through the Multi-Beneficiary programmes. Programming is carried out by Commission staff who consult the relevant Beneficiary ministries, Civil Society Organisations, International Financial Institutions, DG Enlargement and the relevant EC Delegations. Multi-Beneficiary programme assistance is provided through Component I of IPA.

**IPA delivery through components**

The IPA delivers the pre-accession aid it provides through the five Components outlined above. Of the five, Component I stands out as it accounts for over 50% of IPA funds.

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64 Ibid., p.6
Component I focuses on transition assistance and institution-building. In general this means support for coping with the political requirements of the Stabilisation and Association process, support for further developing candidate countries' socio-economic environment, and finally for complying with European standards. This takes the form of projects that:

- Develop democratic institutions;
- Assist the reform of public administrations;
- Strengthen the rule of law;
- Reform of the judiciary;
- Fight corruption;
- Reform the police;
- Promote human rights and the protection of minorities;
- Promote anti-discrimination;
- Support civil society;
- Work with the media.

For candidate countries ‘implementation of the ‘acquis communautaire’ must also be added to this list.65

Support is also provided to put in place a ‘Decentralised Implementation System’ to manage EU funds in the future (such as Components III, IV and V, or the European Regional Development Fund, the Cohesion Fund, the European Social Fund and the CAP), either as candidate countries or fully fledged Member States. The EU also provides technical assistance in the form of long-term and short-term secondments of EU Member State experts to help with the institutional and administrative capacity of the beneficiary’s administrations through the transfer of knowledge.

Component II deals with cross-border cooperation at borders between candidate and/or potential candidate countries and between them and the EU Member States. This means support for projects that have a cross-border dimension such as people-to-people actions or exchanges to intensify contacts at local level among citizens from either side of the borders, or small infrastructure projects to improve potential for tourism or local transport and communication. It also means support for environmental projects that have cross-border dimensions.

This Component also supports projects that involve cooperation among local and regional authorities, associations, NGOs and enterprises from neighbouring regions that enhance the economic and social development of border regions. Cross-border cooperation on actions to address risks and threats to border security and organised crime is also supported.

Components III, IV and V mirror specific EU funds that are available to Member States. These Components are designed to help prepare beneficiaries so that on accession they have the capacity to manage EU funds correctly and effectively. Component III deals with regional development and entails measures similar to the European Regional Development Fund and the Cohesion Fund. Component IV develops human resources and is similar to the European Social Fund, whilst Component V focuses on rural development and prepares beneficiaries for the Common Agricultural Policy or ‘CAP’.

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65 The acquis communautaire, or sometimes simply ‘the aquis’, is a term used to refer to the total body of EU law accumulated thus far.
Flowchart 2: Overall structure of the Instrument for Pre-accession Assistance

Potential candidate countries

- European Partnership

Candidate countries

- Accession Partnership

MIFF
Multi-annual Indicative Financial Framework

MIPD
Multi-annual Indicative Planning Document

- Component I
- Component II
- Component III
- Component IV
- Component V

Multi-beneficiary MIPD

Cross-border aspects of Component I

IPA

Political Framework

Budgetary Process

Delivery of Pre-accession Aid
IPA Management
A central aim of the enlargement process is to prepare the countries for the responsibilities of EU membership. When countries become Member States they will need the administrative and financial capacity to manage the funds to which membership will give them access. Consequently, EU funds are managed locally, that is, carried out by an appropriate department of the beneficiary country’s administration. With this in mind, all five Components of the IPA are eventually managed locally by the beneficiary country’s administrations so that the necessary technical capacities are developed.

However, if an adequate ‘Decentralised Implementation System’ (DIS) has not been put in place (by actions under Component I) management of the IPA Components will be carried out by the Directorate-General for Enlargement in Brussels, the European Commission’s Delegation in the country concerned or a combination of the two. Naturally this is not an ideal solution as Candidate and Potential Candidate countries must eventually acquire the technical capacity to manage these funds if they are ever to become Member States. Indeed, ‘local ownership’ of the enlargement process is a feature of the 6th enlargement and ‘learning by doing’ is an important aspect of the EU’s approach to capacity-building.

In theory the IPA model appears to be a very good one and has successfully incorporated lessons learned from previous enlargements. However, some peacebuilders in the region feel it does not sufficiently take the reality on the ground into consideration. A case in point is Bosnia-Herzegovina and the problems its Department for European Integration (DEI) faces. The DEI in BiH functions at a State level not on a federal, or ‘Entity’ level. The political situation in BiH is such that the DEI cannot gather the necessary information about the situation in the country in order to take up its role in the IPA structure specifically and the Enlargement Process in general.

The Republika Srpska (one of BiH’s two Entities) refuses to cooperate with the DEI. To do so would be to recognise implicitly the validity of the State of Bosnia-Herzegovina, something which contradicts the Entity’s central political objective, which is secession and independence. Consequently, BiH relies heavily on European Union documents such as the MIPD, the annual Progress Reports and the Commission’s Enlargement Strategies. If this problem is not dealt with it will be very hard for BiH to make progress in the Enlargement process as it is currently structured.

IPA Programming
An important aspect of managing the IPA is programming the calls for project proposals issued under each Component. This aspect of the IPA has also caused peacebuilders in the region concern, for various reasons which will be explored further below. First, it would be useful to look briefly at how project programming works under the IPA.

Project proposals are programmed over three stages. The first stage is for an official or team of officials in the beneficiary country’s administration (usually working in a department responsible for European integration) to produce 22 project ideas which they then turn into project proposals, or ‘project fiches’ as they are technically known. The next stage is for the project fiche to be presented to a programme management committee consisting of officials from the beneficiary country’s department responsible for European integration and officials from the European Commission’s delegation in that country. The committee makes a quality check to ensure the project fiches are in line with the country’s MIPD. The priorities identified by the MIPD are quite broad, so programming enjoys a relatively wide scope. Once approved by the committee the fiches are then sent to Brussels for a final check by DG Enlargement. At the third stage a discussion takes place as to how much of the funds set aside for the Components should be allocated to each of the projects they cover. The Commission delegation produces the final figure.
Peacebuilders across the region have noticed some flaws in this part of the IPA structure. In BiH the State does not have the capacity to fulfil its role in the programming. Owing to the country's political situation the officials responsible for IPA programming (Special Programming Officers) are unable to effectively consult vertically as lines of communication with one of its federal Entities, the Republika Srpska (RS), are blocked. What is more, the RS has established identical structures to those of the BiH with a view to programming at an Entity level in the future and thereby instrumentalising the IPA and undermining the BiH State. This problem must be dealt with if BiH is to make progress in the Enlargement process as it is now structured.

In Croatia peacebuilders are concerned about the time it takes for issues to pass through the programming process. They have noticed that concerns they raised several years ago are only now beginning to be addressed by the IPA through calls for proposal. Whilst they are encouraged by the fact that their opinions have been heard, they are dismayed by the slowness of response.

Serbian peacebuilders are concerned by the levels of corruption they see in their governments, which they feel may lead to grants being made essentially to organisations with close connections to the political parties and politicians. They also fear the decentralisation of funding under the IPA will financially ruin organisations involved in the promotion of human rights and transitional justice as such organisations tend to be critical of the government.

Indeed, peacebuilders from across the region express this concern. They feel that their governments are not sufficiently serious about human rights and transitional justice and that this would lead to fewer calls for proposal in these areas. They feel that regional calls for proposal dealing with transitional justice are needed and see little chance of them being issued without a strong commitment to such projects from the EU.

**The Impact on civil society of the move to EU funding**

For various reasons and in several ways the IPA is having a strong impact on civil society in the Western Balkans. The region's peacebuilders and civil society organisations have been largely sustained since the war by international donors. These donors are now dramatically reducing or closing down their civil society programmes, leaving local organisations with fewer options for funding. As international donors pull out, the EU steps in and brings with it a new set of conditions and standards regarding grants, consultations and communication. The EU’s approach to civil society consultation and communication will be dealt with further below. At this point it is useful to look at some of the ways in which the conditions that surround funding under the IPA are affecting civil society.

Peacebuilders and civil society in general have enjoyed good access to a wide range of funding from a diverse set of international donors. The process of acquiring funds from many of them is much more straightforward but also much less transparent than that laid down by the EU. International donors offered core funding as well as project-by-project support and knew from experience which local peacebuilders were carrying out the best work.

Grants were also issued to larger civil society organisations in order for them to issue subgrants for small-scale grassroots civil initiatives taken up by local interest groups on a voluntary basis to improve an aspect of their lives or community. On the whole the support afforded to peacebuilders was very flexible and responded quickly to the situation on the ground. It also enabled peacebuilders to carry out work that entailed ad hoc advocacy and monitoring work, which can be necessary for any organisation following war crimes trials. In many respects the programmes supported by the international donors catered to and fostered a creative approach to civil activism.

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66 Such as the Swedish International Cooperation Development Agency (SIDA), the Norwegian Agency for Development Cooperation (NORAD), the Danish International Development Agency (DANIDA) and many other development programmes run from national embassies in the region.
Unfortunately the international donors approach also catered to a less savoury form of creativity as grants were being issued to organisations that consisted of little more than 'two men and a computer'. Accusations of corruption are something the EU has had to deal with in the past and a great deal of effort has gone into making the issuing of its grants as transparent as possible. The same cannot be said of most other international donors. The EU’s approach has inevitably led to a narrowing of access to funding for organisations that do not meet its strict criteria. Peacebuilders in the region are divided on this issue as many see the EU’s technical requirements as stifling creativity and the overall process as too cumbersome to adequately respond to the situation on the ground. However, others see the conditions as a means of putting the less scrupulous organisations out of business and welcome this prospect.

On the other hand, all peacebuilders agree that the EU’s policy of not providing core funding is having a negative impact upon their work. Core funding enables an organisation to take care of survival questions such as paying staff wages and coping with a failed project proposal. Indeed, it allows them to be organisations rather than project delivery vehicles. If an organisation can not pay its staff it runs the risk of losing them and the institutional memory they represent; this, in turn affects the organisation’s capacity and performance in project delivery. It also encourages a donor-driven approach of following the money rather than pursuing a strategy based on needs on the ground.

Adding to the difficulties faced by peacebuilders seeking a grant from the EU are the co-financing requirements. EU policy is to supply between 80 and 90% of the grant with the remaining percentage to be provided by the applicant organisation from another source. Often the sums of money involved are too high for any NGO. Thus they seek funding from other sources that often have their own set of conditions, which do not always dovetail with those of the EU. Such complications are at best time-consuming and stressful. At worst they can lead to financial ruin. The basic principle that underlies this policy decision is that money is spent more wisely when a project is co-financed and that the organisation’s ownership of the project is greatly enhanced, which simultaneously acts as a type of guarantee.

Another difficulty many peacebuilders face is the language in which they have to make grant applications. The application process is in English which makes it considerably harder for local actors with limited knowledge. The use of non-EU languages does indeed have its drawbacks however, the key one being that there is some dispute over what the local language is and how many languages there are. There is also an issue of capacity within the EC delegations and DG Enlargement. It is unlikely that there are enough officials sufficiently fluent in the local language(s) to quickly and efficiently work through all the applications they receive. What is clear is that the current set-up favours international NGOs and those local NGOs that have access to good English-speakers.

Finally, the complex technical requirements of the application process are also placing a strain on organisations’ resources as peacebuilders are spending more time on grant applications and less time on delivery. This has led some organisations to restructure themselves internally with the hiring of a full-time fundraiser and the assignment of more strict roles within the staff structure.

This internal professionalisation of civil society organisations is mirrored externally as civil society as a whole is restructured by the loss of organisations unable to adapt to the changing conditions. It is not clear whether this is a conscious or coincidental effect of the IPA, but it is clearly taking place.
Consultations & communication
In recent months there have been some changes in the EU's approach to civil society consultations. Large conferences took place in Brussels and Ljubljana and a systematic consultation of all civil societies regarding the progress report for 2008 has also taken place. This is markedly different to previous years and many peacebuilders welcome this development. However, peacebuilders feel the EU's consultation strategy needs to be more systematic and implemented sector-by-sector. In this way, they feel, NGOs can plan in advance their regular contributions to the consultations and progress will be made more quickly. Many advocate sectoral consultations every three to four months with a large cross-cutting plenary consultation once or twice a year.

Peacebuilders feel the EU should look at civil society as a real partner for the future and they think that the EU should consider more concrete provisions in the Partnerships to support civil society as an integral part of a democratic society. Some peacebuilders feel civil society is already present in the Partnerships, just not explicitly mentioned. Such a policy would act as an example to governments that still do not sufficiently recognize the place of civil society in decision making. The EU has made some steps in this direction by asking that any document prepared by the government should be prepared after consultation with the relevant civil society stakeholders.

Conversely, the EU’s communication strategy in the region has not moved forward this year. Many organizations trying to adapt to the new financial environment need more feedback on failed applications to help them better understand the application process. More training on how the IPA functions and the right way to put an application together would not only improve access to IPA funding but increase the level of understanding of both the IPA and the EU in civil society as a whole.
4 The situation on the ground

Background: From Tito to Dayton

It is popular belief that Josip Broz Tito's policies of a rotating presidency and the ruthless purging of nationalism within the Yugoslav Federation are what kept the country from falling apart and that once Tito had died the Federation's disintegration was inevitable. However, some historians point to Tito's shrewd playing-off of one side against the other in order to maintain his own position and argue that nationalism was only stamped on when it became a threat to him. Peacebuilders in the region today feel that under Tito, Yugoslavia failed to adequately address ethno-nationalism and that if the atrocities of the Second World War been dealt with properly the region might have been spared the extremities of the break-up's violence.

Tito died in 1980 and the following decade saw a revival of the idea of a 'Greater Serbia'. Demands in Kosovo from its ethnic Albanian population for more autonomy led to a brutal response from the Serbian authorities, who were loath to see the power of Belgrade diminish, especially in Kosovo. The key to the region's significance is its importance to Serbia's national psyche. Within its territory lies Kosovo Polje, the site of the Serbs' defeat by the Ottoman Turks in 1389. This battle and date have strong symbolic and mythical qualities and encapsulate the Serbian belief that they, as a nation, have saved Christendom from ‘the tides of Islam’. Such is the reading of history adhered to by nationalist historians and politicians.

The plight of Kosovo's Serbs was taken-up by Serbian intellectuals and in 1986 the Serbian Academy of Arts and Sciences (SANU) published a now infamous memorandum. The document asserted that Serbia had suffered economic discrimination within the Yugoslav federation, especially in relation to the more prosperous Republics of Croatia and Slovenia. However, the Memorandum's greatest concern was directed towards the Serbs of Kosovo. The report referred to the genocide of Serbs by Albanians and to crimes including arson, murder, rape, and necrophilia. But it also insisted that Serbs in Croatia had never been in greater danger since WWII and that the resolution of their national status should be a top priority. The notion of unifying all ethnic Serbs in a single state was advocated and the project of a 'Greater Serbia' was reborn.

This paved the way for Slobodan Milošević, who used this notion of threat and nationalism put forward by the SANU Memorandum as a platform in his bid for the leadership of the Serbian League of Communists. The idea that their fellow Serbs were being widely discriminated against was systematically instilled into the Serbian people who were encouraged to see themselves as victims and subsequently made to feel afraid. In February 1989, the Serbian Republican Assembly amended its constitution and revoked the autonomous status of Kosovo and Vojvodina. This display of Serbian nationalism, coupled with the use of force in Kosovo, generated apprehension within the other Republics.

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69 The atrocities committed by the Fascist Ustasha regime during WWII were used to scare Serbs into mistrust and hatred of Croatians during the late 80's and into the 90's.
70 M. Glenny (2001) p.625
71 Vojvodina is an autonomous region that constitutes the north of Serbia.
The immediate origins of the war arose in early 1990 when Serbia and three of the other five republics failed to reach an agreement concerning the structure of the federal government. The Republics of Slovenia, Croatia and Bosnia and Herzegovina (BiH) sought a loose confederation in order to exercise greater autonomy and increased political pluralism. Serbia, on the other hand, wanted a more centralised federation in order to maintain its dominant role. As a result of this deadlock the leaders of Croatia and Slovenia walked out, promising to hold multi-party elections as soon as possible.

Later that year elections were held across the various republics of Yugoslavia. In Croatia, the nationalist Franjo Tudjman came to power. His policies complemented the rhetoric emanating from Belgrade and generated immense fear amongst the half million or so Serbs who lived in Croatia. In Serbia, Milošević won and became president. In BiH, Alija Izetbegović was elected, whilst in Slovenia, Macedonia and Montenegro, Milan Kučan, Kiro Gligorov and Momir Bulatović were respectively elected. These elections marginalised the Yugoslav federal structure. Later, the revolving presidency essentially collapsed in May 1991, when the Serb President, Borisav Jović, refused to stand aside for the incoming Croat President, Stipe Mesić.

Throughout 1990 and 1991 tensions between ethnic Croats and ethnic Serbs increased dramatically, encouraged and stirred up by the policies and rhetoric of Tudjman and Milošević. Regions in Croatia where the population was predominately Serb began to respond to discrimination with threats of referenda on independence. Violent confrontations took place in the Croatian regions of Western Slavonia and the Krajina, whilst the Serbs of Knin declared independence and were openly supported by Milošević. A number of people, civilians and police, were killed across the regions over this period.

Slovenia and Croatia finally declared their independence on 25 June 1991. In response to the Croatian vote for independence, Serbs living in Croatia's Krajina region established a Serbian National Council and scheduled an August referendum on their secession from Croatia. On 27 June the Yugoslav National Army (JNA) moved to secure Yugoslavia's international boarders in Slovenia and fighting broke out between the JNA and the provisional Slovenian militia. The war was short-lived and was brought to an end by the Brioni Agreement negotiated by the EC and Yugoslavia and signed on 7 July 1991.

The conflict between Slovenia and the Federal Republic had lasted for 10 days. However, violence had erupted elsewhere within the former Yugoslavia by late June as Serbian irregular forces, with the help of the JNA, mounted an attack on the town of Osijek in Croatian Eastern Slavonia.

On 27 August 1991, the EU indicated that it would not recognize any border changes resulting from the conflict. The EU also denounced the military support that the JNA had provided to the Serbian minority within Croatia and called upon the parties to agree to arbitration. On 1 September 1991, a cease-fire agreement was reached. The agreement, however, did not last long. The truce collapsed when JNA and Serb irregular forces launched attacks on Croatian towns in Dalmatia, as well as on the city of Vukovar. The fighting intensified throughout September 1991.

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72 Roughly 12% of Croatia's population at the time.
74 The European Troika consisted of foreign ministers from three EC countries: Hans van den Broek (Netherlands), Jacques Poos (Luxembourg) and João de Deus Pinheiro (Portugal). The agreement is available at: http://www.pcr.uu.se/gpdatabase/peace/Yug%2019910712.pdf
On 15 January 1992 the EU recognised Slovenia and Croatia, turning what had been a civil war into an interstate conflict with international recognition. There had been much debate within the EU over whether to recognise the independence of Croatia and Slovenia. Britain and France opposed such a move, arguing that it would stir a hornet’s nest, whilst Germany, which has long-standing historical ties with Croatia, was in favour. Germany’s will won out and the remaining republics were offered the possibility of independence, subject to a referendum.

Roughly eight months after the JNA’s skirmishes with the provisional Slovenian militia, the war came to Bosnia following its declaration of independence on 1 March 1992. Bosnian Serb leaders responded to the declaration by approving a constitution for a Serbian Republic of Bosnia and Herzegovina on 27 March 1992. The break-away republic would become part of a reconstituted all-Serb state of Yugoslavia, containing - in addition to a large portion of BiH - Serbia, Montenegro and parts of Croatia. On 6 April 1992, the EU formally recognised BiH. It was on this weekend, between April 4th and 6th, that the JNA and Bosnian Serbs began the shelling of Sarajevo. Over 10,000 civilians lost their lives during the course of the siege.

By now the conflict had become very complex and involved a multitude of participants with varying interests fighting alongside or against each other at different points of the war. For example, the fighting that took place between Croatia, Serbia and Bosnia involved ten protagonists. They can be identified as Croatians, Serbs, Croatian Serbs, Bosnian Croats, Bosnian Serbs, Bosniacs (previously known as Bosnian Muslims until 1993), Montenegrins, Vojvodinans and of course the United Nations and NATO. This complexity was reflected in the Vance-Owen Peace Plan (VOPP), which was put forward in January 1993. Sadly, it was rejected and in April large-scale fighting broke out between the Bosnian Croats and the Bosniacs, who had been allied in attempts to push back the advancing Bosnian Serbs. Towns such as Mostar, where Bosniacs and Bosnian Croats had previously fought as allies, were devastated.

The violence and atrocities continued with villages and regions being engulfed and thousands of people being forced to flee from their homes. The events that significantly caught the attention of the western Europeans were the fall of Srebrenica and the shelling of the Markale Market in Sarajevo in 1995. Srebrenica was under the protection of UN forces that stood by helplessly as over 8,000 unarmed Bosniac men and boys were massacred in a matter of days. Markale Market took a direct hit from Bosnian Serb mortars as people bought food. The final death toll reached 68. The outrage that these events caused is thought to have been the impetus behind serious and renewed efforts by the international community to find a solution and put an end to the fighting.

The massive US-backed Croatian offensive, Operation Storm, precluded the taking back of Western Slavonia from the JNA and took back the Krajina from Croatian Serbs. It caused the largest single movement of refugees in Europe since 1945 as 150,000 - 300,000 Serbs fled the region. Operation Storm was followed by Operation Deliberate Force, which was carried out by NATO and UN forces and saw them attack Bosnian Serb positions around Sarajevo. Three

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78 The Serbian Republic of Bosnia and Herzegovina was later renamed The Republika Srpska.
80 The United Nations was unable to deter the Serb attack on Srebrenica because they could not sufficiently reinforce the Dutch battalion in place. All the Dutch could do was to evacuate the women and children.
81 The actual number of Serbs who fled has still not been established. Figures vary depending on the source. A regional Truth Commission would be able to address disputed issues such as this.
months later the Dayton Peace Agreement was made. The fighting between Bosnia, Croatia and Serbia was finally at an end.

**The Dayton Peace Accords**

The Dayton Peace Agreement (DPA) was reached in Dayton Ohio, in the United States of America on 21 November 1995. On 14 December that year the presidents of Serbia, Croatia and Bosnia signed the agreement in Paris. It divided the country of Bosnia-Herzegovina into two “entities”, The Bosnian-Croat Federation (FBIH) and the Republika Srpska (RS). The FBIH was to comprise 51% of BiH territory, whilst the RS obtained 49% (see picture 1). This meant that the RS on the one hand had to give up roughly 20% of the territory it had won as a parastate during the war, whilst on the other hand it gained territory around the city of Banja Luka.

The two entities were to function quite differently. Whilst the FBIH was divided into ten cantons, five predominantly Bosniac, three predominantly Croat and two mixed, the RS was essentially centralised and run from Banja Luka, an exception being the multi-ethnic district of Brčko, in the north-east of the country. At the end of the war Brčko was the subject of international arbitration and is currently under the direct supervision of the Deputy High Representative, Dr Raffi Gregorian.

The DPA also established the Office of the High Representative (OHR). The High Representative (HR) represents the International Community in BiH and is the highest authority in the country. The HR is required to oversee the civilian implementation of the DPA and as a consequence is also the highest authority on constitutional matters. In 1997 the so-called ‘Bonn Powers’ were introduced. They gave the HR the power to remove officials whose work is not in line with the DPA and the power to impose laws. In 2002 Paddy Ashdown become the first High Representative also to be the EU Special Representative in BiH. The current incumbent is the Slovak diplomat Miroslav Lajčák. The OHR was due to close 30 June 2008; however owing to concerns over the political stability of BiH the closure was postponed indefinitely. Closure of the OHR will now take place only on the condition that five specific objectives and two conditions are met.

Annex IV of the DPA is the country’s constitution. The powers it grants to the BiH State are limited and enumerated and relate to only three areas, namely foreign relations, inter-entity relations and the national economy. All other powers belong to the entities. This division of institutions and powers between the Bosnian state and the two entities has proved to be critical in the failure of BiH to function as a nation-state. The other major shortcoming of the DPA is its institutionalisation of ethnic division, epitomised by the country’s tripartite presidency. The DPA does not allow citizens who do not belong to the three largest ethnic communities to stand as candidates and it determines the ethnicity of each candidate elected from the entities. Following this, political parties in BiH fall along ethnic and not ideological lines, resulting in a form of ‘ethno-politics’.

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83 The other signatories to the Agreement were France, Germany, Russia, the United Kingdom and the United States.

84 The five objectives are: 1) Acceptable and sustainable resolution of the issue of apportionment of property between state and other levels of government; 2) Acceptable and sustainable resolution of defence property; 3) Completion of the Brčko final award; 4) Fiscal sustainability (promoted by an agreement on a permanent coefficient methodology on distribution of tax revenues and establishment of a National Fiscal Council); and 5) Enrenchment of the rule of law (demonstrated by adoption of a National War Crimes Strategy, of a Law on aliens and asylum and of a National Justice Sector Reform Strategy). The two conditions are: a) signing of the SAA; and b) a stable political situation.

85 Articles III(1) & VII, Annex 4, the Dayton Peace Agreement.

86 The Bosniac, Bosnian Serb and Bosnian Croat communities.
This map\(^{87}\) of Bosnia and Herzegovina shows some of this graphically. The population of the Republika Srpska is predominantly Serb (over 66%); the population outside of this area is predominantly Bosnian or Croat.

The lack of power granted to the national institutions in the face of strong entities, combined with the institutionalisation of ethnic division, has led to an almost complete breakdown in decision-making at the state level. Politicians act as representatives of their ethnicities and entities, not as representatives of the BiH state in its entirety or the people of BiH, who are granted dual citizenship of both the BiH state and the Entity in which they live.

In October 2007 the High Representative recommended to the Parliamentary Assembly that it improve its legislative efficiency. This recommendation was met with threats from Bosnian Serb representatives to boycott the legislative work altogether.

DPA brought an end to the fighting but has not brought with it a qualitative peace to BiH. It did not bring peace of mind. ‘As a model for reconciliation and for rebuilding a shattered society, it was and remains severely limited.’\(^{88}\) DPA has been interpreted both as providing for partition and as consolidating a unitary state. It incorporates the European Convention for the Protection of Human Rights and thus boasts the most advanced legal protection of human rights anywhere in the world. However, the tripartite presidency is in direct contravention of Protocol 12 of that very convention. Furthermore, it makes no reference to the role of the armed forces, of which there were three until recently, excluding the NATO-led peacekeeping force.

The presence of these three armies made the provisions for the return of refugees largely irrelevant and in effect confirms Bosnia and Herzegovina's partition. The situation is fragile and many fear that should the international community leave BiH fighting may once again break out. Eight years ago Misha Glenny eloquently summed up the effects of Dayton. Sadly, little has changed since:

> Bosnia is a military protectorate, but one for which the occupying force is reluctant to take political responsibility. The three local elites are comfortable with the arrangements as it guarantees their hold on power within their own communities. The way the maps defining Serb, Croat and Muslim-controlled territory are drawn undermines economic development of all three

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communities, while the political arrangement discourages cooperation between them. The settlement is, in short, full of anomalies and frictions.  

4.1 Nationalism

4.1.1 Bosnia and Herzegovina

The prevailing dominance of ‘ethno-politics’, and the politicians that preach it, are identified by the country’s peacebuilders as the two main obstacles to a lasting and qualitative peace in Bosnia-Herzegovina. The use of divisive and nationalistic rhetoric by the main political parties keeps the hostilities of the war alive and generates fear and distrust amongst the country’s three largest ethnic communities; they have consequently been unable to cooperate since the war ended in 1995.

The war in Bosnia-Herzegovina not only targeted the civilian population but also attacked some of the central values of BiH society, such as multiculturalism, tolerance and dialogue, values that were vital to a country with a population 43% Bosniac, 31% Serb, 17% Croat and 8% other, according to the last census. Advocacy of such values was amongst the first casualties as intellectuals, many young people and large numbers of the educated middle class fled the country. The vacuum they left was filled by the triumphant extremist nationalist forces that still prevail today. The climate of fear that the war ushered in has been skilfully maintained by nationalists who have profited from and thrived on the failure of the Bosnian state as established by the Dayton Peace Agreement.

Indeed, the peace process in BiH has not been able to reverse the logic of conflict and peacebuilders throughout the country are quick to point out that the prevailing mindset is not a peaceful one. To bring an end to the fighting, Dayton established a system of power-sharing built on ethnic membership of the so called ‘constituent nations’ of Bosniac, Croat and Serb. As noted above, Dayton acts as the constitutional structure of the country and has institutionalised the ethnic principle by dividing the country into two entities (the Bosniac-Croat Federation and the Republika Srpska, with the multi-ethnic Brcko District being a small exception) and establishing a rotating tripartite presidency.

With political participation in BiH being mediated through the ethnically based Dayton Peace Agreement the violent conflict of the 1990s has merely been ‘frozen’. The emergence of a shared political and civic space for dialogue and debate in BiH has been continually and systematically obstructed by the nationalists who, principally on the RS side, are still pursuing their war aims through political, non-violent means. As ethno-political parties dominate politics, political candidates do not seek support outside their own ethnic community, since these ethno-political parties have shown no interest in changing this practice. The key battle is over voter registration, so that more Serbs registered in one constituency means more votes for the Alliance of Independent Social Democrats (to give one example). More registered Croats means more votes for the Croatian Democratic Union of Bosnia and Herzegovina; whereas the more Bosniacs are registered, the more votes this ensures for the Party of Democratic Action.

Involvement in the EU enlargement process has until now done little or nothing to correct this. European conditionality is much less of a lever for reform in BiH as serious commitment to

89 Ibid. p.652.
90 L. Topic, Making Bosnia-Herzegovina’s transformation irreversible, European Policy Centre, June 2008.
Europe among Bosnia’s leaders ‘takes second place to the preservation of corrupt fiefdoms.’ Consequently, the reform process is painfully slow. Just to meet the legislative objectives of 2007 will take five years at the present rate. Only 27 pieces of legislation were adopted of the proposed 135, which is just 20%. Some ministries have managed to complete as little as 1% of their planned work. The current political deadlock is unlikely to be broken while ethno-nationalism dominates politics in BiH. The implicit and at times explicit claim made by the ethno-political parties is that the main causes of conflict are ethnic differences and while this divisive message is used to win votes no progress will be made, either on local issues that affect the immediate lives of BiH’s citizens or on issues that affect the future of the country as a unified state. A politics capable of consensus seems unlikely to develop under the DPA, still less a Bosnian identity that encompasses all of the country’s ethnic communities. Such an identity is imperative for the long-term future of BiH and peacebuilders would like to see a more concerted effort to establish one.

All sides are, however, in favour of EU accession and in this sense EU enlargement is a unifying objective that over 80% of BiH citizens currently approve of. Unfortunately, the political discourse surrounding ‘Europe’ in BiH, and to be fair in the region as a whole, is not grounded in rational thinking and argumentation but more in almost theological categories of ‘good’ and ‘bad’, with ‘Europe’ representing a higher good and accession to the EU as being a solution to all of BiH’s problems. The EU plays up to this semi-mythological usage and in so doing contributes to the perpetuation of non-rational and misleading political argumentation and thus indirectly to the maintenance of the current, non-democratic priorities of the present political elite.

A case in point is the discourse surrounding Europe in the RS. In the RS ‘Europe’ is used as an instrument to legitimise its central political project, namely secession from BiH. In a newspaper editorial earlier this year, Milorad Dodik the prime minister of the RS, argued that BiH is destined to disintegrate along ethnic lines, stating that ‘Bosnia and Herzegovina is the last multicultural country in Europe.’ The implication is that the universal European experience through history has been the reduction of ethnically complex states to more simple and homogenous entities and to resist such a trajectory is to deny ‘reality’. Dodik has obviously overlooked Spain, the United Kingdom, France, Italy and other European countries that do not fit his understanding of ‘reality’, not to mention his own personal role in this supposedly inevitable process.

4.1.2 Croatia

At a national or state level Croatia does not suffer from the sort of nationalism that is adversely affecting its Bosnian and Serbian neighbours. For example, the current government coalition includes the Independent Democratic Serbian Party (SDSS). In terms of the Enlargement process, Croatia is not being held back by ethnic or radical nationalism and broadly speaking it has normalised its external relations, at least formally. In terms of values, Croatia’s political elite has been described as more European than Europe. If we were to talk in terms of globalisation however, Zagreb is considered by commentators to be ‘closer’ to

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93 L. Topic, Making Bosnia- Herzegovina's transformation irreversible, European Policy Centre, June 2008


95 European Union Special Representative in Bosnia and Herzegovina [on-line], accessed 15 October 2008, available at: http://www.eusrbih.eu/media/pic/1/?cid=5348,1,1

96 M. Dodik, Editorial, Nezavisne Novine (newspaper), 24 April 2008, p.11.

97 Paul Stubbs, Institute of Economics, in conversation with the author, Zagreb, 12 June 2008.
Brussels or Vienna than it is to Split. As such observations suggest, there is a division in Croatia concerning some values, the most significant being attitudes towards ‘the other’. This division is at its most apparent in Croatia’s rural and underdeveloped regions.

The Croatian Helsinki Committee for Human Rights (CHC) reports the use of ethnic pressure against Serbs who own property in the fertile agricultural areas of Ravni Kotari in the Zadar hinterland. CHC feels that the basic rights of these Serbs to security and property are not sufficiently protected by the local Croatian authorities. The CHC fears this case of discrimination is fuelled by appetites for economic gain at the minority’s expense and that nationalism is being used as a vehicle to achieve these ends.98

One of the regions in Croatia most devastated by the war is Eastern Slavonia and it is in this region where local peacebuilders expressed most concern over the negative affects of nationalism. Peacebuilders identified a number of factors as contributing to the region’s propensity towards divisive nationalism. Besides economic hardship they identified the local politicians, the level of trauma the region is suffering after being the main theatre of the war, the local media and the fact the region borders Serbia, the country most ethnic Serbs in the region most readily identify with.

The economic hardships that the region faces will be explored briefly in section 4.4.2. Here it should only be noted as a factor that contributes to nationalistic tensions, especially considering that Croat employers overlook Serb candidates in favour of Croats and vice versa. Peacebuilders feel that local politicians are doing little to address the real problems of the people. Instead of working to find a solution to the region’s economic depression they dwell upon the question of nationality and are dealing with the past in an exploitative way. The region saw heavy fighting during the 1990’s and the border town of Vukovar is a symbolic settlement as it represents the Croats’ ultimate success over the ‘Serb aggressors.’ The dates that provoke the most nationalistic rhetoric from the local politicians are the 18th and 19th of November, when Vukovar fell under Serb control, and the 2nd of May, which marks the beginning of the battle of Vukovar that saw the Croats regain control.

Local peacebuilders are hopeful that accession to the EU will temper the nationalistic rhetoric as the threat from neighbours will be largely removed. As noted above, the region suffered high levels of violence during the war and many people are very traumatised. The local organisation Coalition for Work With Psychotrauma and Peace (CWWPP) feels the trauma of this region is not being adequately addressed by local or national authorities and consequently falls into the hands of opportunists at a political level who are acting irresponsibly.99 Many people have weapons at home and the potential for violence is only heightened by such rhetoric.

The local media have also been identified as unhelpful. Peacebuilders complain that stories are often given an ethnic twist that in reality is not present. One peacebuilder reported that a brawl between two local football teams was portrayed in the media as a struggle between Croatia and Serbia simply because the nationality that predominated in each team corresponded to one of those two countries.100 Finally, the fact that this region borders Serbia was also identified as contributing to the level of nationalism from which it suffers.

Peacebuilders do feel, however, that the EU enlargement process is helping the region. They consider that the EU offers a good example of how to live together with the other and helps people forget about divisions as they all look forward to being EU citizens. They hope it will improve the economic situation of the region, which will alleviate a significant amount of its

98 Croatian Helsinki Committee for Human Rights, 2007 Annual Report [online], assessed on 02 November 2008 Available at: http://www.hho.hr/english
100 Srdjan Antić, Nansen Dialogue Centre Osijek, in conversation with the author, Osijek, 19 June 2008
depression. They call for more attention to be paid to the region's level of trauma and for an end to its exploitation by local politicians.

4.1.3 Serbia

"Only Unity Can Save the Serbs"\textsuperscript{101}

The biggest obstacle that peacebuilders face in Serbia is Serbian nationalism. The subsequent major obstacles are all derived from this overarching problem. The verbal and physical attacks on peacebuilders in the media and on the streets can be traced back to this problem and the need for transitional justice in Serbia is highlighted by it. The difficulties faced by regions such as Sandžak are compounded by this same problem and the rejection by Koštunica of closer ties with the EU was a product of it. Only the systemic to encourage and foster an independent civil society cannot be entirely attributed to it, as this is a problem that has its roots in Tito’s era. Later the report will explore each of the above obstacles. At this point it would be useful to take a brief look at Serbian nationalism and its central tenet; the idea of a Greater Serbia.

The idea of a Greater Serbia has made Serbian nationalism aggressive and expansionist. The territorial make-up of Greater Serbia as proposed by the Serbian Radical Party leader, Vojislav Šešelj\textsuperscript{102} in the 1980's, consists of present-day Serbia, Kosovo, Macedonia, Montenegro, Bosnia-Herzegovina and the regions of Dalmatia, Krajina and Slavonia (East and West) in Croatia. Since the middle of the 19\textsuperscript{th} century, the basic principle of a Greater Serbian state has been the unification of all Serbs through the expansion of the Serbian state's borders. The main arguments put forward for the creation of a Greater Serbia are past and present domination of Serbs by other nations and the idea that the Serbian nation is an historical heir to the power and prestige enjoyed in the past by the Eastern Roman Empire.\textsuperscript{103}

A powerful and key message of Serbian nationalism is that Serbs are history’s victims. The historical event that embodies the myth is the battle of Kosovo Polje, which took place between medieval Serbia\textsuperscript{104} and the Ottoman Empire about five kilometres north-west of Priština on 15 June 1389. The Serbs were decisively defeated and that defeat has come to symbolise the unappreciated sacrifices that the Serbian nation made in its self-appointed historical role as the defender of Christendom.

We can understand the SANU Memorandum issued by the Serbian Academy of Arts and Sciences as being informed by such a vision of the past and present. It was and remains a popular vision amongst nationalist intellectuals and a powerful instrument for mobilising large parts of the Serbian public. It must be noted that it is by no means universally accepted by all Serbs and never has been.\textsuperscript{105} However, those that do not share this vision of history offered by Serbian nationalism and are openly critical of it, run the risk of being labelled traitors and being subject to verbal and physical attacks.

This is precisely what has happened to peacebuilders who have criticised the Serbian state’s record in areas such as human rights, minority rights, non-discrimination, the rule of law and justice. On countless occasions members of such organisations have received threats, been subject to intimidation and on occasion have been physically attacked. Such organisations

\textsuperscript{101} ‘\textit{Samo Sloga Srbina Spasava}’ - The Serbian nationalists' long standing motto.

\textsuperscript{102} He was indicted for war crimes and crimes against humanity by the International Criminal Tribunal for the former Yugoslavia. His trial began in November 2007.

\textsuperscript{103} A. Beljo, E. Bosnar, A. Bing, B. Ercegovac Jambrovic and N. Skrlin (eds.), \textit{Greater Serbia: from ideology to aggression}, (Zagreb: Croatian Information Centre; 2nd edition, 1993).

\textsuperscript{104} The defeated force was composed of Albanians, Bosnians and Serbs.

\textsuperscript{105} Serbian liberals were in opposition to this vision and came close to bringing Milošević and his political platform down but were unsuccessful. See M. Glenny, \textit{The Fall of Yugoslavia} (London: 1996) Chapter 2.
receive little or no police protection. This raises two issues. One issue is the need for transitional justice mechanisms in Serbia, which will be dealt with later, and the other is the need to support EU values in Serbia. Values such as anti-discrimination find expression in laws that are not being implemented. Indeed, peacebuilders see the failure to implement many good laws as being a failure with its roots in Serbian nationalism.

4.2 Transitional Justice

This section will deal with transitional justice in each country and then look at a regional approach to truth-seeking and truth-telling being undertaken by a regional civil society network, the Coalition for the Regional Commission for Truth-seeking and Truth-telling about War Crimes.

4.2.1 Bosnia and Herzegovina

During the war much of the violence was directed towards civilians in the form of ‘ethnic cleansing’ and too often consisted of genocide, torture, rape, expulsions and the destruction of property. Consequently a broad section of BiH society has experienced different forms of victimisation and is now in need of justice or some form of redress. Running parallel to the country’s transition from war to peace is its transition from authoritarian rule to democracy. Further complicating this double transition is the present condition of the state. The conflict effectively destroyed the state’s structures and the DPA has not succeeded in providing a framework to strengthen them. BiH remains, 13 years on, a weak state with few material and institutional resources. Coupled with the politicisation of the calls for justice by nationalism, efforts made to establish successful transitional justice mechanisms at the state, entity and local levels have been largely frustrated.

Trials and Prosecutions

Many of the criminal prosecutions concerning crimes against humanity and genocide have been dealt with by the International Criminal Tribunal for the Former Yugoslavia in The Hague and it is through insisting on compliance with the ICTY that the EU considers its support for Transitional Justice in BiH is best placed. Unfortunately, perceptions of the ICTY correlate with and are modified by ethnic identity, which has resulted in disapproval by an ethnic group when one of its members is on trial. It is largely acknowledged amongst peacebuilders that international pressure and EU accession conditionality have improved the cooperation of the Bosnian authorities with the Tribunal. The Republika Srpska (RS) however, continues to be largely uncooperative.

At the state level a War Crimes Chamber has been set up in BiH to deal with cases that have been transferred from The Hague Tribunal, along with the most sensitive cases initiated in Bosnia-Herzegovina. This means that most war crimes cases will be left to local courts that have failed thus far to address the scale of the atrocity. They are much more vulnerable to political pressure and ethnic bias and they simply lack the necessary staff and equipment to handle the task they face. Many peacebuilders feel that witnesses do not receive sufficient support and protection and that many war crimes will go unaddressed as a result.

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107 Ibid., p.4.
Another factor contributing to crimes being unaddressed in BiH is that many suspects no longer live in the country, but in a neighbouring country whose citizenship they have gained. Furthermore, the Criminal Code of the Republic of Serbia and the Constitution of the Republic of Croatia do not allow the extradition of their own citizens to other states, making many war crimes trial impossible in BiH. The situation surrounding extraditions in the region is lamented by peacebuilders.\(^\text{108}\)

**Truth seeking mechanisms**

A number of factors have prevented the successful establishment of a national Truth and Reconciliation Commission (TRC) in BiH, despite numerous attempts. The first attempt was opposed by the ICTY out of fear that it would overlap with the ICTY’s mandate and interfere in the prosecution of war crimes. Later, an effort endorsed by the ICTY (the ‘Dayton Project’\(^\text{109}\)) was not backed politically and subsequently failed. The only government local fact-finding body in BiH that has enjoyed any success remains The Srebrenica Commission in Republika Srpska from 2004, with its accomplishments being in part attributable to the pressuring and sacking of uncooperative officials by Paddy Ashdown, then the High Representative.\(^\text{110}\) The commission’s mandate did not include public hearings of victims and witnesses.

However, where the BiH state has failed, the country’s civil society has picked up the pieces. Recognising the need to establish facts about the war, Bosnian peacebuilders based in Sarajevo established the Research and Documentation Centre (RDC). Since its inception the organisation has worked on its ‘Human Losses’ project which aims to establish the number of people who were killed or who went missing and to identify victims, witnesses and perpetrators.\(^\text{111}\) The project has been criticised by political parties within BiH and praised by research institutions outside the country.

The RDC is also running complementary projects in parallel to its Human Losses project, such as its ‘Positive Stories’ and its ‘Conflict-Prevention Capacity-Building’ projects. Together with the Human Losses project, these two initiatives reflect the organisation’s mission of ‘Truth-seeking’ (Human Losses project), ‘Truth-telling’ (Positive Stories project) and ‘Truth-keeping’ (Conflict-Prevention Capacity-Building project). The ‘positive stories’ project is an effort to reflect the complexity of different interpretations and understandings of the war, as well as to present citizens’ courage as model behaviour for overcoming the present polarisation in BiH society along ethnic lines. Stories of people who helped fellow citizens and neighbours during the war, especially in situations when their lives were in danger, are recorded and told to inspire reconciliation. The centre-piece of the Conflict-Prevention Capacity-Building project is RDC’s library and archive, which the organisation sees as a means of preserving facts about the war and an aid for research projects in the area of conflict prevention. Like so many other civil society organisations in the region, the RDC faces difficult financial challenges following the withdrawal of international donors and the technical obstacles that EU funding poses.

**Lustration and institutional reform**

Lustration is an important process that countries may go through in order to deal with human rights abuses or injustices that have occurred in the past. It is most commonly used to describe


\(^{109}\) The main stumbling block was the inability of parliamentarians to agree on a Truth and Reconciliation Commission. For more information see: [www.daytonproject.org](http://www.daytonproject.org)


the policy of limiting the participation of members of the former regime in subsequent
governments and the civil service. The lustration and vetting of the security and judicial sectors
of BiH have produced mixed results. On the one hand, NATO’s screening of the army in 2004
and the UN’s review of police officers in 2002 both led to accusations of procedural
shortcomings and gave rise to unfavourable public opinion of the de-certifications across the
constituent communities. On the other hand, reports regularly surface in the media that
indicate that police officers and public officials implicated in war crimes are still in office.

The Srebrenica Report’s findings corroborate such stories. The Investigation and
Protection Agency of Bosnia and Herzegovina and the Border Police of Bosnia and Herzegovina
employ individuals named in the report. Vetting within the judiciary has proved more
successful after an initial set of failures. A process of reviewing, appointing and ensuring that
judges apply the law correctly has been institutionalised.

Reparations and Restitution
A unified state policy on reparations has still not been established in BiH. The country filed
proceedings against Yugoslavia for violations of the Geneva Convention before the International
Court of Justice back in 1993. However, in February 2007 the ICJ ruled that Serbia could not be
held responsible for planning and perpetrating genocide and consequently did not award the
requested billions in wartime damages. Besides being a failed effort at restitution, the case,
and, more significantly, its verdict inadvertently imply that the RS is responsible for the acts of
genocide that took place on its territory, making the matter an internal affair for BiH and its
Human Rights Commission of the Constitutional Court to resolve. Given the political situation
described above it is unlikely to begin such proceedings without outside, international
assistance.

Indeed, in one of the Constitutional Court’s better known cases on Srebrenica, the court
ordered the RS to investigate atrocities, make a payment of roughly 1 million euros and four
additional payments of roughly 250,000 euros to the Foundation of Srebrenica-Potocari, the
memorial cemetery that marks the genocide. Compliance with the court order was, however,
observed only as a result of strong intervention from the OHR. The Commission is understood to
be making progress in working through its caseload; however it is experiencing problems in
securing compliance with its decisions.

The situation for individuals depends upon the victim’s status. In terms of financial reparations
for war victims, the position of army invalids and families of killed fighters is considerably
more favourable than that of civilian invalids and families of killed civilians. It is the entities
that regulate the rights of war victims, with the exception of the Law on Missing Persons, which
is regulated at state level and includes rights for families of missing persons. The biggest flaw
in entity legislation is that imprisonment is not recognised in itself as a sufficient condition for

112 I. Rangelov and M. Theros, ‘Maintaining the Process in Bosnia and Herzegovina - Coherence and
Complementarity of EU Institutions and Civil Society in the Field of Transitional Justice’, Working Group
rdc.org/O_nama/Godisnji-izvestaj/842.en.html
114 I. Rangelov and M. Theros, ‘Maintaining the Process in Bosnia and Herzegovina - Coherence and
Complementarity of EU Institutions and Civil Society in the Field of Transitional Justice’, Working Group
115 Ibid., p6.
former prisoners of war to receive compensation. Rather, they must also prove a certain degree of physical or mental damage.\textsuperscript{116}

4.2.2 Croatia

Trials and prosecution

The functioning of the Croatian judiciary, specifically its performance on war crimes trials, is one of the leading concerns of the country’s peacebuilding community. Peacebuilders see the correct handling of war crimes by Croatia’s courts as contributing to the country’s efforts to deal with its past, as a means of providing justice to victims and as a measure of the state’s progress in its transition to democracy. The latter aspect of war crimes trials acting as a measure of democratic transition is currently a particular concern of many peacebuilders in Croatia who feel the country has many good laws, typical of any ‘good’ democracy, that are however not being implemented fully or at all, especially at a local level.

Peacebuilders in Croatia both observe positive developments with respect to war crimes trials and identify areas of concern. Over recent years the number of first-instance court trials for violations of international humanitarian law has been between 23 and 35 per year, the majority of which meet the legal and procedural standards of ‘a just trial’. This is despite the unpopularity of some of the more high-profile cases, such as a recent trial involving a member of parliament and another involving high-ranking military personnel. In these high-profile cases there was serious political resistance and obstruction from within state institutions, not to mention pressure exerted by a part of the public.\textsuperscript{117}

The cases that deal with generals of the Croatian Army have divided the public, with one side questioning the necessity of having ‘their men’ tried. Such trials are the most visible products of the more demanding, serious and politically sensitive work carried out by the State Attorney’s Office and are positive. However, on the whole the number of cases where parties to the trials are exposed to political pressures has decreased.\textsuperscript{118}

Other positive developments recognised by peacebuilders include the strengthening of institutional prerequisites for the protection and support of witnesses (nonetheless there is still a need to provide more support to witnesses and victims during the war crimes trials), the opening of investigations of crimes committed against non-Croats, the end of conducting trials \textit{in absentia}, the synchronising of the judiciary’s activities with the Statute of the International Criminal Court and the strengthening of regional cooperation on war crimes trials.\textsuperscript{119} These are all seen by peacebuilders as being positive developments and are part of the ‘step-by-step’ improvement of the Croatian judiciary. However, peacebuilders are still left with concerns and identify several areas in which improvements must be made.

A major concern is that the Croatian judiciary is running at full capacity on this front and there are still many more cases that need opening. In order for the improvement in judicial practice to continue, as it must, and for the cases that have already commenced across Croatia to be


\textsuperscript{117}K. Kruhonja, & V. Kastratović, (eds.) \textit{Monitoring War Crimes Trials: Summarized findings on war crimes trials in Republic of Croatia for 2007}, Centre for Peace, Nonviolence and Human Rights Osijek, in collaboration with Documenta, Civil Board for Human Rights and Croatian Helsinki Committee for Human Rights. Available at: \url{http://www.documenta.hr/eng/documents/Annual_007.pdf}

\textsuperscript{118}Croatian Helsinki Committee for Human Rights, \textit{2007 Annual Report} [online], assessed on 02 November 2008. Available at: \url{http://www.hho.hr/english}

\textsuperscript{119}K. Kruhonja, & V. Kastratović, (eds.) \textit{Monitoring War Crimes Trials: Summarized findings on war crimes trials in Republic of Croatia for 2007}, Centre for Peace, Nonviolence and Human Rights Osijek, in collaboration with Documenta, Civil Board for Human Rights and Croatian Helsinki Committee for Human Rights. Available at: \url{http://www.documenta.hr/eng/documents/Annual_007.pdf}
carried through professionally and impartially, the war crimes investigation centres around the country must be provided with more technical support, more staff and better equipment. Indeed, peacebuilders monitoring war crimes trials in Croatia feel the improvement of these centres should be the highest priority of the on-going judicial reform process.\textsuperscript{120}

The other priority should be tackling impunity for the criminal act of concealing war crimes. The current regulations in Croatia are considered by peacebuilders to be seriously deficient owing to their failure to consider the act of concealing a war crime as comparable to and corresponding with such acts as planning the crime, encouraging the commitment of the crime, complicity in the crime, approval of the crime and by extension the act of committing the crime. This is identified as a problem occurring at the ‘county’ (or local) level. County courts must deal with the crime of concealment in accordance with ICTY practice.

Another concern is number of cases that have been heard in absentia. The majority of completed cases in Croatia with legally valid verdicts were carried out in this fashion.\textsuperscript{121} One problem that these trials pose is the fixing of damages, which is difficult in such cases. Another problem that the reinstitution of these trials faces is that, when the trial has taken place, this has often been before the same county judicial bodies. Monitors worry that these bodies may be influenced by the prior decision not to prosecute and that the public’s confidence in the verdict may also be affected. This can have a negative impact upon the perceived validity of the facts that the trial might establish.

Finally, there is also a need to address the disconcerting unwillingness of county courts to pass verdicts that are unpopular with the public. This has an obvious relationship with the rule of law and the application of law, two areas central to the Copenhagen Criteria.

**Truth-seeking mechanisms**

At the turn of the millennium, under Vesna Teršelič, the Centre for Peace Studies in Zagreb took on the project of establishing a truth commission in Croatia. The conclusion of the project was, however, that a truth commission would not be the right mechanism for dealing with the past in Croatia. The Centre for Peace Studies subsequently conducted a series of public round tables in their pursuit of the truth. There have been no official discussions relating to the establishment of a truth commission in Croatia. Talk of such activities is taking place only in BiH, while elsewhere in the region there have been no official initiatives to form state truth commissions either.\textsuperscript{122} In contrast to this there is a strong response from civil society, as peacebuilders across the region work towards the formation of an official regional body which could establish the facts about war crimes committed and enable victims to tell and share their experiences. More cooperation in this area amongst the former Yugoslav republics is called for by peacebuilders.\textsuperscript{123}

Peacebuilders in Croatia consider that the accessibility for the general public to all war crimes trials must be improved and made easier.\textsuperscript{124} This applies to completed trials and trials that are in progress. An important part of establishing truth is access to facts confirmed by legal proceedings. As many war crimes trials are completed, under way and pending, the facts that they establish are often lost to the public. EU support for measures facilitating access or even delivering this information to a wider public would be welcome, since such initiatives are

\textsuperscript{120} Ibid.  
\textsuperscript{121} Ibid.  
\textsuperscript{123} K. Kruhonja, & V. Kastratović, (eds.) Monitoring War Crimes Trials: Summarized findings on war crimes trials in Republic of Croatia for 2007, Centre for Peace, Nonviolence and Human Rights Osijek, in collaboration with Documenta, Civil Board for Human Rights and Croatian Helsinki Committee for Human Rights. Available at: http://www.documenta.hr/eng/documents/Annual_007.pdf  
\textsuperscript{124} Ibid.
needed. One such initiative could be the establishment of centres across the region that hold copies of the ICTY archives. Such centres could improve access to the archives for peacebuilders and the general public and ensure that the legacy of the ICTY lasts longer than its mandate (see section 4.2.3 below).

However, the role of war crimes trials as a vehicle for establishing facts is somewhat complicated in Croatia by the need to reopen previously conducted but seriously flawed investigations. During the last decade, a prevailing practice in war crimes trials at county courts has been the multiple repetition of trials due to verdicts having been passed on insufficiently established facts. Again, peacebuilders feel that this would be avoided by improving the capacity of war crimes investigation centres around the country.

**Lustration and Institutional Reform**

In general, there is no public consensus and little political will surrounding the issue of lustration and institutional reform in Croatia. The common response to acts of violence and human rights abuses carried out during the 1990’s is to play them down. Often such acts are justified as a legitimate part of the ‘Croatian War of Independence’ or ‘Homeland War’, carried out in order to defend Croatia from the JNA and Croatian Serb rebels.

An illustration of the attitude towards lustration in Croatia today is provided by the country’s 2007 general elections, held in November, when a war crime indictee won a parliamentary seat with the Croatian Democratic Alliance of Slavonia and Baranja (HDSSB). At the time when the election was held, court proceedings against Branimir Glavaš were underway in the Zagreb District Court. Mr Glavaš stood accused of committing war crimes against Serb civilians in the Eastern Slavonian town of Osijek in 1991.

In terms of cooperation with the International Criminal Tribunal for the former Yugoslavia, the EU is satisfied with the cooperation of Croatia. Commendably, Croatia has extradited all indicted war criminals despite an ambivalent attitude amongst the country’s population towards the demands made by the ICTY. The only outstanding issue is the withholding by the Croatian state from the ICTY of documents that concern the war-time shelling of Croatian Serbs in the Krajina region and in particular the town of Knin.

**Reparations and Restitution**

Although by no means ideal, the situation in Croatia regarding reparation and restitution is better than in BiH and Serbia. Roughly 3,000 civilians currently receive monthly compensation from the state based on personal or family disability pensions. In addition to this, invalids and persons who lost a close family member use a variety of other rights, based on financial and other needs, which include the receipt of welfare benefits, an allowance for aid at home, free textbooks, a special children’s allowance, student scholarships, and preferential treatment in gaining access to social housing, amongst others. Among the recipients there are still few Croatian Serb repatriates.

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129 *Ibid.* p.44.
In 2007 an application from the Association of Organisations of Croatian Civilian Victims of the Homeland War in Croatia, which sought to establish Croatian legislation as discriminatory towards civilian invalids vis-à-vis military invalids, was dismissed by the European Court of Human Rights (ECtHR) in Strasbourg. The Association’s claim centred on a disparity between the size of disability pensions received by civilian invalids in comparison with those received by military invalids. The ECtHR found the claim inadmissible as the Association is not directly damaged by alleged violations of the European Convention on Human Rights.

The majority of claims in Croatia for compensation for non-material damages caused by acts of terror and other violence are dismissed, on the grounds that either the limitation period has expired or that the claim constituted war damages for which the Croatian state held no responsibility, or both. Recently, however, there have been cases in which the courts have upheld claims for damages based on previously established criminal responsibility. There have also been cases involving claims for ‘war damages’ that have been rejected where, in the course of proceedings, criminal responsibility for a war crime has been established, and these claims have later been successfully pursued in subsequent, separate lawsuits.

Claims for compensation for material damages, irrespective of who caused them, are rejected by the Croatian courts and referred to a competent government ministry under the country’s Reconstruction Act, which was passed in 1996.

**4.2.3 Serbia**

**Trials and prosecutions**

War crimes trials in Serbia take place before the War Crimes Chamber of the Belgrade District Court, which was established in July 2003. Peacebuilders believe that these trials have been partially instrumentalised by radical nationalists, who have commandeered the political discourse surrounding the trials and have turned them into a vehicle for extreme nationalism. The Serbian Radical Party (SRS) is highly critical of the War Crimes Prosecutor’s Office and the War Crimes Chamber. SRS Members of Parliament use the National Assembly as a platform to oppose the holding of war crimes trials of Serbs and to apply political pressure on the War Crimes Prosecutor’s Office, which is not an independent authority. Consequently, indictments have been brought for political reasons following pressure from the executive.

Trials at the ICTY of Serbs suspected of committing crimes against humanity have received similar treatment. Vojislav Koštunica, a former Prime Minister, was successful in using the demands for cooperation with the ICTY as an argument against moving towards the rest of Europe and the signature of a Stabilisation and Association Agreement (SAA) with the EU. Indeed, peacebuilders in Serbia are split on the issue of an SAA for Serbia. Some feel that such an agreement should not have been offered to Serbia while Goran Hadžić, Ratko Mladić and Radovan Karadžić were still at large. Others think that the only way to support pro-European Serbs was to ‘bring Serbia in’ and work on it ‘from the inside.’

They point to the success of this approach in the field of military reform, as the ‘Partnership for Peace’ with NATO shows (see below) and thus far it seems to have been successful with the SAA. Many analysts agree that Boris Tadić came out on top after both elections this year because the EU had offered an SAA that he was willing to sign. Less than two weeks after

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130 Ibid. p.44.  
131 Ibid. p.57.  
132 Ibid. p.58.  
133 Ibid. p.59.  
Tadić’s new government was sworn in, Karadžić was arrested in Belgrade and sent to the ICTY, vindicating, at least pragmatically, this tactical decision of the EU.

Question marks remain over the effectiveness of war crimes trials in themselves to deliver on all fronts. Peacebuilders are concerned by the absence of the social dialogue that should accompany the trials and the facts that they establish. There is insufficient discussion in the public realm about the responsibility and obligations of the state towards the victims of the war and towards future generations. What media coverage there is of war crimes trials is on the whole negative. The ICTY and its judicial process are characterised as anti-Serb and thus discredited in a stroke, along with the factual evidence it presents.

**Truth-seeking mechanisms**

There is no universally agreed-upon version of the war. Official efforts to collect facts about victims by the states, and entities involved in the war have been characterised by ethnic-national interests. Each side collects information about its ‘own’ victims and disputes the information collected by the others. Figures for numbers of victims can fluctuate wildly and tend to be highest during election time. All peacebuilders lament the use of figures to manipulate the electorate. There have, however, been improvements in the area of missing persons. Initiatives intended to locate missing persons are less burdened by preferential treatment of victims from one ethnic group over another.¹³⁵

In Serbia, civil society has been very active in truth-seeking, despite the obstacles inherent in this endeavour. National and regional consultations and forums continue to take place that involve human rights groups, victims’ associations, youth organisations, war veterans, professional groups, political parties and some members of parliament. The Humanitarian Law Centre (HLC) has been particularly active and is one of three NGOs involved in a regional effort by the grass roots to establish and disclose the truth founded on facts about war crimes. The other two organisations are Documenta, based in Zagreb and the Research and Documentation Centre, based in Sarajevo. HLC advocates the use of ICTY documentation as the most reliable source in the process of establishing the facts and making recommendations on how to reach a regional set of facts about the war.¹³⁶

The use of facts and information is central to the idea of truth-telling. Serbian peacebuilders involved in transitional justice are aware that the war and the crimes committed during it do not receive due attention. When they do, more often than not it is radical and nationalist interpretations of events that predominate in the mainstream, making their involvement in this ‘battle over the truth’ all the more important. Peacebuilders try to inform the public through a variety of media such as statements, reports, conferences, bulletins, news conferences, web pages and publications. The HLC came into possession of a video made by the notorious paramilitary unit called the Scorpions that depicts them committing war crimes in BiH after the fall of Srebrenica. The video was broadcast by Serbian TV channel B:92 and was screened at film festivals in Sweden and America.¹³⁷

Other ways in which peacebuilders in Serbia are facilitating truth-telling are through the publication and printing of transcripts from ICTY trials, public victim hearings and judicial truth promotions. The latter consist of conferences about established atrocities where victims share their experiences. One such event about Serb victims of the Čelebići camp in Konjic (BiH) was

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The question of truth-keeping is also as central to transitional justice in Serbia as it is to the whole region. The Humanitarian Law Centre is a front-runner on this issue. It has raised the issue of the vast ICTY archives and what is to be done with them once the ICTY winds down. The archives contain information gathered by a range of sources, including the European Union Monitoring Mission about events that took place during the war. It is a detailed body of information from which cases against indictees are made.

The region’s political elite has consistently used information about the war to manipulate electorates. State institutions have not fared much better. Consistently, peacebuilders have advocated the idea of the original documents remaining in The Hague under UN administration, with satellite archives containing copies of the documents being set up in all interested states of the former Yugoslavia.139 Such a system would allow victims, the relatives of victims and the general public access to ‘unpoliticised’ information and facts about the war.

Lustration and institutional reform

Slow but significant reforms have taken place in two key institutions: the army and the security services. The pro-reform General Zdravko Ponoš was appointed Chief of Staff by President Tadić in 2006. Ponoš set a new tone in the army which was reflected in an opening towards the rest of Europe and a desire to cooperate with NATO. In his army transformation plan he highlighted the need for internal transformation, to combat corruption and for general downsizing. His plan drew strong criticism from the then Prime Minister Vojislav Koštunica and the leader of the Serbian Progressive Party, Tomislav Nikolić, both accusing Ponoš of destroying the Serb Army with the West’s assistance.140

Ponoš prevailed and Serbia acceded to the NATO programme ‘Partnership for Peace’, despite not meeting all the preconditions for joining the security programme. NATO came to the conclusion that it would be better for European and regional security to bring Serbia in and work with Serbia from within a NATO programme, rather than leaving it torn between the conservative and pro-reform camps.141 Subsequently, Ponoš has been able to effect a successful reform of the Serbian army and defence system, a reform that is understood to have played a leading role in the capture of Radovan Karadžić.142

The Military Security Agency (VBA) found Karadžić in Belgrade but was unable to arrest him as it does not have the jurisdiction to do so within Serbia. In order to have Karadžić arrested the VBA needed the support of the Security Information Agency (BIA). The BIA was an unsuitable partner at the time as it was in need of lustration, which happened immediately after Tadić’s government was sworn in in July 2008. The President appointed Saša Vukadinović as head of BIA and four days later BIA agents arrested Karadžić.143

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138 Ibid., pp 64-70.
139 Nataša Kandić, Founder and Executive Director of the Humanitarian Law Centre, during a speech made at the European Policy Centre policy dialogue, ‘Justice, reconciliation and EU integration in the Western Balkans: the legacy of the ICTY’, 25 November 2008, Brussels.
141 Ibid., p163.
Peacebuilders maintain that the BIA remains in need of extensive vetting. Along with numerous commentators, they hold the BIA responsible for the assassination of the reformist Prime Minister Zoran Djindjić in 2003. 144 Yugoslavia’s three other security agencies, the Military-Intelligence Agency (VOA), the Research and Documentation Department (SID) and the Security Service (SB), also need thoroughgoing reform. Following the disintegration of the Yugoslav state these services entered a legal vacuum and became either partisan or quasi-independent and this has been a long-standing obstacle to cooperation with the ICTY and Serbia’s transition from an authoritarian to a democratic state. 145

Reparations and Restitution
Peacebuilders in Serbia are not satisfied with the way in which the issue of reparations is being dealt with. Victims can enforce their right to compensation only through an action against the state. This is inappropriate, given the context and nature of the human rights violations, for several reasons: the burden of proof rests with the victim, the proceedings are long, the costs of litigation are substantial, the monetary compensation awarded is not proportionate to the crime committed and the courts tend to protect the state. For these reasons organisations such as the Lawyers’ Committee for Human Rights (YUCOM) and the HLC continue to institute proceedings to prompt the Serbian state to initiate a debate and adopt a programme of reparations for human rights violations in the past, especially during the rule of Slobodan Milošević. Such a programme would be in keeping with Serbia’s obligations under international law. 146

4.2.4 Coalition for the Regional Commission for Truth-seeking and Truth-telling about War Crimes

The Humanitarian Law Centre (HLC) based in Belgrade, the Research and Documentation Centre (RDC) based in Sarajevo, and Documenta based in Zagreb have been organising regional forums on transitional justice since 2006. 147 The fourth such forum was held on 28 – 29 October 2008 in Priština. 148 An extensive coalition of human rights organisations, associations of victims and family members of the killed and missing, youth organisations, women’s groups, organisations for development of peace and democracy and other non-governmental organisations and professional groups gathered and advocated the creation of an official regional commission for truth-seeking on war crimes and other serious human-rights violations committed in the recent past. This coalition of organisations has been called the Coalition for a Regional Commission for Truth-seeking and Truth-telling about War Crimes (RECOM). 149

The coalition is mandated by the regional consultation initiators the HLC, the RDC and Documenta, to organise consultations within civil society in relation to the mandate and character of RECOM. The fourth forum agreed that the coalition should create a model for RECOM, collect 1 million signatures in support of the establishment of RECOM, and submit the

149 A total of 108 organisations and 155 individuals from the successor states of the former Yugoslavia joined the Coalition at the Forum.
request for the establishment of RECOM to the national parliaments in the region in late 2009.  

Peacebuilders at the forum and members of the coalition strongly supported war crimes trials as the most important legal response for establishing individual criminal responsibility. However, they are aware that courts do not have the capacity to prosecute all persons suspected of committing war crimes. For example, representatives of certain Albanian associations of victims’ family members expressed their doubts about the ability of Serbian courts to ensure justice for Albanian victims. Family members of victims from Srebrenica stated that in view of the lenient judgments in favour of the accused members of the Scorpions Unit, the War Crimes Chamber and the Serbian Supreme Court are not ready to try on the basis of law and facts.  

Henceforth, once established, RECOM’s mandate would be focused on truth-seeking about the gravest war crimes and missing persons. The selection of the RECOM’s members would be delegated to a special appointing body comprising representatives of victims, human rights organisations, youth, representatives of national governments, a UN Secretary-General’s representative and EU representatives. The RECOM would open local and national offices operating under the central office, which would report directly to the Regional Commission. One of the most significant resources for the work of the RECOM would be the archive of the Hague Tribunal. In addition to having access to the publicly available documents in the Hague Tribunal’s archive, the Regional Commission should also have access to the confidential documents of the ICTY’s Office of the Prosecutor.  

This initiative has received the support of the Dutch government, which has put aside nearly €1 million to fund the process of national and regional consultations that will take place over the next two years. This initiative appears to be exactly the kind of cross-border cooperation that the Multi-Beneficiary MIPD was established to support. The EU should support this coalition either financially or in principle or both and make its support public.  

4.3 Returnees  

4.3.1 Bosnia and Herzegovina  

One of the primary goals of Annex VII of the Dayton Peace Accords (DPA) is the restoration of the socio-demographic structure of BiH society, which was drastically altered by the war.  

The Helsinki Committee for Human Rights in Bosnia-Herzegovina (HCHR BH) reports that nothing is being done to address this issue. BiH is currently divided into territories that are almost ethnically pure. HCHR BH points out that it is difficult to obtain reliable data on the real number of actual returns as data on returnees frequently include property that is given back to people it belongs to even if they themselves do not return, which for peacebuilders does not represent actual return. The inclusion of such ‘returnees’ in official data by the authorities highlights the difference in interpretation of Annex VII between local authorities  

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151 Ibid.


154 Ibid.
and peacebuilders or organisations such as HCHR BH who are working on the issue. Peacebuilders are interested in the number of people who actually returned to their pre-war homes and therefore affect the socio-demographics, whereas the authorities are not.

In order to illustrate this point it helps to compare the ethnic composition of two municipalities today with their pre-war make-up.

<table>
<thead>
<tr>
<th>Municipality/Population Group</th>
<th>1991 - %</th>
<th>2008 - %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mostar</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bosniacs</td>
<td>34.6</td>
<td>42.0</td>
</tr>
<tr>
<td>Croats</td>
<td>33.0</td>
<td>54.0</td>
</tr>
<tr>
<td>Serbs</td>
<td>18.0</td>
<td>2.2</td>
</tr>
<tr>
<td>Ilidža</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bosniacs</td>
<td>43.0</td>
<td>87.8</td>
</tr>
<tr>
<td>Croats</td>
<td>10.0</td>
<td>6.0</td>
</tr>
<tr>
<td>Serbs</td>
<td>36.8</td>
<td>4.7</td>
</tr>
</tbody>
</table>

A major factor that dissuades displaced persons and refugees from returning to their pre-war homes is discrimination. HCHR BH points to the fact that returnees, particularly those who constitute a minority on their return, are still being discriminated against in employment, access to healthcare, education, pensions and other social rights. While Bosniacs and Croats face discrimination in the Republika Srpska, Serbs face discrimination in the Federation of BiH.

The entity, cantonal and municipal institutions of BiH are not observing the BiH Constitution, nor are they implementing all the provisions of the European Convention on Human Rights and Fundamental Freedoms. What is more, they are not following the decision of the BiH Constitutional Court on the constitutional status of peoples. The ethnic composition of municipal administrations should be proportionally representative of the ethnic composition of the area that they administer as recorded by the 1991 census. These deviations from the law directly affect the process of return and the re-integration of returnees into pre-war communities.155

Finally, the aggressive nationalistic rhetoric employed by the political leaders of the ruling parties is reaffirming and reinforcing the trend towards the homogenization of territories and the partition of the ethnic communities. Such arrangements are advocated as being the only way of guaranteeing the security and survival of their particular ethnic group. This has greatly affected and impeded the process of return as returnees do not feel welcome or safe.156 Moreover, the reluctance of refugees to return further compounds the ethno-nationalism that dominates BiH politics as areas become ethnically homogenous and elect politicians who correspond to their ethnicity.

4.3.2 Croatia

The question of returnees is an issue that each of the region’s countries has had to deal with over the last 13 years. At present however, it is Croatia’s peacebuilders who are most concerned by it. For years the issue of returnees has persistently been problematic and Croatian peacebuilders are still working hard to improve the situation. Many refugees are dissuaded from returning by the lack of access to housing and employment that returning ethnic Serbs face.

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155 Ibid.
156 Ibid.
Serbs are the largest ethnic minority in Croatia, as they were before the war. Croatian Serbs constituted 12.2% of the total population in 1991; however the last census in 2001 recorded a figure of 4.5%. The fighting in Croatia created 370,000 Serb refugees, the overwhelming majority of whom took refuge in Serbia and Montenegro (330,000), while a smaller proportion fled to other neighbouring countries (40,000) and an even smaller number were internally displaced (32,000). The majority of Serb refugees have not returned, and only two-thirds of officially reported Serb returnees have stayed permanently in Croatia.

Roughly 80,000 people who left Croatia during the war remain in limbo, neither in the process of returning nor having their status in Serbia permanently resolved. According to research conducted by the Croatian Helsinki Committee for Human Rights, in the Knin area more than half of the officially registered returnees do not actually live in Croatia. Some have managed to sell their property after restoration, and moved either to Serbia or to a third country. Others keep commuting between Serbia and Croatia and so are not really settled in Croatia.

There are a number of housing issues that face returnees and constitute obstacles to their return. The largest of these is a lack of access to housing and housing care assistance regarding the former occupancy and tenancy rights (OTR) of holders of socially owned residences. Under the communist regime ‘socially owned’ apartments were allocated with a permanent tenancy right at a low rent. Such a right could only be lost if the tenant left the apartment for more than 6 months without a justifiable reason. Human rights organisations in Croatia denounced the treatment of non-Croat returnees as former tenants who had abandoned their apartments voluntarily and campaigned for fair treatment.

Following additional pressure from international organisations such as the OSCE, the UNHCR and the EU, the Croatian government adopted a ‘Programme of Housing Care’. The programme offers former OTR holders the right to use a state-owned apartment as a ‘protected tenant’ at a non-commercial rent. The programme does not, however, offer the right to purchase the apartment for a discounted price, nor does it allow the tenancy right to be passed on to the beneficiaries’ children. Both of these options were previously available to OTR holders. Given that nearly all those affected by this are ethnic Serbs, the programme amounts to an indirect form of ethnic discrimination. The other housing issues faced by returnees include the restitution of temporarily occupied housing to returnee owners and reconstruction of destroyed residential properties.

Some returnees are also facing legal action as occupants sue returnee owners for the unsolicited investments they made in the restituted properties. Peacebuilders have observed that occupants’ interests are prioritised over owners’ rights, which was not the case with occupied properties owned by ethnic Croats.

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158 Ibid., p.1.
160 The Knin area is situated in Dalmatia and has one of the largest numbers of returnees as a proportion of its population.
162 Ibid., p.7.
163 Ibid., p.7.
The other big obstacle faced by young returnees is employment. Older returnees tend to live on their pensions and increasingly constitute a larger proportion of the returnees who settle permanently in their pre-war homes. Peacebuilders note discrimination against employing returnees in the public sector, a trend illustrated by the percentage of Serbs employed by the Croatian State. Despite constituting 4.5% of the country’s overall population, Croatian Serbs make up only 2.6% of civil servants and employees of courts and state prosecutor’s offices.165 Adding to the scarcity of job opportunities, returnees face discrimination in the form of reduced support from local police, administrations and social services, as well as tense relations with the local Croat majority.166

4.4 Regions of Concern

4.4.1 Bosnia and Herzegovina

Bosnia and Herzegovina is itself a ‘region of concern’. The Dayton Peace Agreement (DPA) has enshrined the ethnic and political division of the country, a division that was pursued so violently during the 1990s. This division is currently deeper than at any time since the war and is now being worsened by political and diplomatic means. Ironically, the constitutional structure laid down by the DPA is now the non-violent vehicle of the struggle it was designed to pacify, which has found new and potentially violent forms in which to manifest itself. The manifestation with most potential for violence is the struggle between the Bosnian State and the Republika Srpska (RS).

This entity’s political elite, led by its Prime Minister Milord Dodik and his Alliance of Independent Democrats, has taken every opportunity to reverse reforms that have taken BiH 13 years to make.167 This movement away from Dayton has been alarmingly successful and in the wake of Kosovo’s declaration of independence, the arguments used by the RS in favour of its secession from BiH have become increasingly bold and seemingly more powerful. If the RS is successful in its drive for independence, Europe’s newest independent country will have been carved out through genocide and crimes against humanity; these are two very good reasons why the EU should contribute to the prevention of such a scenario.

If the RS were to declare its independence, many commentators think that the Croats in the south would follow suit, leaving only central Bosnia for the country’s Muslims. The former High Representative of the International Community in Bosnia-Herzegovina, Paddy Ashdown, fears that such a situation would lead to a return to violence and bloodshed.168 He is rightly concerned for the wellbeing of thousands of Bosniac returnees who have resettled in the RS and for the people of the multi-ethnic district of Brčko, which is surrounded by the RS. There is significant potential for violence behind the nationalist rhetoric of the RS’s political elite.

Meanwhile, the rest of the country’s political leaders appear to be more concerned with looking after their own interests than pursuing those of their people, as corruption is widespread and a seemingly perpetual legislative deadlock prevents vital reforms. The

deadlock is affecting the country’s progress in the Stabilisation and Association Process (SAp) and has drawn criticism from the EU’s Enlargement Commissioner, Olli Rehn, who told MEPs on 22 October 2008 that “The leaders of Bosnia and Herzegovina can either continue to quarrel and fall behind their neighbours, or get on with reform and move forward towards the EU.”

4.4.2 Croatia

Eastern Slavonia is a region that boarders Serbia and is the easternmost part of Croatia. The region suffered some of the heaviest fighting during the war between Croat and Serb forces. Being the ground of a pivotal battle, the town of Vukovar was almost entirely destroyed. The region as a whole was devastated and remains in a bad state 17 years later.

It has long been a multi-ethnic region and today is home to the largest Serb community in Croatia. Before the war Eastern Slavonia was rich and prosperous as it yielded some of Yugoslavia’s largest harvests. Today it is impoverished and suffers high rates of unemployment, many human rights violations, ethnic discrimination, segregation in its schools and displays a high level of psychological trauma. Many peacebuilders worry about the stability of the peace in Eastern Slavonia.

Peacebuilders report that the Croatian government sees the region’s main problem as being an economic one. Whilst most peacebuilders agree that the region needs serious economic development in order to recover from the war, they are quick to point out that the underlying problem is ethnic nationalism and its grip on local politics and public life. The region’s local politicians are ‘either not ready or incapable of abandoning their politically profitable nationalistic rhetoric and turn to the actual economic and social problems of the community.’ The region’s development is also impeded by the large number of minefields - both marked and unmarked - that have yet to be cleared.

The lack of job opportunities in the region worsens the already problematic issue of returnees, who face major housing problems and property rights issues. They also suffer violations of their labour rights, labour disputes, and complications regarding health insurance, pensions and retirement rights. It must be noted that these problems are not exclusive to returnees. Non-Croats who did not flee the fighting are also experiencing some of these problems although their main problem appears to be a denial of their right to purchase apartments for which they owned tenancy rights.

Reported violations are processed slowly in Eastern Slavonia. The Croatian Committee for Human Rights attributes this to the ‘unwillingness’ and ‘lack of professionalism’ in the public administration and authorities. Indeed, peacebuilders note that the local government offices, judiciary and police discriminate against non-Croats and members of other minorities with impunity. Furthermore, it is not only local institutions that exercise discrimination, but also state and local businesses, which frequently refuse Serb applicants in favour of Croats. As the country’s most multi-cultural region, Eastern Slavonia is an example of the ethnic intolerance of Croatia at a local level.

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170 See section 4.5.1.
172 See section 4.3 on returnees.
174 Ibid., p.22.
The region is also an example of the trauma suffered by many because of the war. The Coalition for Work With Psychotrauma and Peace (CWWPP) reports high levels of trauma in the region that manifest themselves in high levels of suicide, drug addiction, domestic violence, problems with former soldiers and problems with the region’s young.\(^{175}\) CWWPP note that local physicians are over-prescribing powerful tranquillizers, anti-depressants and anti-psychotic drugs that do nothing to improve the mental health of the region, but rather contribute to its volatility and potential as a “powder keg.”\(^{176}\) A further barrier to healing is the physical appearance of Vukovar and its surroundings. While a part of the city has been rebuilt, much of it has not, which is felt to constantly provoke memories of the war.

### 4.4.3 Serbia

Sandžak is a region straddling the border that separates Serbia and Montenegro and falls on either side of it. The region also borders Bosnia-Herzegovina and Kosovo. A former territory of the Ottoman Empire, it became a part of the independent monarchies of Serbia and Montenegro following the first Balkan War of 1912. The last census, taken in 2002, recorded an ethnic composition of 52% Bosniac, 38% Serb and 10% ‘other’.\(^{177}\) It has never had autonomy nor any special status and the majority of Bosniacs do not seek independence from Serbia, nor do they wish to join Bosnia and Herzegovina. However, it remains a concern for peacebuilders who consider that it has been forgotten by the international community.

Under Milošević and during the war of 1992-1995, the Bosniac population was subject to kidnappings, murders, arbitrary arrests, beatings and dismissal from jobs. Entire villages were ethnically cleansed. These actions increased tensions in Sandžak, and successive Serbian governments have addressed them either half-heartedly or not at all.\(^{178}\) Today these tensions remain and are compounded by the region’s economic backwardness and ongoing population loss. There is also a feeling among the Bosniac community that trials of local war criminals have fallen short of delivering justice.

Unfortunately a number of forces from both the Bosniac and Serbian communities seem to have a vested interest in stirring up ethnic tensions and keeping them at a high level, thereby destabilising the Sandžak region in Serbia. These include extremist elements within the Serbian Orthodox Church, the Wahhabi movement, the police, state (BIA) and army security services, and nationalist forces associated with the Serbian Radical Party (SRS), the Democratic Party of Serbia (DSS) and the Bosniac Party for Democratic Action (SDA).\(^{179}\)

Furthermore, in-fighting is crippling the Bosniac community. Broadly speaking it is obstructing the community’s integration into Serbian society as a whole and fuels prejudices which hold that the region is prone to radicalisation and unfit for democracy.\(^{180}\)

Vojvodina is another region of concern, albeit less of a concern than Sandžak to many peacebuilders. Vojvodina is an autonomous province that comprises the northern third of

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\(^{176}\) Dr C. D. Tauber in conversation with the author, 18 July 2008, Vukovar.


Serbia. It joined the Kingdom of Serbs, Croats and Slovenes in 1918 after the collapse of the Austro-Hungarian Empire. It shares borders with Bosnia-Herzegovina, Croatia, Hungary and Romania and is ethnically diverse. The 2002 Serbian census recorded its population as being 65% Serb, 14% Hungarian, 3% Slovak, 3% Croat and 2.5% Yugoslav, with the remaining 10.5% being made up of 16 different ethnic groups. Vojvodina’s pro-European vote is claimed to have been decisive to President Boris Tadić’s successful re-election February 2008. There are some tensions surrounding the centralised character of power in Serbia as Vojvodina wants more decentralisation. The EU promotes decentralisation as it would allow Vojvodina to take better advantage of regional funds in the future.

4.5 Education

4.5.1 Bosnia and Herzegovina

Another obstacle to lasting peace identified by peacebuilders is the current education system in Bosnia-Herzegovina, in particular the practice of ‘two schools under one roof’ and aspects of the curricula currently being taught. Peacebuilders feel that how and what young people in BiH are taught are sowing the seeds of a future conflict.

Originally seen as a means of encouraging families with school-age children to return to areas where their ethnic community had become a minority during the war, it can be said to have been conceived with the best of intentions. However, the idea is for two ethnic communities to use the same building to school their young people but separately and with a minimum of contact between the two. Pupils and teachers are required to use separate entrances or to attend in separate shifts. As well as legitimising segregation and preventing dialogue between the two communities, it is a wasteful and expensive practice.

When it admitted BiH into membership in 2002, the Council of Europe told state authorities to eliminate all aspects of segregation and discrimination based upon ethnic origins. BiH ministers duly signed up in November that year to an education reform strategy that required that the authorities provide for “integrated multicultural schools free from political, religious, cultural and other bias and discrimination”. The education reform strategy was thus to unify schools affected by this phenomenon and in June 2003 the state-level Framework Law on Primary and Secondary Education was passed unanimously. It was later followed by the adoption of cantonal laws in the Federation in 2004. However, 8 years later the practice of segregated schools continues.

According to peacebuilders and to Ambassador Douglas Davidson of the OSCE the main reason ‘two schools under one roof’ continues to operate as such is the fact they have been made ‘an object of political contention.’ Politicians from both sides have in many cases managed to convince parents, pupils, and teachers that administrative unification also means the homogenisation of curricula and the subordination of one or another of the official languages.

Dayton decentralised the educational system, which is administered differently in the two entities. The RS, which is ethnically homogenous, manages education centrally, at entity level. In the Federation it is administered at a cantonal level. There are 10 cantons in the Federation. Five are predominantly Bosniac, three are majority Croat and two are mixed. Each community has adopted its own curricula and textbooks. Schools in the Republika Srpska use textbooks

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183 Ibid.
from Serbia; the Croat areas prefer textbooks from Croatia, whilst in predominantly Bosniac areas textbooks developed just after the end of the war are used.

UNESCO reviewed the teaching of history in Bosnia-Herzegovina in 2006 and found aspects of the various curricula to be ‘not acceptable’, a category the report defined as follows:

‘(iii) not acceptable: objectives and content do not prevent the violation of human rights, are in favour of withholding of civil rights from people, approve of ethnic cleansing and a destruction of the overall framework of the state of Bosnia and Herzegovina, and/or are openly or latently aggressive, offensive, or discriminating against members of other ethnic groups.’

Peacebuilders in BiH described the text books they had seen as being full of discrimination. They fear that in 10 or 15 years’ time Bosnian society will be populated by ‘monsters’. Such a state of affairs is clearly dangerous and undesirable. The obvious solution would be for all sides to adopt the same history textbooks. The Centre for Democracy and Reconciliation in South East Europe has developed a series of textbooks for this very purpose. Historians from across the region were involved in writing it and it deals with the history of the region in a non-partisan manner.

4.5.2 Croatia

One of the more multi-ethnic regions of Croatia also practices ‘two schools under one roof’ as in Bosnia-Herzegovina. Established by the Erdut Agreement and for the same reasons as in BiH, this system persists in the Croatian region of Eastern Slavonia. There the divided schooling system is justified and defended by local politicians as having its basis in minority rights laws. This approach originally characterised relations between ethnic Croats and ethnic Serbs, however it is now beginning to affect other minorities such as the Hungarian minority in Eastern Slavonia through its latent promotion of ghettoisation.

Peacebuilders working in Eastern Slavonia have noticed the subtle way in which ‘ethnic cleansing’ has found a non-violent vehicle in the education system of Eastern Slavonia. Serb students educated in segregated schools do not go to Croatian universities, but to Serbian ones. Once they complete their studies they tend not to return, as their diploma is not recognised. Ethnic discrimination and lack of opportunities compound the situation.

The teaching of regional history is also identified as cause for concern. The history curriculum, devised by the Ministry of Education and Sport, is dominated by National and World History and regional history is hardly present. Although a multi-perspective approach to the history that is taught is present in some of the officially approved textbooks, it is not officially encouraged. A recent report by UNESCO describes the interpretation of the war as ‘especially problematic’. The report also documents a failed attempt to prepare teaching materials that promoted tolerance with respect to the peaceful reintegration of Eastern Slavonia. The project had to

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185 For more information see: [http://www.cdsee.org/](http://www.cdsee.org/)

186 On November 12, 1995, officials signed the Erdut Agreement in which the part of Eastern Slavonia still occupied by the Serbs at that time would be integrated back into Croatia, gradually allowing some of the exiled refugees to return to their homes. The Village of Erdut was put back under Croatian control in 1998.


189 The report describes it as the ‘Danube region’.
be dropped because of “strong attacks from the media and some historians on the basis of a
hard nationalistic point of view.” Therefore, “this last attempt to promote multi-perceptivity
in history teaching in Croatia failed.”190

Peacebuilders would also like to see the introduction of basic human rights education into the
secondary school curriculum. They would like to see pupils learn about civic, political,
economic, social, cultural and other types of rights; the difference between individual and
collective rights and the meaning thereof.191 A greater knowledge of such rights is fundamental
to a healthy and functioning democracy and essential to any society undergoing a transition
from authoritarian to democratic rule. One Croatian peacebuilder was quietly asked by a
troubled Croatian whether or not he could vote for a different party from that of which he was
a member; he was worried it might be against the law.192 Such lack of knowledge needs to be
addressed if Croatia’s transition is to be complete.

Other peacebuilders see a lack of adequate university courses that deal with policy level
knowledge of similar issues. Civil society in Croatia has had many of its brightest and most
knowledgeable activists cherry-picked by the Croatian state. Whilst this is on the one hand a
positive development for Croatia, as the state’s institutional capacity is improved by such
recruitments, the state’s gain is nonetheless civil society’s loss and a new generation of highly
educated and highly skilled activists is needed to replace them. Degrees and courses training
lawyers in how to use the European Convention on Human Rights are needed, as are similar
courses in public policy on human security, immigration and asylum, human rights and anti-
discrimination.

Finally, an often overlooked area of education is non-formal education and socialisation. The
whole region is traumatised to varying degrees as a result of the violent dissolution of
Yugoslavia. However, in areas that saw a lot of heavy fighting the levels of trauma suffered by
inhabitants are especially high and are being left untreated.193 Externally, trauma manifests
itself in drug abuse, domestic violence, indiscriminate shootings and suicides. Internally, the
trauma is causing physical and mental ill-health such as reactive depression and
schizophrenia.194

Many traumas suffered by parents and school teachers are affecting the children in their care
as their trauma is ‘passed on’. An area of particular concern highlighted by the Coalition for
Work With Psychotrauma and Peace is communication skills; skills both vital for conflict-
prevention, reconciliation and in dealing with the trauma itself. According to the CWWPP, the
older generation’s capacities to communicate have been severely affected by their trauma and
consequently these vital communication skills are not being passed down to the younger
generation.195

190 UNESCO, Fostering Peaceful Co-existence through analysis and revision of history curricula and
textbooks in Southeast Europe, written by Jean-Damascène Gasanabo, 2006, p.23.
191 Croatian Helsinki Committee for Human Rights, 2007 Annual Report [online], accessed on 02 November
192 Srdjan Dvornik, former director of the Croatian Helsinki Committee for Human Rights in conversation
193 C. D. Tauber, Coalition for Work With Psychotrauma and Peace annual report: 2006 [online], accessed 2
194 Dr C. D. Tauber in conversation with the author, 18 July 2008, Vukovar.
195 Ibid.
4.5.3 Serbia

Education is also singled out by peacebuilders in Serbia as an area of concern. Their main concerns are the teaching of languages, European contemporary values, the lack of reform and its failure to prepare Serbia’s youth for the future.

In multiethnic areas of Serbia, such as Vojvodina, knowledge of a second language is of great value. Knowledge of a second language not only expands social and economic horizons but also facilitates tolerance and helps avoid conflict. Nonetheless, young Serbs have poor knowledge of their country’s minority languages. Furthermore, young members of national minorities have an increasingly bad command of the Serbian language.\footnote{Council of Europe, \textit{The Situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia}, Committee on Legal Affairs and Human Rights, Doc. 11528, 14 February 2008, p. 15.} There is a lack of teaching in and of minority languages, which at first appears to be due to a lack of qualified teachers. However, a closer examination shows it is the result of neglect at a policy level and lack of implementation.\footnote{Ibid., p. 15.}

Indeed, peacebuilders are frustrated by the stagnation of the reform process in general since the assassination of Zoran Djindjić. They feel the signing of the Bologna Declaration on the European Space for Higher Education in 2003 was a big step in the right direction. However, since then they feel little, if any, progress has been made. Their concerns are confirmed by UNESCO’s evaluation of Serbian vocational education as preparing young people for jobs that no longer exist\footnote{Centre for Education Policy Serbia [online] accessed on 30 October 2008, available at: \url{http://www.cep.edu.rs/eng/}} and by Serbia’s poor performance in the test from the OECD’s programme for international student assessment (41\textsuperscript{st} out of 51), which measures ‘the knowledge and skills essential for full participation in society’.\footnote{Organization for Economic Cooperation and Development [online] Programme for International Student Assessment (PISA), accessed on 30 October 2008, available at: \url{http://www.pisa.oecd.org/pages/0,2987,en_32252351_32235731_1_1_1_1_1,00.html}}

Peacebuilders fear that not enough has changed since the 90s when the state put in place a curriculum that prepared students ‘for life in an ideological, closed and monopolistic society.’\footnote{UNESCO, \textit{Fostering Peaceful Co-existence through analysis and revision of history curricula and textbooks in Southeast Europe}, written by Jean-Damascène Gasanabo, 2006. p. 28.} Textbook development and distribution in Serbia is still tightly controlled by the state and, under the present system, all textbooks must be accepted by the Ministry of Education, leaving teachers no choice.\footnote{Ibid., p. 31.} Peace and civic education is on the whole still carried out by the NGO sector owing to difficulty in implementing systematic reforms.\footnote{Ibid., p. 29.} Considerable progress has been made in promoting values and ideas such as tolerance, equality, non-violence, pluralism, human rights and democratic participation.

However, systematic changes are needed to effect real change and many peacebuilders testified to this. The more ambitious call is for the establishment of a new education system in Serbia that addresses the problems highlighted above. Peacebuilders see education as being a front line in the struggle to bring Serbia back into the European fold and prevent its brightest students from leaving.\footnote{S. Biserko, \textit{Helsinki Committee for Human Rights Annual Report 2007} [online] assessed 28 October 2008. Available at: \url{http://www.helsinki.org.yu/doc/Report2007.pdf}, pp. 339-357}
4.6 Civil Society and Peacebuilding

Peacebuilders in the whole region are experiencing the effects of EU enlargement in many ways. The one experience all have in common is enlargement’s effects on civil society funding. Since the violent break-up of Yugoslavia and until very recently, civil society organisations in the Western Balkans have been largely funded by international donors, that is, through funding programmes run out of and by national embassies. The funding international donors offered was often institutional funding, which is financial support for the organisation as a whole and not for a specific project the organisation is working on. The process of securing support was typically straightforward and many NGOs had access to funding. Some international donors actively sought out NGOs they knew were carrying out good work and offered them financial support.

The situation has now changed quite radically for civil society in the Western Balkans. The most active international donors are now closing down their funding programmes and withdrawing their support. The void they are leaving is being filled by the EU, which through its Instrument for Pre-accession Assistance (IPA) and its European Instrument for Democracy and Human Rights (EIDHR) is increasingly making civil society a partner in the enlargement process. The main challenge posed to peacebuilders and civil society in general by this development is the reduced access to funds that it entails owing to the type of funding offered by the EU. This has been explored in chapter 3.

Other challenges faced by peacebuilders are more specific to the country in which they work. In BiH, peacebuilder’s opinions are divided as to whether the effects of EU support will be positive or negative for their field. Many point to the confusing and complex application process as restricting access to funding and being off-putting. Others can see potential positive effects on the structure of civil society as a whole in BiH.

In Croatia, peacebuilders are concerned that the technocratisation of their field is harming creativity and reducing the amount of time they can spend actually working on their projects. There is also a fear amongst peacebuilders that many good organisations that monitor the government and the state and carry out important advocacy work will soon have to close, leaving the protection of important rights weakened, the implementation of vital laws diffuse and the ability of peacebuilders to carry out reactive ad hoc advocacy work severely reduced.

In Serbia the situation of peacebuilders is also precarious. Their main concerns are the increasing level of attacks they are suffering, both verbal and physical. Such attacks are alarming and often fuelled by an aggressive opposition to the values that peacebuilders promote. In addition to the obvious concern for the personal wellbeing of peacebuilders there is a concern about EU values in Serbia and how much support their promoters are receiving from the EU itself.

4.6.1 Bosnia and Herzegovina

Bosnian peacebuilders are on the whole pessimistic about the future of their field, but are divided as to whether the EU’s approach to supporting civil society is on balance positive or negative. The advent of EU Enlargement has seen their traditional donors leave and many feel that the technical requirements of EU funding are beyond them. What is more, applications cannot be drawn up in the local language, further narrowing access to funding. It is felt that civil society in general is struggling to survive and that it will soon be dominated by a small number of much larger NGOs that carry out several projects simultaneously.

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204 See chapter 3 section 3.4.
However, some peacebuilders think that the changes in the delivery of funding will have a positive effect. They feel that many NGOs in BiH sprang up after the war in order to take advantage of the abundance of international donors, that they are not ‘serious’ about their work and merely ‘go through the motions’. Such organisations will struggle in the new climate and this is seen as positive. Furthermore, some peacebuilders see a need for more policy level work in their field, which is currently dominated by purely grassroots initiatives. They feel that organisations that can bridge this gap will be favoured by the EU and do not see this as necessarily negative.

4.6.2 Croatia

Peacebuilders in Croatia are spending more and more of their time on administrative paperwork and less time on the problems their society or local community faces. During the 1990s donors would give peacebuilding organisations financial support simply because they knew the organisation was doing good work. In many cases donors would actively seek out and identify organisations they wanted to support, with ‘no strings attached’. Of course, the situation at that time was dramatically different from that of today. Since the death of Tudjman\footnote{Franjo Tudjman was in office from 1990 until his death in 1999.} the atmosphere in Croatia has changed considerably and NGOs enjoy a more constructive relationship with the Croatian government. Civil society is invited to take part in the policy process and has seen its work change in keeping with the post-conflict environment to an increasing focus upon policy level projects.

Ironically, despite or even because of this change in atmosphere the fight for survival has just begun for Croatian peacebuilders and civil society organisations in general. As is the case in BiH and Serbia, the donors that have supported Croatian civil society over the last 10 to 15 years are reducing the size of their programmes and in some cases withdrawing support altogether. Naturally, Croatian peacebuilders would like to have local funding, but Croatian society is far from having the inclination or the economic ability to support a dynamic civil society comparable to those enjoyed by Western Europe’s democracies. The Croatian government has established a National Foundation for Civil Society Development which is a fund contributed to by the government, the lottery and private donors set up to support Croatian civil society. This is a start, but currently insufficient as many of the grants it issues cover only a fraction of an organisation’s running costs.

This is where the EU enters and fills the void. In the 2008 Progress Report the Commission announced the EU’s intention to launch a grant scheme for Croatian civil society with a fund of €3 million.\footnote{European Commission, Commission Staff Working Document, Croatia 2008 Progress Report, COM (2008) 674, SEC (2008) 2694, Brussels 5.11.2008, p.6, available at: \url{http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/croatia_progress_report_en.pdf}} This is a considerable amount; however the sum is for the whole of Croatian civil society, winning a grant entails a taxing and technical application process and financial support is structured in such a way that certain sorts of activities and initiatives are impossible. Indeed, the two main victims are likely to be grassroots local civil initiatives and ad hoc advocacy and monitoring activities. Small-scale civil initiatives will not be suited to the sums of money involved and those organising them are unlikely to have the expertise to ensure that their project proposal meets the technical criteria. Without institutional support organisations monitoring war crimes trials or human rights abuses will not be able to respond to the situation on the ground as it develops because their activities are regulated by the confines of their project proposal.
4.6.3 Serbia

Since the fall of Yugoslavia peacebuilders in Serbia have been poorly treated by successive governments. There was hope and cautious optimism during the Djindjić era; however the gloom soon returned following his assassination. Under Vojislav Koštunica\textsuperscript{207} peacebuilders, and in particular organisations advocating transitional justice and human rights, have been attacked for taking critical positions regarding Serbia’s role in the fall of Yugoslavia and Serbia’s record on human and minority rights.

Many peacebuilders feel that the harsh treatment that they have received is in part due to the value system, cultural model and concept of state latent in the politics of Mr. Koštunica.\textsuperscript{208} He has been demonstrably reluctant to recognize the legitimacy of humanistic values that characterise contemporary Europe and favours the idea of an ethnic state. At a political level, this conception naturally leads to negative policies concerning minorities and has given rise to negative campaigns that target organisations critical of these policies.

At a national level, peacebuilders are ‘portrayed as representing no one’ by sections of the media and ‘are treated as political parties which have not passed through the election procedure.’\textsuperscript{209} They have been accused of a wide range of ‘treacherous’ acts the most lurid being attempts to unseat the Orthodox Church and the Serbian Army. The accusations also include working for foreign intelligence services, spearheading the colonisation of Serbia and generally hating the Serb nation.\textsuperscript{210}

The Humanitarian Law Centre (HLC), has been the target of constant attacks and accusations by the Serbian Radical Party (SRS), extremist nationalist groups and media establishments under the influence of other conservative political parties.\textsuperscript{211} The HLC and other organisations working on similar issues are routinely accused of being mercenary organisations operating to the detriment of ‘Serbs who fought to defend their people.’ Peacebuilders are concerned by the lack of action taken by President Tadić and the State to protect peacebuilders and enable them to freely and critically monitor the protection of human rights as well as to pursue the processes of transitional justice.

The demonisation of peacebuilding NGOs has resulted in a relatively successful marginalisation of the peacebuilding community from the mainstream of Serbian society. This in itself is alarming: it is an added cause for concern that these organisations represent the sections of Serbian society that adhere to EU values such as human rights, democracy, equality and the rule of law.\textsuperscript{212} Attacks on peacebuilders amount to, and often explicitly are, attacks on the values that they defend and promote. More alarming than the verbal attacks peacebuilders must endure are the physical attacks they are suffering: the most recent at the time of writing targeted the director of Helsinki Committee for Human Rights in Serbia, Sonja Biserko.

Other issues that concern peacebuilders in Serbia are the reluctance of Serbia’s government to recognise the role of civil society in the policy process and the law on civil society organisations in Serbia. Peacebuilders and civil society actors in general consider that there is neither genuine dialogue nor partnership between the Serbian authorities and civil society. This is not the case in older, more established democracies and it consequently raises concerns

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\textsuperscript{207} Vojislav Koštunica was president of Serbia 2000 to 2003 and then Prime Minister of Serbia 2004 to 2008.


\textsuperscript{209} \textit{Ibid.}, p.114.

\textsuperscript{210} \textit{Ibid.}, pp.111-124.


\textsuperscript{212} Values stipulated in Article 1 of the Lisbon Treaty and contained in the ‘Copenhagen Criteria.’
about the quality and strength of Serbian democracy. Adding to this problem is the law on civil society in Serbia. At present the law does not distinguish between non-governmental organisations and political parties. This further complicates the role of civil society in the political process and raises all sorts of questions when it comes to EU funding for civil society in Serbia. Peacebuilders are naturally concerned that political parties may find a way of receiving funds earmarked for NGOs and CSOs.

4.7 The Impact of the Common Foreign and Security Policy in BiH

4.7.1 The EU Common Foreign and Security Policy

So far, we have considered the EU's involvement in the Western Balkans from the perspective of the Community policies, and more specifically, the enlargement process. However, the European Union also has and actively pursues a Common Foreign and Security Policy (CFSP) which is not a Community policy and which is developed and implemented not by the European Commission but rather by the Council of the European Union directly. In EU jargon, we speak here of pillar 2 of the EU Treaty. This is not the place to go into detailed descriptions of the CFSP or its relationship to community policies. For a more detailed examination of these issues, please see ‘Peace and Peacebuilding - Some European Perspectives.’

4.7.2 The CFSP approach to BiH

Bosnia and Herzegovina has been, from the very beginning of the CFSP actions, one of its core priorities, and particularly of the European Security and Defence Policy (ESDP214). Here, the EU launched its first (civilian) ESDP mission in 2003 (the EU Police Mission in BiH (EUPM)). Here, the EU launched its first military mission when it took over from the NATO-led SFOR in 2004 and sent EUFOR Althea (see section 3 below). Here, too, the EU took the de facto responsibility for an international protectorate in 2002, when the High Representative for BiH (designated and appointed under the Dayton Peace Agreement (DPA)) was co-appointed by the EU and “double-hatted” as High Representative/EU Special Representative (HR/EUSR). Although as High Representative he reports to the Peace Implementation Council (PIC), as EUSR he reports directly to the Secretary-General of the Council of the EU and High Representative for the CFSP (HR/SG), Javier Solana.

In Bosnia and Herzegovina the EU has its longest and biggest CFSP presence, and it is the only country where CFSP is present with the whole range of its tools:

- EUFOR - A military mission with 2500 personnel
- EUPM - A civilian Police Mission with 175 personnel
- EU Special Representative with an office of some 38 international and 200 local personnel

Even after the full deployment of the Rule of Law-mission in Kosovo, this will remain the biggest EU presence anywhere in a third country. This is particularly interesting given the fact that Bosnia and Herzegovina received a promise, at the Thessaloniki Council 2003, that, like all

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214 Ibid, pp 24 30
other Western Balkan countries, it would one day become a full member of the European Union. BiH participates fully in the Stabilisation and Association process of the European Union, with the SAA having been signed in June 2008. At the same time, the HR/EUSR is still the highest authority in the country.

4.7.3 The High Representative/EU Special Representative

The Status of the HR/EUSR

The Dayton Peace Agreement (DPA) of 1995 provides in its Annex X218 for the designation of a High Representative, whose main task would be to monitor the implementation of the DPA. Article five of this Annex specifies his status within the BiH state framework: “The High Representative is the final authority in theatre regarding interpretation of this Agreement on the civilian implementation of the peace settlement.”219 Taking into account that the actual constitution of BiH is part of the DPA, this means that the HR is also the highest authority on the interpretation of the constitution.

The Peace Implementation Council (PIC), the body which is responsible for the implementation of the DPA, interpreted Article five at its meeting in Bonn in 1997 in such a way as to allow the HR to remove officials from any office in the country if their work was not in conformity with the DPA and to impose laws as he considered necessary if the parties proved unable to find a compromise.220 These powers are known today as ‘Bonn Powers’.

The HR reports to the PIC Steering Board (Canada, France, Germany, Italy, Japan, Russia, UK, US, EC, EU presidency and Turkey, representing the Islamic countries), which gives him political guidance.

With the appointment by the PIC of Lord (Paddy) Ashdown as successor of Wolfgang Petritsch in March 2002, the EU co-appointed him as EU Special Representative. The HR/EUSR is thus directly subordinate to the High Representative of the CFSP, Javier Solana, although the respective Joint Action explicitly says that this should not prejudice his mandate as HR.221 This new form of double-hatting led to the situation that the EU is now technically negotiating in the SAP with a country whose highest authority is the same person as the EU’s highest representative there.

The HR/EUSR is based in Sarajevo. The current officeholder is Miroslav Lajčák, a Slovak diplomat, who succeeded the German Christian Schwarz-Schilling on 30 June 2007. He is supported by the Office of the High Representative (OHR) which employs 38 international staff, mostly seconded by Member States, and some 200 locals.

Office Holders

<table>
<thead>
<tr>
<th>Period</th>
<th>Office Holder (country)</th>
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<tbody>
<tr>
<td>Dec 1995 – June 1997</td>
<td>Carl Bildt (Sweden)</td>
</tr>
<tr>
<td>June 1997 – July 1999</td>
<td>Carlos Westendorp (Spain)</td>
</tr>
<tr>
<td>August 1999 – May 2002</td>
<td>Wolfgang Petritsch (Austria)</td>
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219 ibid.
The Development of the HR office since 2002

Since Paddy Ashdown’s co-appointment as High Representative and EUSR in 2002, the position and the power of the office have significantly changed. This was mainly due to the differences in approach taken by Paddy Ashdown from 2002 to 2006 and by Christian Schwarz-Schilling from 2006 to 2007.

Ashdown used the Bonn Powers to a large extent, both to remove officials from office and to impose laws and political reforms. Schwarz-Schilling, however, had a different approach, declaring at the very beginning of his period in office that he would only use the Powers if necessary to continue to implement decisions taken before him, to maintain security in the country and to assure full cooperation of BiH with the ICTY.222 In other words, he focused much more on local ownership.

This led to a significant loss of power of the office, because it would have been very difficult to change the approach of increased local ownership except in very exceptional circumstances. This was deliberate because Schwarz-Schilling saw it as his first priority to create an exit strategy. But he did not expect that the situation would deteriorate with the elections, where nationalist rhetoric found its way back on stage, when, for example, Bosnian Serb politicians talked directly in public about an independence referendum and Bosniac representatives promised that the Republika Srpska (RS) would be abolished.

Another factor reduced the power of the HR: the EUFOR establishment with only 2500 troops was no longer a credible threat of force to back up the HR’s decisions. It remains to be seen how the international community would react if one of the parties to the DPA refused follow the HR’s decisions. However, given that these arrangements are in place in parallel to the accession process, it is to be hoped that this situation will not arise.

The situation today and the future

The mandate of the High Representative is a clear obstacle to full local ownership of any peace process in BiH. It also sits with difficulty in relation to the negotiations on accession to the European Union.

The EU Special Representative could be in a good position to assist with moving the accession forward and improve significantly the availability of the EU in BiH, especially if the EUSR is, as is currently the case, able to speak the language(s) of the country. However, to achieve this, a medium-term priority would be to split the HR/EUSR mandate, to withdraw the HR, to keep the EUSR, to double-hat the EUSR as Head of the EC delegation, as is the case in Macedonia, and thus to ensure coherence between the enlargement process and the ESDP presence.

However, the PIC decided in February 2008223 to cancel the withdrawal of the HR, which was originally programmed for June 2008, and has not set a new date. This was related to the currently unclear situation in Kosovo; a further postponement to another concrete date would have been the third postponement in a row.

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The PIC has set conditions for withdrawal: firstly the signature of the SAA and a positive assessment of the situation by the PIC Steering Board; secondly a list of five areas, where legal changes have to be realised.

The SAA has been signed. The five legal areas are:

- Acceptable and Sustainable Resolution of the Issue of Apportionment of Property between State and other levels of government;
- Acceptable and Sustainable Resolution of Defence Property;
- Completion of the Brčko Final Award;
- Fiscal Sustainability;
- Entrenchment of the Rule of Law.224

These points seem reasonable, all the more since three of the five (defence and ordinary property, repartition of taxes) deal with basic conflicts between the entities and the state and can be seen as some of the very last unsolved administrative post-war issues. Nevertheless, it must be restated that these questions, too, can only be resolved finally and definitely by a proper, democratically adopted constitution.

The withdrawal of the Office of the High Representative remains a priority and the continued presence of this office represents an obstacle to local ownership and the kind of democratic governance that could become part of the EU.

4.7.4 The EU Police Mission in BiH (EUPM)

The Basics
The EU Police Mission took over from the International Police Task Force (IPTF) in 2003 and was the first EU mission ever under the umbrella of the newly established European Security and Defence Policy (ESDP). Its main task is to strengthen police capabilities of BiH. In 2005, the mandate was largely changed and strengthened to today’s three-pillar programme.

These three pillars are:

- facilitation and implementation of police reform;
- strengthening of the accountability of police forces;
- fight against organised crime.

The Head of Mission is the Italian Carabinieri General Vicenzo Coppola, who has the command over 154 international police officers and 31 international civilians.225 Since 2007, the mission reports directly to the newly established Civilian Planning and Conduct Capability (CPCC) in Brussels. This in turn reports directly to the office of Javier Solana (Secretary-General/High Representative for Foreign Affairs of the Council of the EU).

The EUPM has no executive power, but is a purely assisting mission. Its officials do not bear arms and do not have the power of arrest.

What are the issues?
BiH has a highly fragmented police system, which is another consequence of the Dayton constitutional system. There are two police forces at state level, the Border Police and the State Investigation and Protection Agency (SIPA). At the entity level, there is the RS police and the FBiH police. In the FBiH, all ten cantons have again their own police forces. Adding the

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Brčko police force, fifteen different police forces in BiH are accountable to fourteen different governments in a country with 4.5 million inhabitants. It is evident that, without a consistent set of coordinating structures, a comprehensive fight against crime is impossible.

Another significant problem in BiH has been political interference in police work and lack of control. The police forces are accountable to the respective Ministry of Interior (MoI); this also controls the budget - and budget controls and operational capabilities are closely interrelated. The EUPM has had influence here, too, but much more needs to be done.

**The de facto failed police reform and EUPM’s role**

The police reform, imposed by HR Paddy Ashdown in 2004, started with big ambitions in the form of three criteria:

- Legislative and budgetary competences should be located at state level;
- An end to political interference in police work;
- Determination of police districts along technical, not ethnic criteria.

Especially the first and third points were never acceptable to the RS before a definitive settlement of the constitutional system, since every shifting of power in a key area such as internal security to the state level would have been seen as a precedent for the talks on the constitution.

Despite this, Paddy Ashdown in his position as HR/EUSR, and the Commissioner for External Relations at the time, Chris Patten, stipulated that the police reform in accordance with these criteria was a precondition of the signing of the SAA. Other criteria for police reform might also have been possible and the criteria as set out suggested a ‘siding’ of the HR and the European Commission with the Bosniac position which gave the police reform a highly explosive political status and soured relations between the Office of the High Representative/EUSR and the RS.

The EUPM, relatively early on, took another approach than that of the EC and EUSR and concentrated on improving the conditions on the ground. It also argued for a more flexible conditionality, since it did not judge it possible to adhere to the criteria. However, the position of EUPM did not change the position of the OHR and EC.

History would appear to have proved the EUPM right. What began as a radical reform of the BiH police sector and the total reconstruction without ethnic criteria, ended in the beginnings of a small reform: the law package that passed the BiH parliament in April 2008 after two previous failed votes included the creation of seven new bodies at the state level, e.g. a training centre and a forensic institute, but all the seven are dedicated only to the state level police forces SIPA and Border Police.

The original, so-called European Criteria have not been met. Despite this, the EU has agreed that this, together with the EUPM’s work on the ground, is sufficient for the signing of the SAA in June 2008. The EUPM has contributed significantly to the now much improved situation of the police sector in BiH and therefore also to improving the inter-ethnic relationships between the respective police forces.

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The future of EUPM
The mandate of EUPM expires at the end of 2009. It is likely that there will remain unfinished business at that time. The harmonisation of all fourteen police laws and the separation of the budgets of the police forces and the Ministries of Interior will take longer than 18 months. The police reform needs to be implemented and that, too, is a long process. The BiH police are likely to need the technical assistance and know-how of European police forces for a longer period.

It will be crucial to ensure that these unfinished tasks can be continued in any future rule-of-law department of an EU representation in BiH which might at some point in the future combine the role of the EUSR’s office and the EC delegation.

4.7.5 EUFOR Althea
Basics
The multinational, EU-led force EUFOR Althea was launched on 2 December 2004 as the successor of the NATO-led Stabilisation Force (SFOR). It is based on UN Security Council Resolution 1575(2004) as a Chapter-VII-Mission and fulfils the role of the ex-IFOR in the DPA annexes IA233 and II234. It thus guarantees the implementation of the DPA in military aspects and has executive powers. Its main task is to maintain stability and to give the other international actors the space to do their job.

EUFOR Althea has an Integrated Police Unit, whose role is mainly to arrest war-crime fugitives and to fight against organised crime; in this latter respect it principally provides support to EUPM. BiH is the only country where an international police force and an international military presence have Common Political Guidelines.

In 2004, EUFOR began with 6300 soldiers, a number that has decreased to the current size of 2200. According to the force’s website, the number can “easily be reinforced by KFOR and over the Horizon Forces”. It is not in the chain of command of the HR/EUSR but reports to the EU Military Staff in Brussels and to its Command Element (EUCE) in Naples. The Headquarters are in Camp Butmir in Sarajevo.

The future of the military presence in BiH
The military presence of the international community in BiH has to be questioned 12 years after Dayton. On the one hand, it is argued that there are no parties to the DPA who would go back to armed conflict now. Although nationalist rhetoric is strong, and the threat of secession on the part of RS cannot be totally excluded, none of the three ethnicities have either an...
interest in or the capacities to go back to arms; the neighbouring states would not support such a move. So the need for a military presence can be called into question.

Whilst there is merit in these arguments, they are no reason for complacency; peacebuilders in the region report high levels of arms in private hands and see possibilities for radical elements to use violence if the opportunity arises. But this is only one side of the argument for and against a military presence. Any military presence in conflict situations raises the question of whether military intervention is likely to lead to sustainable peace. QCEA would argue that long-term, well-resourced, civilian means are better designed to contribute to sustainable peace owned by all local stakeholders.

Another aspect of this question is this: the presence of EUFOR interferes in the sovereignty of the state, and since there are now unified BiH armed forces, the state can provide security itself. It is an irony that BiH soldiers were part of the multinational force in Iraq, at a time when in their own country, there was still an international military presence to “maintain peace”.

The contribution of EUFOR in policing areas, such as searching for ICTY fugitives, the fight against organised crime and the technical facilitation of the work of EUPM and of local police forces is important. The Integrated Police Unit (IPU) has an advantage over the EUPM in that it has executive powers and can, for example, raid houses of suspects. It has to be considered whether this task, especially the hunt for the lasting ICTY suspects, can be transferred to another body or institution, and possibly linked directly to the ICTY.

4.7.6 What future for CSFP/ESDP in BiH?

There is an intrinsic contradiction between ESDP missions (both civilian and military) in a country which is on the road to EU accession. There is also an intrinsic contradiction between the role of the High Representative/EUSR in a country which is working towards EU membership. The fact that the EU is present in BiH both through the ESDP pillar and through the enlargement pillar makes these contradictions visible and, in our view, calls for change.

- **The position of the HR:** there should be coordination between the end of the mandate of the HR and the accession process; in other words, until such time as the role of the HR becomes unnecessary in BiH, the accession process can only go so far;
- **One voice for the EU:** The EU should coordinate its presence by ensuring that it is represented by one single body, chaired by the double-hatted EUSR/Head of EC delegation. The enlargement process should be the umbrella for all EU activities in the country. This comprehensive approach will ensure a maximum of conflict sensitivity.
- **Maximum of sovereignty:** It is time for BiH politicians to behave responsibly in order to take over the responsibilities. This must be the basis for full accession.
5 The EU’s response

This chapter looks at the EU’s response to the issues identified by peacebuilders described in chapter 4 and at how the EU is addressing them. It will do so by examining the partnerships, the Multi-annual Indicative Planning Documents (MIPDs) and the progress reports for each country, issue by issue. It will also look at the Instrument for Pre-accession Assistance (IPA) and the Multi-Beneficiary MIPD for 2007-2009. Together these documents make up the framework through which EU support in general, and to grassroots peacebuilders specifically, is delivered as part of the enlargement process. It is in these documents that the EU identifies areas where action needs to be taken and thus where its financial support is likely to be aimed. If an issue is to be addressed as part of the enlargement process it must first appear in one or more of these documents.

5.1 Nationalism

5.1.1 Bosnia and Herzegovina

The 2008 European Partnership

The European partnership for BiH is quite direct in its approach to ethno-nationalism although it does not refer to it explicitly. It includes amongst the short-term priorities a need to ‘amend electoral legislation regarding members of the Bosnia and Herzegovina Presidency and House of Peoples delegates to ensure full compliance with the European Convention on Human Rights and the Council of Europe post-accession commitments.’ Amongst the key short-term priorities it asks that ‘State-level ministries and institutions are adequately financed, operational and properly equipped, especially in terms of premises and staff.’ At legislative and political levels the EU is clearly taking the issue of ethno-nationalism seriously.

The issue of state/entity cooperation is further pursued under the partnership’s short-term priorities and then under its medium-term priorities as well. BiH is to ‘ensure structured and institutionalised State/Entity coordination by establishing functioning mechanisms for political, legislative and technical coordination between the State and the Entities.’ It is also to ‘continue the process to agree on and adopt changes to the constitution of Bosnia and Herzegovina that will contribute to creating more functional and fiscally sustainable institutional structures, improving respect for human and fundamental rights and supporting the process of European integration.’

No reference is made to the need for a BiH identity, which is unsurprising given the sensitive nature of the topic and considering the sorts of constitutional reforms that the EU is currently pushing for. Kosovo’s declaration of independence may have overshadowed issues in BiH and made it more difficult to support projects which advocate a common and unified BiH identity. However, such an identity is needed and such projects are necessary. Consequently it makes sense for the EU to look at ways in which it can prepare the ground for such projects.

A reference is made to legislation and policy-formulation at state level, as BiH is to ‘ensure continued progress with taking full national responsibility for policy formulation and decision-

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237 See section 4.1.1 for the main concerns of peacebuilders in BiH regarding the issue of nationalism.
239 Ibid.
240 Ibid.
making. The wording of this priority is rather unfortunate, as in Bosnia-Herzegovina it could be construed as a reference to a decision-maker’s responsibility to his or her particular ethnic nation and not to the country as a whole.

**The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)**
The executive summary of the MIPD acknowledges the deadlock in BiH by stating that it is ‘a continuing and considerable challenge for Bosnia and Herzegovina to comply with the political requirements of the Stabilisation and Association process’ (SAP). It goes on to say that the best way of meeting the SAP’s requirements is ‘by increasing the effectiveness of the executive and legislative bodies [and] improving the co-ordination between State and Entities.’ The EU is to provide support for necessary reforms through IPA, which ‘can assist in the strengthening of administrative capacity [and] can support domestic efforts on constitutional reform’.

It is acknowledged that ‘political consent is a pre-requisite to establish or reform institutions or to re-balance State and Entity responsibilities’ and that ‘substantial political risks relate to this core reform area and resistance of key political stakeholders may impede the success of the reforms.’ Consequently the EU has linked the support it is willing to provide to ‘reliable consent amongst the relevant political stakeholders.’ This represents a carrot and stick approach.

The expected results of measures supported under component I are ‘changes to the constitution which contribute to more functional and sustainable institutional structures and lead to a smoother decision-making process.’ Such results would contribute to BiH becoming a ‘more democratic, sustainable and functional state’ and in theory to a reduction in the impact of ethnic nationalism on politics, as the BiH State is strengthened at the expense of the entities.

No mention is made of supporting efforts to foster a common BiH identity in the MIPD; support is, however, provided for potential EU awareness campaigns that target the general public. Networks that link and coordinate EU Information Centres are also supported. Any campaign should make it clear that the EU does not support the Republika Srpska (RS)’s secession and that the EU is a multi-ethnic and diverse Union that celebrates cultural and political heterogeneity.

**The 2008 Progress Report**
The 2008 progress report states that ‘nationalist rhetoric from political leaders from all the constituent peoples, challenging the Dayton/Paris Peace Agreement (DPA) and, thus, the constitutional order, remained commonplace. The most frequent challenges came from the political leadership of RS who have continued to claim the right of self-determination for the

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241 Ibid.
243 Ibid., p.5.
244 Ibid., p.5.
246 Ibid., p.5.
248 Ibid., p.17.
249 Ibid., p.13.
250 Ibid., p.13.
It is reported that the election of the tripartite Presidency continues to be in contravention of the European Convention on Human Rights (ECHR) and that the Entities have still not brought their flags and anthems into line with the state-level constitution.\(^{252}\)

The adoption of legislation is delayed owing to ‘capacity problems, lack of political will, and diverging national interests in government and parliament.’\(^{253}\) The situation is summarised thus: ‘Overall, nationalist rhetoric has prevailed and Bosnia and Herzegovina’s leaders have made no progress towards creating, through the reform of the constitutional framework, more functional and affordable State structures which support the process of European integration.’\(^{254}\)

We recommend that:

- The EU publicly confirms that the integrity of the BiH state is essential to the enlargement process and that it may accede only as a unified state;
- Any project promoting EU awareness must pay special attention to the EU’s values, epitomised by its motto of unity through diversity;
- The EU includes in the MIPD provisions that support projects that help foster, advocate and promote a unified BiH identity; and that
- The EU maintains the provisions in the 2008 partnership and the MIPD that support a stronger BiH state and that reform the constitution.

5.1.2 Croatia

The 2008 Accession Partnership

The accession partnership of February 2008 does not address ethnic nationalism specifically.\(^{255}\) Rather, it focuses instead on the protection of minority rights and discrimination.

Among the partnership’s ‘key priorities’ it includes a request that Croatia implements its Constitutional Law on National Minorities, ‘with particular attention to its provisions guaranteeing proportional representation of minorities in employment.’\(^{256}\) The partnership then calls on Croatia to ‘tackle discrimination more widely in the public sector.’\(^{257}\) The issue is further dealt with under the Partnership’s list of ‘priorities’ with a call for Croatia to ‘adopt and implement a comprehensive anti-discrimination strategy.’\(^{258}\) Croatia is also called upon to ‘encourage a spirit of tolerance vis-à-vis the Serb and Roma minorities and take measures to protect persons belonging to minorities who may be subject to threats or acts of discrimination, hostility or violence.’ Although nationalism is not mentioned specifically, we can see that some of the most negative manifestations of nationalism are identified by the partnership as something that needs correcting.


\(^{252}\) Ibid., pp.7-8.

\(^{253}\) Ibid., p.10.

\(^{254}\) Ibid., p.8.

\(^{255}\) See section 4.1.2 for the main concerns of peacebuilders in Croatia regarding the issue of nationalism.


\(^{257}\) Ibid.

\(^{258}\) Ibid.
The 2008-2010 Multi Annual Indicative Planning Document (MIPD)

Amongst the ‘objectives and choices’ for assistance the MIPD for 2008-2010 identifies measures that ‘promote respect for and protection of minorities through more efficient and comprehensive use of the legislation and sustained contribution of specialised civil society organisations and related local community development also with a view to facilitate the reconciliation among communities’ as being targets for support under IPA Component I. The MIPD also includes under ‘political criteria’ a reference to the field of human rights in which it proposes possible support under IPA for measures that protect ‘persons belonging to minorities [and the] adoption and implementation of a comprehensive anti-discrimination strategy, as well as fostering related local community development also with a view to facilitate refugee return, and reconciliation among communities.’

These are positive signs that the EU has taken note of peacebuilders’ concerns in this area and shares the perspective that nationalism, or at least its negative manifestations, need tackling as part of the enlargement process. It bears repeating, however, that the MIPD does not actually programme IPA assistance; rather it informs the programming process. A strong indicator of whether or not an issue will indeed be supported under IPA is its inclusion amongst the section setting out the results expected by 2010.

The MIPD for Croatia includes amongst its expected results that the ‘protection [of] minorities including measures aimed at fostering local community development also with a view to facilitate reconciliation among communities is in place and progressively implemented.’ Overall, the 2008-2010 MIPD for Croatia is pro-active in its approach to the negative manifestations of nationalism but neglects the issue of trauma, which is often a contributing factor to the strength of nationalism in certain regions of Croatia.

The 2008 Progress Report

The 2008 progress report on Croatia notes that a comprehensive law on anti-discrimination was adopted by Croatia in July 2008 and describes this as ‘signifying important progress’. Both the accession partnership and the MIPD identified such a measure as a priority, but they also highlighted the need to implement such legislation. Indeed, the progress report goes on to say that anti-discrimination legislation in Croatia ‘has generally not been applied vigorously.’ It notes that to date ‘there has only been one criminal conviction for hate crime. There has been no conviction for the initiation of racial and other hatred.’

Most encouragingly from the perspective of peacebuilders working on this issue the report also laments that ‘there has been limited reaction of the authorities to various expressions of an extreme nationalist character which could be considered as incitement to national and religious hatred. There are no statistics on judicial cases to track the nature and extent of discrimination.’ Clearly the EU shares peacebuilders’ concerns with regard to nationalism in Croatia. Furthermore, it reports that ‘support to the victims of discrimination is marginal’ and that ‘the level of protection against discrimination in practice and its judicial prosecution is not in line with EU standards.’

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260 Ibid., p.13.
261 Ibid., p.19.
263 Ibid., p.12.
264 Ibid., p.12.
265 Ibid., p.12.
266 Ibid., p.12.
We recommend that:

- The EU continues to prioritise the adoption and implementation of anti-discrimination and minority rights legislation in the accession partnership;
- The EU calls on the Croatian authorities as part of the accession partnership to tackle extreme nationalism more pro-actively;
- The EU includes provisions promoting greater support to the victims of discrimination in both the accession partnership and the MIPD;
- The EU includes provisions in the MIPD that address trauma and its negative consequences.

5.1.3 Serbia

The 2008 European Partnership

Amongst the accession partnership’s short-term priorities there is a call for Serbia to ‘adopt comprehensive anti-discrimination legislation and ensure appropriate institutional support for victims.’267 Later, under its medium-term priorities the partnership requires Serbia to ‘implement the anti-discrimination legislation.’ There are no other references, either directly or indirectly, to nationalism.268

The 2008-2010 Multi Annual Indicative Planning Document (MIPD)

Serbia’s MIPD is more explicit about the types of discrimination that can be tackled by programmes supported through IPA. Under component I, measures that ‘create conditions for inter-ethnic tolerance, growth and sustainable development of all communities’ are provided for.269 Projects that foster a ‘general, society-wide culture of tolerance towards national minorities as a basis for coherent and meaningful inclusion policies’ also fall under the objectives of component I.270 The expected results from such measures are that ‘human and minority rights are promoted and a climate of inter-ethnic tolerance [is] developed.’271

Component II, which focuses on cross-border cooperation, will provide support for a number of programmes that involve Serbia’s neighbours. Programmes that involve Croatia are expected to result in a ‘decrease in the number of ethnic based incidents.’272

The 2008 Progress Report

The progress report finds that although the Serbian constitution prohibits direct and indirect discrimination on any grounds ‘a comprehensive anti-discrimination law has not yet been adopted.’273 It goes on to note that ‘in practice, there is still widespread discrimination, primarily against national minorities, Roma or women as well as lesbian, gay, bisexual and transgender (LGBT) people.’274 Furthermore, it reports that ‘the authorities had failed to

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268 See section 4.1.3 for the main concerns of peacebuilders in Serbia regarding the issue of nationalism.
270 Ibid., p.19.
271 Ibid., p.19.
272 Ibid., p.32.
274 Ibid., p.18.
provide adequate protection against such treatment.’ 275 Particular concern is expressed for the situation of the Roma and Bosniac minorities.

We recommend that:

- The EU makes the call for the Serbian authorities to adopt a comprehensive anti-discrimination law one of the 2010 partnership’s key priorities if such a law has not been adopted and fully implemented by the end of 2009;
- The EU continues to support projects that promote values such as inter-ethnic tolerance, pluralism and multi-ethnicity in the MIPD; and that
- The EU publicly supports organisations that promote such values.

5.2 Transitional Justice

5.2.1 Bosnia and Herzegovina

The 2008 European Partnership

Many of the partnership’s priorities in both the short-term and medium-term categories relate to transitional justice. 276 A key priority set down by the partnership is for BiH to ‘fully cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY)’. 277 Encouragingly, the EU goes further and also includes amongst its key priorities a call for BiH to ‘pursue efforts aimed at reconciliation between citizens of the countries in the region.’ 278 Furthermore, it asks BiH to ‘develop mechanisms for a social dialogue.’ 279 This provision, along with the former, potentially provides for many grassroots initiatives that pursue aspects of transitional justice on the ground, especially those that focus on truth-seeking and truth-telling.

The BiH judiciary in general is addressed under the partnership’s short-term priorities, as BiH is required to ‘reinforce the independence and accountability of the judicial system and improve its effectiveness, including by reducing the backlog of cases.’ 280 This is a boost for local war crimes trials. Further provisions for the improvement of the judiciary are made under the partnership’s medium-term priorities. BiH is to implement a ‘strategy for development of the justice sector, consolidate an independent, reliable and efficient judiciary that guarantees the rule of law and equal access of citizens to justice and guarantee that courts have the technical equipment and financial means necessary to impart justice efficiently and properly.’ 281 No explicit reference is made to lustration, nor to reparations and restitution. There is no call for BiH, Croatia and Serbia to come to an agreement over the extradition of suspected war criminals.

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

The MIPD makes no direct reference to transitional justice and few references to programmes related to activities that typify mechanisms of transitional justice, such as truth-seeking or lustration. However, the references it does make are significant and carry potential. The

275 Ibid., p.19.
276 See section 4.2.1 for the main concerns of peacebuilders in BiH regarding transitional justice.
278 Ibid.
279 Ibid.
280 Ibid.
281 Ibid.
priorities of the cross-border programmes covered by IPA component II include ‘social development to improve social cohesion and to promote cultural exchange’. Given the recent history of the region, the activities that are provided for under such a priority will include ‘truth-telling’ and ‘truth-sharing’. Needless to say, a more explicit reference to regional truth-seeking mechanisms such as RECOM would be a welcome addition to the sentence.

The expected results of such cross-border programmes are ‘networks between people in the area of education, healthcare, culture and sports established and communication improved’. Again, there is much scope included in the wording, especially through the inclusion of education, culture and communication. It is important that this potential is realised during the programming process.

The 2008 Progress Report

The political criteria covered by the 2008 progress report for BiH are comprehensive in dealing with war crimes trials but make no reference to truth-seeking mechanisms, lustration, reparations and restitution, or the extradition of suspected war criminals. The progress report states that ‘cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), which is a key European Partnership priority, has continued to improve and has reached a generally satisfactory level. Cooperation between ICTY and the state-level and entity authorities is adequate at an operational level, and access to witnesses and archives has been good.’ It then adds that more effort needs to be made in combating networks that support indicted war criminals, especially in the RS.

Regarding local war crimes trials, the report acknowledges that ‘one of the main challenges facing the State Prosecutor's Office and the State Court is the large volume of war crimes cases [and that] a strategy is needed to map and prioritise these cases.’ Major obstacles to effective trials at a cantonal and district level are identified as being the lack of witness protection and support, and ‘insufficient staffing and lack of specialisation among cantonal and district prosecutors.’ Furthermore, ‘the lack of harmonisation of the legal codes used in war crimes trials at state and entity levels’ is also highlighted. The report states that ‘a clear and concrete national strategy dealing with war crimes issues has still to be adopted.’

We recommend that:

- The EU makes the settlement of an extradition agreement between BiH, Croatia and Serbia a key priority of the 2010 European and accession partnerships;
- The EU continues to support BiH’s efforts on war crimes trials in the 2010 partnership and includes support for lustration, reparations and restitution;

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283 See section 4.2
284 Ibid., p.24.
286 Ibid., p.22.
• The EU calls on the BiH authorities to support the Coalition for RECOM;\textsuperscript{291}
• The EU supports civil society initiatives to ensure the continued legacy of the ICTY under the MIPD, especially the establishment of regional ICTY archive centres in BiH.

5.2.2 Croatia

The 2008 Accession Partnership

In a broad sense, two of the key priorities outlined by the 2008 accession partnership relate to transitional justice.\textsuperscript{292} Croatia is asked to ‘pursue efforts aimed at reconciliation among citizens in the region [and to] maintain full cooperation with the International Criminal Tribunal for the former Yugoslavia and ensure integrity of domestic war crimes proceedings.’\textsuperscript{293} The first of these two key priorities is very broad and can encompass a whole range of approaches and initiatives. Arguably the most significant aspect of it is that it specifically refers to citizens and thus can be understood as referring more to grassroots initiatives. The second key priority addresses one of the leading concerns of Croatian peacebuilders, namely the country’s judiciary and its performance on war crimes trials.

The accession partnership is slightly more specific when outlining its priorities in this area. Croatia is asked to ‘substantially reduce the case backlog in courts and ensure an acceptable length of judicial proceedings [and to] take measures to ensure proper and full execution of court rulings.’\textsuperscript{294} These priorities directly address two substantial concerns of Croatian peacebuilders in the area of trials and prosecution. The partnership goes on to ask Croatia to ‘ensure the integrity of proceedings as regards war crimes, in particular by ensuring an end to ethnic bias against Serbs, including application of a uniform standard of criminal responsibility and improved security of witnesses and informants.’\textsuperscript{295}

The issue of some county courts’ unwillingness to pass verdicts that are unpopular with the public is in part addressed by the broad priority of ‘[enhancing] professionalism through high-quality training supported by adequate financing of the Justice Academy, including in EU law’.\textsuperscript{296} However, the need for more support for war crimes investigation centres is not specifically mentioned.

Peacebuilders in Croatia feel that a regional truth commission needs to be established and that war crimes trials need to be more accessible to the general public. Neither issue is directly referred to by the EU; and yet such initiatives would be in line with the accession partnership’s key priority of pursuing efforts aimed at reconciliation among citizens in the region. A call for the Croatian authorities to support the Coalition for RECOM and their initiative for a regional truth commission would build on the EU’s key priority here.

The 2008-2010 Multi Annual Indicative Planning Document (MIPD)

The ‘strategic objective’ of IPA component II is ‘to improve co-operation and good neighbourly relations of Croatian regions with the neighbouring border areas.’\textsuperscript{297} This strategic objective is elaborated in a section on ‘strategic choices’ under cross-border cooperation which include

\textsuperscript{291} RECOM stands for Regional Commission for Truth-seeking and Truth-telling about War Crimes. See section 4.2.4.
\textsuperscript{292} See section 4.2.2 for the main concerns of peacebuilders in Croatia regarding transitional justice.
\textsuperscript{294} Ibid.
\textsuperscript{295} Ibid.
\textsuperscript{296} Ibid.
support for ‘people-to-people actions to intensify contacts, including cultural exchanges, at 
local level among citizens from either side of the borders.’

Neither the strategic objective nor the strategic choices specifically refer to truth-seeking or truth-telling; however, their 
wording provides considerable scope for the inclusion of such undertakings in IPA programming 
under component II. Despite this, a direct reference to such initiatives would be more helpful.

The section on strategic choices includes (under the heading of political criteria) a reference to 
the judicial system; it proposes possible support under IPA for measures that reduce ‘the case 
backlog in courts and ensure an acceptable length of judicial proceedings including the 
enforcement of court decisions […] and enhancing the independence, accountability and 
professionalism in the judiciary.’ This builds upon the priorities outlined by the Accession 
Partnership and directly addresses some of the concerns raised by Croatian peacebuilders.

The 2008 Progress Report

In summarising the assessment of Croatia’s judiciary, the report states that ‘currently, 
effective dispensation of justice for citizens is not always assured.’ Many war crimes ‘remain 
un-prosecuted often due to a combination of a lack of evidence, unwillingness of witnesses to 
come forward, e.g. due to intimidation, and unwillingness or reluctance of police and 
prosecutors’. This is often the case in smaller towns, ‘especially […] where the victims are of a 
minority ethnicity (Serbs).’ In response to this the State Attorney ‘issued instructions to 
prosecutors in October 2008 aimed at addressing the problem of a common standard of criminal 
accountability for war crimes not being applied irrespective of ethnicity.’ This complies with 
one of the priorities laid down by the accession partnership earlier in the year and is possibly 
the result of pressure being applied by both peacebuilders and the EU.

The report also touches upon the issue of impunity and says that ‘there are still obstacles to 
the transfer of cases and extradition of suspects in cases of war crimes and crimes against 
humanity between Bosnia and Herzegovina, Croatia, […] and Serbia. This exacerbates the 
problem of impunity.’ The fact that there is no agreement on the extradition of suspected 
war criminals between the countries is criticised by peacebuilders (see section 4.2) and the 
EU’s expression of concern in this area is a positive development. Calls for an agreement 
should, however, be made in the partnership.

The backlog of cases in Croatia and the volume of in absentia verdicts are also noted in the 
Progress Report as areas of concern. It follows up on priorities in the accession partnership 
too and calls for ‘further improvements in the accountability, professionalism and competence 
of the judiciary’. The EU’s response to all of these issues is in line with the perspective of 
peacebuilders working on transitional justice.

In the area of lustration the EU draws attention to the situation of Branimir Glavaš, the MP 
accused of committing war crimes (see section 4.2.2). The report states that ‘the Parliament 
decided to lift the immunity from prosecution of one MP facing serious criminal charges. It did 
not, however, agree to lift his immunity from being held in custody. The decision was in

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298 Ibid., p.21.
299 Ibid., p.13.
300 European Commission, Communication from the Commission to the European Parliament and the 
301 Ibid., p.8.
302 Ibid., p.10.
303 Ibid., p.8.
304 Ibid., p.15.
305 Ibid., pp.8-9.
306 Ibid., p.8.
contradiction to that of the previous Parliament. This decision was taken despite the seriousness of the charges and the potential effects on witnesses' willingness to testify.\footnote{Ibid., p.7.} Stronger condemnation from the EU regarding this matter would be welcome.

The progress report deals with another issue highlighted by Croatian peacebuilders working on transitional justice: cooperation with the ICTY and specifically the failure of Croatia to provide official documents concerning the war-time shelling of Croatian Serbs in the Krajina region. The progress reports states that ‘Croatia needs to ensure a full and proper investigation into the whereabouts of the missing files’, which document this event.\footnote{Ibid., p.15.}

We recommend that:

- The EU makes the settlement of an extradition agreement between BiH, Croatia and Serbia a key priority of the 2010 European and Accession Partnerships;
- The EU calls on the Croatian authorities to support the Coalition for RECOM and their initiative for a regional truth commission;
- The EU supports civil society initiatives to ensure the legacy of the ICTY under the MIPD, in particular through the establishment of regional ICTY archive centres in Croatia;
- The EU includes support for the war crimes investigation centres over the short term in the MIPD and calls upon the Croatian authorities to improve the centres over the medium term in the partnership;
- The EU calls on the Croatian authorities to change the law on immunity of MPs accused of war crimes from being held in custody;
- The EU includes support for the treatment of war trauma in heavily affected regions as part of the partnership and the MIPD.

5.2.3 Serbia

The 2008 European Partnership

A great deal of attention is paid to Serbia's judiciary in the 2008 European partnership and not all of the provisions can be covered by this report. We will focus on the provisions that relate to issues explored in chapter 4.\footnote{See section 4.2.3 for the main concerns of peacebuilders in Serbia regarding transitional justice.} Of the key priorities, one stands out: it calls on Serbia to 'improve the functioning of the judiciary, guarantee its independence, accountability, professionalism and efficiency and ensure that the career development and recruitment of judges and prosecutors are based on technical and professional criteria and free from political influence.\footnote{Official Journal of the European Union, Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the European Partnership with Serbia including Kosovo (2008/213/EC), available at: \url{http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:080:0046:01:EN:HTML}} In addition, the partnership's short-term priorities include a request for Serbia to 'strengthen the office of the prosecutor for war crimes' and to 'ensure enforcement of court decisions and further strengthen the capacity to try war crimes domestically in full compliance with international obligations to the ICTY.\footnote{Ibid.} Unfortu
However, the partnership does touch on lustration and institutional reform. A medium-term priority laid down by the partnership is to ‘continue the restructuring and reform of the armed forces and increase transparency and civilian oversight of the armed forces.’ Crucially, Serbia is also asked to ‘strengthen capacity at the Ministry of the Interior […] and develop procedures and the capacity to share intelligence between agencies.’

No mention is made of the lack of an agreement on the extradition of war crimes suspects with BiH and Croatia, nor to the preservation of the legacy of the ICTY war crimes archives.

The 2008-2010 Multi Annual Indicative Planning Document (MIPD)
Serbia’s MIPD for 2008-2010 provides a great deal of encouragement for peacebuilders working in the field of transitional justice. One of the political objectives and choices of component I is to ‘support transitional justice actions, i.e. regarding domestic war crimes trials, reparations, restitution, etc.’ This is a very positive step but would have been more so if ‘truth commission’ had been mentioned explicitly.

Also included under the political objectives and choices of component I is support for measures and projects that ‘further strengthen [Serbia’s] capacity to undertake domestically legal proceedings against war crimes in full compliance with international obligations to the ICTY.’ Following the theme of domestic war crimes trials, there is support for measures that ‘eliminate undue political influence on the prosecution system, improve its efficiency, and strengthen the office of the prosecutor for war crimes.’

Lustration and institutional reform is also provided for under component I. IPA programming is able to support the ‘strengthening of the democratic institutions and the separation of powers between Parliament, Judiciary and Government’ and measures that ‘ensure greater democratic oversight on security forces.’ Furthermore, it is able to support the development of ‘a professional police service with improved internal control and greater standards of accountability.’ Finally, IPA programming under component I is also able to support measures and initiatives that improve the ‘performance of Serbia’s public administration at all levels (governmental, parliamentary, para-governmental and regulatory bodies/structures) to foster democratic governance and public service to all people in Serbia.’

Component II seems to fill the gap left by component I and provides for IPA programmes that strengthen ‘cross-border people-to-people’ interaction to reinforce cultural and sporting links and to share in joint areas of common interest. Although no reference is made to truth-seeking or truth-telling initiatives, there appears to be scope in the wording for such activities. The expected results are for ‘people-to-people actions to increase each year of the cross-border programme’s implementation period, demonstrating widening and deepening in the nature, frequency and scale of economic, social and cultural co-operation.”

312 Ibid.
313 Ibid.
315 Ibid., p.19.
316 Ibid., p.19.
317 Ibid., p.18.
318 Ibid., p.19.
319 Ibid., p.18.
320 Ibid., pp.31-32.
321 Ibid., pp.31-32.
The EU and the Western Balkans – Grassroots Peacebuilding and Enlargement

The 2008 Progress Report
The 2008 progress report on Serbia notes many of the concerns peacebuilders have relating to war crimes trials and it covers some of the issues relating to lustration and institutional reform. No reference is made to truth-seeking, truth-telling or reparations and restitution.

The report finds that there has been some progress on domestic war crimes cases and it notes the cooperation of Serbia with the ICTY during 2008, which included the arrest of Stojan Župljanin and Radovan Karadžić. The report also finds ‘that good regional cooperation continued, allowing direct exchanges of evidence, documents and data relevant to investigations of war crimes cases’ but that ‘there are still obstacles to the transfer of cases and extradition of suspects in cases of war crimes and crimes against humanity between Bosnia and Herzegovina, Croatia and Serbia.’

It also notes that ‘there were continuing threats against the war crimes prosecutor and the president of the war crimes chamber.’

Like the European partnership and the MIPD, the progress report also refers to lustration and institutional reform such as the need to reform the civil service and the judicial system. Particular reference is made to civilian oversight of the security services. The report finds that ‘reform in this sector still has to be completed and the new parliament needs to ensure effective democratic oversight.’

Overall the EU appears to be addressing the key problems relating to institutional reform and has adopted some desirable provisions in the Partnership that deal with the judiciary. The MIPD includes some very positive provisions such as the direct reference to transitional justice on page 19. The inclusion of a reference to a truth commission would have made this provision even better.

We recommend that:

- The EU makes the settlement of an extradition agreement between BiH, Croatia and Serbia a key priority of the 2010 European and accession partnerships;
- The EU calls on the Serbian authorities to support the Coalition for RECOM and their initiative for a regional truth commission;
- The EU makes the adoption of legislation dealing with reparations for human rights violations committed in the past by the Serbian government, especially during the Milosēvić era, a priority of the partnership; and that
- The EU supports civil society initiatives to ensure the preservation of the legacy of the ICTY under the MIPD, especially the establishment of regional ICTY archive centres in Serbia.

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323 Ibid., p.21 & p. 15.
324 Ibid., p.21.
325 Ibid., paraphrasing provisions in pp.11-12.
326 Ibid., p.11.
5.3 Returnees

5.3.1 Bosnia and Herzegovina

The 2008 European Partnership

The 2008 partnership for BiH makes one reference to returnees, which appears under the political criteria section of its short-term priorities. BiH is to ensure that [its] refugee return fund is properly funded and fully operational; contribute to full implementation of the Sarajevo Declaration; complete the process of refugee return and achieve significant progress towards their economic and social integration.\(^{327}\)

The Sarajevo Declaration of 3 February 1998 represents a commitment to Annex VII of the DPA. However its focus is Sarajevo and it makes only a passing reference to other municipalities in Bosnia-Herzegovina. It aims to make Sarajevo a multi-ethnic city as an example for the rest of BiH to follow in terms of returnees and the ethnic composition of its public administrations.

An explicit reference to the socio-demographic structure of BiH society and the DPA Annex VII goal of re-establishing a pre-war composition is needed. Given the current political climate in BiH it makes sense to pursue this particular aspect of Annex VII on the basis that the existence of more ethnically diverse entities, cantons and districts will assist any constitutional reforms that contribute to the weakening of ethno-nationalism in BiH politics.\(^{329}\)

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

The MIPD addresses the issue of returnees in slightly more detail but still does not mention the socio-demographic aspect of the process. The general strategic objectives and choices for IPA assistance 2008-2010 include a declaration that IPA assistance will contribute to overcome the legacy of the war through assistance to the return process, notably to the social and economic integration of returnees and to support de-mining and assistance to mine victims and will support the social and economic inclusion of minorities and vulnerable groups.\(^{330}\)

The issue of returnees is also explicitly addressed by component I objectives and choices under the heading of social inclusion and return. Component I can support the completion of the return process through assistance to the economic and social re-integration of returnees.\(^{331}\)

The expected results of such support are that policies promoting the social and economic inclusion of returnees are adopted and there is visible progress on their implementation.\(^{332}\)

The 2008 Progress Report

The 2008 progress report finds that progress on improving the socio-economic integration of refugees and internally displaced persons has been slight [and that although] the number of returnees has substantially declined in recent years, [...] the process has not yet been completed.\(^{333}\)

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\(^{327}\) See section 4.3.1 for the main concerns of peacebuilders in BiH regarding returnees.


\(^{329}\) See section 4.1.1 for a discussion on ethno-nationalism in BiH politics.


\(^{331}\) Ibid., p.17.

\(^{332}\) Ibid., p.17.

It states that roughly 125,000 persons still wish to return to their original place of residence but that they face discrimination in employment, access to healthcare, education, pensions and social rights and are thus put off from returning.\textsuperscript{334} The report also finds that ‘the revision of the Strategy of Bosnia and Herzegovina for implementation of Annex VII to the Dayton Peace Agreement can be considered a significant effort on the part of the state and entities to finalise the process of return.’\textsuperscript{335} Nonetheless, the report makes no reference to the distortion of data on returnees due to including instances of returned property in the figure. Peacebuilders feel this is misleading and gives a false picture of the actual situation.

We recommend that:

- The EU maintains the current provisions in the partnership and the MIPD concerning returnees;
- The EU explicitly refers to the importance of areas returning to their pre-war socio-economic composition in the 2010 partnership; and that
- The EU calls for an improvement in the classification of data collected on returnees so that returned property is not recorded as a person or people returning to live in their pre-war community.

5.3.2 Croatia

The 2008 Accession Partnership

Among the key priorities of the 2008 accession partnership is a call for Croatia to ‘complete the process of refugee return; definitively settle all cases of housing care for former occupancy/tenancy rights (OTR) holders; complete reconstruction and repossession of property.’\textsuperscript{336} The issue of OTR holders is also raised but at inter-state level under the partnership’s priorities. Croatia is called upon to ‘make headway in settling with neighbours all issues arising from lost occupancy and tenancy rights.’\textsuperscript{337} The issue of employment is addressed as Croatia is asked to ‘create the social and economic conditions to improve the climate for reintegration of returnees and the acceptance of returnees by receiving communities, including through regional development programmes in affected areas.’ Discrimination in general is addressed by the Partnership. As explained in section 5.1.2 above on nationalism in Croatia, the calls for anti-discrimination measures in the area of employment are also referred to.

The 2008-2010 Multi Annual Indicative Planning Document (MIPD)

The issue of returnees is not addressed in Croatia’s MIPD with the exception of a reference in conjunction with calls for an anti-discrimination strategy in Croatia. As set out in section 5.1.2 above, the MIPD provides for the possibility of support for the ‘adoption and implementation of a comprehensive anti-discrimination strategy, as well as fostering related local community development also with a view to facilitating refugee return, and reconciliation among communities.’\textsuperscript{338} We think the MIPD should address the issue of restitution of temporarily occupied housing to returnee owners and the issue of reconstruction of destroyed residential properties.

\textsuperscript{334} Ibid., paraphrasing provisions made on p.20
\textsuperscript{335} Ibid., p.20.
\textsuperscript{337} Ibid.
The 2008 Progress Report
The 2008 progress report addresses most of the issues highlighted up by peacebuilders and makes a general call in its introduction for Croatia to comply with the enlargement process’s conditionalities concerning returnees. The report confirms that ‘a number of obstacles to sustainable return of Serb refugees remain, principal among them being housing, particularly for former tenancy rights holders. Implementation of the Croatian government’s housing care programmes within and outside the areas of special state concern (ASSC) for the former tenancy rights holders who wish to return to Croatia continues to be slow, although implementation has picked up in recent months.’

The report goes on to add that ‘a number of ethnically motivated incidents occurred over the summer, which could have a detrimental impact on the willingness of refugees to return. Members of the Serb minority, including those who remained in Croatia during the war, face difficulties concerning access to employment, especially in the war-affected areas. Discrimination continues particularly in the public sector at the local level. Croatia needs to encourage a spirit of tolerance and take appropriate measures to protect those who may still be subject to threats or acts of intimidation.’

We recommend that:

- The EU pays more attention to the issue of returnees in the MIPD, especially concerning the issue of OTRs and employment;
- The EU includes provisions for initiatives that address the restitution of temporarily occupied housing and the reconstruction of property in the MIPD;
- The EU includes provision in the MIPD that address inter-community relations and the social integration of returnees;
- The EU makes the adoption of an adequate plan for employment in the administration at county, town and municipal levels a short-term priority of the Partnership.

5.4 Regions of concern
5.4.1 Bosnia and Herzegovina
In section 4.4.1 we said that we consider BiH itself to be a region of concern. As a result, most of the issues relating to BiH that we have highlighted in this report are issues that concern its stability and its survival as a state. We see no need to repeat them here.

5.4.2 Croatia
The 2008 Accession Partnership
The accession partnership deals to a certain extent with ethnic nationalism and discrimination, two major problems faced by Eastern Slavonia. It also begins to address the economic problems faced by the region by calling on Croatia to ‘adopt a Regional Development Act’.

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341 Ibid., p.13.
342 Ibid., p.13.
343 See section 4.4.2 for the main concerns of peacebuilders in Croatia regarding Eastern Slavonia.
which would be advantageous to Eastern Slavonia and help tackle similar economic problems experienced by all regions in Croatia.

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)
The MIPD follows the accession partnership in addressing regional development; it also includes amongst its ‘strategic choices’ a reference to possible support under IPA for de-mining measures, ‘supported with a view to enhance the economic development [of the effected region].’

It also includes under cross-border cooperation a reference to support under IPA for measures that enhance ‘co-operation among local/regional authorities, associations, NGOs and enterprises from neighbouring regions to enhance economic and social development or eligible border regions...fostering people-to-people actions to intensify contacts at local level among citizens from either side of the borders.’ Two counties in Eastern Slavonia are listed as eligible under component II for such support, namely Osijek-Baranja County and Vukovar-Srijem County.

Such broadly defined support could potentially apply to initiatives that promote reconciliation, truth-telling and projects that address physiological trauma. Needless to say, more direct and specific references in support of such initiatives would be both a welcome development and more likely to translate into action on the ground.

By 2010 the EU expects ‘areas where the presence of mines and unexploded ordnance threatens the economic development and the overall security environment [to have been] progressively de-mined.’ Furthermore, ‘the expected results of pre-accession assistance provided under component II is an improvement in the co-operation and good neighbourly relations of Croatian regions with the neighbouring border areas and an increased sustainable economic and social development in border areas and across the border regions.’ Such expectations are an indication of the sorts of measures will receive support under IPA between 2008 and 2010.

The 2008 Progress Report
The progress report does not specifically address regions of concern. The 2009 progress report needs to pay more attention to the situation in Eastern Slavonia.

We recommend that:

• The EU includes the economic re-development of Eastern Slavonia amongst the 2010 partnership priorities;
• The EU pays more attention to the situation on the ground in Eastern Slavonia in the 2009 progress report;
• The EU maintains the current provisions in the MIPD concerning support under component II and adds explicit references to truth-telling and reconciliation; and that
• The EU includes measures in the partnership and the MIPD that address the trauma suffered by the region during the war, such as support for mental health programmes and organisations dealing with trauma.


347 Ibid., p.19.
348 Ibid., p.22.
5.4.3 Serbia

The 2008 European Partnership

No references are made to Sandžak in the 2008 partnership. More attention needs to be paid to Sandžak here. There are however, priorities concerning minority rights and education that relate indirectly to the tensions in Sandžak. For example, a short-term priority that is listed under political criteria calls on the Serbian authorities to ‘adjust relevant legislation to the new constitution and ensure full implementation of minority rights, in particular on education in the mother tongue.’

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

Again, no direct reference to Sandžak is made by the MIPD and this needs to change. Broader provisions are made, however, for measures that ‘create conditions for inter-ethnic tolerance, growth and sustainable development of all communities.’

Measures that create a ‘general, society-wide culture of tolerance towards national minorities as a basis for coherent and meaningful inclusion policies’ are also included. These are more general provisions that deal with the larger problems faced by the country as a whole.

The 2008 Progress Report

The progress report does mention Sandžak. The report acknowledges that ‘the situation in Sandžak has continued to deteriorate [and that] divisions within the Muslim community have deepened and there have been several outbreaks of violence.’ It adds that ‘municipal structures lack the capacity fully to enforce minority rights in Sandžak.’ No reference is made to the role of ‘agents provocateurs’ nor to the situation concerning war crimes trials.

We recommend that:

- The EU pays greater attention to the situation in Sandžak in both the 2010 partnership and the MIPD; and that
- The EU calls on all government agencies in Serbia to actively promote stability in the region and good intra- and inter-ethnic relations as part of the Partnership’s priorities.

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349 See section 4.4.3 for the main concerns of peacebuilders in Serbia regarding Sandžak.
352 Ibid., p.19
354 Ibid., p.19
355 See section 4.4.3.
5.5 Education

5.5.1 Bosnia and Herzegovina

The 2008 European Partnership

In the area of education the partnership mainly focuses on aligning the system with the Bologna process and introducing modern vocational training and improving regional cooperation in the field of higher education in general.\textsuperscript{356} Such priorities are found in both the short-term and medium-term priorities of the partnership and are indeed vital to the development of education in BiH. Importantly, under its short-term priorities the partnership also calls on BiH to ‘take measures to prevent segregation of children along ethnic lines at school.’\textsuperscript{357} Although the EU refers to the segregation taking place in schools it does not mention the number of additional jobs that this practice generates and the consequent need to support projects that address the job losses that an end to segregation would entail.

It also addresses the structural aspects of the education system that contribute to a divergent teaching of history by requiring BiH to ‘resolve [the] fragmentation of the educational system and the overlap of functions between different levels of organisation [and to] strengthen policy development and strategic planning to improve the quality of education.’\textsuperscript{358} It would be better however, if the development of a unified curriculum on history teaching were explicitly mentioned. Finally, it calls on BiH to ‘sign and ratify the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.’\textsuperscript{359}

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

The MIPD does not refer directly to any of the issues discussed above. They do appear to be latent in the expected results of the component I objective however, which is to ‘support the reform of the education system.’\textsuperscript{360} The expected results include ‘standards for primary, secondary and higher education [being] adopted and implemented.’\textsuperscript{361}

The 2008 Progress Report

The 2008 progress report treats education in a similar fashion to the MIPD and states that the ‘establishment of state-level agencies responsible for standards and assessment, quality assurance, curriculum development and accreditation in education needs to be completed. Separation of pupils in schools (‘two schools under one roof’) remains a serious issue in the Federation...’\textsuperscript{362}

\textsuperscript{356} See section 4.5.1 for the main concerns of peacebuilders in BiH regarding education.
\textsuperscript{358} \textit{Ibid.}
\textsuperscript{359} \textit{Ibid.}
\textsuperscript{361} \textit{Ibid.}, p.18.
We recommend that:

- The EU makes regional cooperation on the adoption of a regional history textbook a priority of the 2010 partnership.
- The EU includes provision in the MIPD that support projects that promote the abolition of segregation in schools;
- The EU includes provisions in the MIPD that support projects which mitigate the negative consequences for employees that the abolition of segregation in schools will entail;

5.5.2 Croatia

The 2008 Accession Partnership

There is no mention of education in the 2008 accession partnership.\(^{363}\) This is because the chapter on education and culture has been closed.

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

There is no mention of education in the 2008-2010 MIPD for Croatia. We think the MIPD should support non-formal education of communications skills in traumatised regions such as Eastern Slavonia. The issue of trauma and its impact on socialisation should not be overlooked by the EU, especially because it impacts on communication skills in traumatised areas.

The 2008 Progress Report

The 2008 progress report does mention education and informs the reader that chapter negotiations on education and culture are provisionally closed.\(^{364}\) The report states that ‘good overall progress has been made in the area of education, training, youth and culture. A good level of legal alignment has been achieved. Croatia should continue its efforts for preparing for the management of Life-Long Learning and Youth in Action programmes.’\(^{365}\) However, the practice of two schools under one roof in Eastern Slavonia belies the EU’s satisfaction with Croatia’s performance on education. Furthermore, given the region’s recent history and the importance of the teaching of history for reconciliation, one would expect more EU insistence on this issue.

Given the current transition in Croatia, it also makes sense to include the teaching of basic rights in the secondary school curriculum. The teaching of such rights will strengthen Croatia’s democracy and is likely to generate interest in the studying of these subjects at the country’s universities.

We recommend that:

- The EU re-opens the chapter on education and culture until the practice of two schools under one roof is abolished throughout Croatia;
- The EU makes regional cooperation on the adoption of a regional history textbook a priority of the partnership;
- The EU includes in the MIPD support for non-formal education in communications skills in traumatised regions such as Eastern Slavonia;
- The EU calls on the Croatian authorities to include the teaching of basic rights at secondary school level and the role of civil society in democracy;
- The EU works with Croatian universities to develop degree-level courses dealing with civil, human and democratic rights.

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\(^{363}\) See section 4.5.2 for the main concerns of peacebuilders in Croatia regarding education.
\(^{365}\) Ibid., p.60.
5.5.3 Serbia

The 2008 European Partnership

The European partnership for Serbia sets down a number of broad priorities that cover, at least in part, each of the concerns highlighted by peacebuilders in section 4.5.3.366 A short-term priority for the Serbian authorities is to ‘continue efforts to promote good inter-ethnic relations, including measures in the field of education.’367 In order to complete this priority new text books would need to be introduced. The other short-term priority dealing with education calls on Serbia to ‘continue awareness-raising activities, including the use of minority languages.’ These priorities cover some aspects of the promotion of European values and the teaching of languages. However, the education system is not explicitly mentioned in the context of these priorities.

Two medium-term priorities set down by the partnership deal with the issue of vocational training. Serbia must ‘improve the education system with the aim of increasing skills which foster employment opportunities and long-term economic growth.’368 Furthermore, Serbia is asked to ‘adopt a national qualification framework for vocational and education training’ and to ‘promote regional cooperation in the field of higher education.’369

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

The MIPD deals with vocational training and the broad issue of quality of education under component I. IPA support will be possible for measures that improve ‘the quality of […] education (including civic education and history teaching) and training systems in line with European standards and Serbia’s social, economic and population needs, including mobility.’370 The direct references to civic education and the teaching of history are very encouraging, but of course such references in the 2010 partnership would be even more so.

The MIPD also notes that ‘the education system does not adequately serve the competitive needs of the Serbian economy and improvements in mainstreaming of entrepreneurship education in the curriculum could help address the gaps.’371 This addresses the concern surrounding vocational training in Serbia.

The expected result of such measures is ‘reform of [the] education system to support the development of [the] economy and society.’372

The 2008 Progress Report

The 2008 progress report pays significant attention to higher education. Of the issues highlighted by peacebuilders only vocational training is dealt with. The report notes that ‘the vocational education training system needs to be reorganised and adult training developed in order to ensure a broader range of profiles and better adaptability to economic needs...
Financing for the education sector is still inadequate. The issue of training that is relevant to the economic needs of the country is further pursued as the report states that ‘sustained efforts are needed in order to ensure quality, mobility and links with the labour market.’

We recommend that:

- The EU makes the quality of civic and history teaching a short-term priority of the 2010 partnership;
- The EU maintains the provisions in the partnership and the MIPD regarding vocational training and the Bologna Process;
- The EU makes the teaching of languages a priority of the partnership and an area supported by provisions in the MIPD; and that
- The EU maintains the current provisions in the partnership and the MIPD concerning vocational training and the Bologna process.

5.6 Civil Society and Peacebuilders

5.6.1 Bosnia and Herzegovina

The 2008 European Partnership

The 2008 European partnership for BiH does not mention civil society. The EU should make civil society a formal partner in the enlargement process by including it here.

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

The MIPD reports that ‘the views of civil society actors in Bosnia and Herzegovina were taken into account through consultation on the priorities and the scope of the present MIPD. The Commission met with representatives of the different civil society networks and received positive feedback on the draft planning document.’ Indeed, according to the strategic objectives and choices for IPA assistance 2008-2010 set down by the MIPD, “a […] priority will be the support of Bosnia and Herzegovina’s civil society and the civil society dialogue.” Such support for civil society and its inclusion in policy dialogue will ‘contribute to the democratic stabilisation and the social and economic development of the country.” The EU has led by example and must further include civil society in the enlargement process in order to continue doing so.

The expected results of IPA support for civil society is that ‘a permanent dialogue between authorities and the civil society is developed and civil society organisations (CSO) and their coalition partners improve their internal communication and become better “watchdogs” and also stronger partners of the Government.” Furthermore, that ‘local governments have adopted transparent mechanisms for the disbursement of local funds foreseen for CSO projects.” Finally, a very encouraging inclusion for organisations such as Youth Initiative for Human Rights (YIHR) is the statement that ‘understanding of youth issues at the political level

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374 Ibid., p.39.
375 Ibid., p.39.
376 See section 4.6.1 for the main concerns of peacebuilders in BiH regarding civil society & peacebuilders.
378 Ibid., p.13.
380 Ibid., p.18.
will be improved by the support of the dialogue between governments and youth organisations. 381

The 2008 Progress Report
The progress report for 2008 has little to present on civil society and peacebuilders in BiH. Under the heading ‘political criteria’, the report states that ‘more efforts by the authorities are needed in order to establish regular and systematic communication with civil society and to encourage its participation in policy-making.’ 382

We recommend that:

- The EU includes civil society in the 2010 partnership thereby making it a partner in the enlargement process; and that
- The EU makes the inclusion of civil society in the democratic process a priority of the 2010 partnership.

5.6.2 Croatia

The 2008 Accession Partnership
The 2008 accession partnership for Croatia makes no reference to civil society. 383 The EU should make civil society a formal partner in the enlargement process by including it here.

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)
The MIPD states that the first strategic objective of IPA component I is ‘to further improve alignment with the political criteria, including a reinforced support to civil society.’ 384 This is developed further under the strategic choices laid down by the MIDP. It includes under political criteria a reference to possible support for civil society under IPA which will ‘further support Civil Society organizations in participating and contributing in developing, implementing and monitoring public and acquis-related policies as well as raising awareness on the challenges of EU accession under the political criteria.’ 385

The expected results by 2010 are ‘that the regulatory framework and institutional capacities at national, regional and local levels for effective consultation with the civil society are enhanced; that the capacity of Croatian [civil society organisations] in participating in, developing, implementing and monitoring public or accession-related strategies and programmes, including through local, regional, national and trans-national networking, is enhanced.’ 386

The expected results outlined by the MIPD are a positive sign and should translate into increased participation by peacebuilders in the policy process. Nonetheless, more explicit support in the MIPD for peacebuilding activities is needed.

381 Ibid., p.18.
383 See section 4.6.2 for the main concerns of peacebuilders in Croatia regarding civil society & peacebuilders.
385 Ibid., p.13.
386 Ibid., p.19. Text clarified by author of this report.
The MIPD’s expected results should, in theory, also lead to support for projects that have a regional approach. Encouragingly, the capacity of civil society organisations to participate in monitoring work is mentioned. Whether or not this means the way in which EU support for civil society is delivered is going to be flexible enough to support such activities remains to be seen. As pointed out in section 4.6.2, the current set of conditions surrounding EU grants prevents peacebuilders from carrying out such activities.

The 2008 Progress Report

The progress report’s section ‘political criteria’ states that ‘civil society organisations continue to play an important role in the promotion and protection of human rights, democracy and protection of minorities. However, they continue to have difficulty influencing policy debate and remain relatively weak in analytical capacity.’ This gives an indication of some of the roles the EU sees NGOs playing in Croatian society and indeed what it expects of certain sections of Croatian civil society.

The strategic objective stipulated in the MIPD is expanded on in the report’s introduction. It announces that the 2008 IPA programmes in Croatia amount to €146million and that a €3 million grant scheme for Croatian civil society has been set up to support ‘projects in the sectors of: transparency and accountability of public administration and the fight against corruption, anti-discrimination as well as sustainable development.’ The grant scheme focuses on some of the areas that peacebuilders have identified as needing attention; however, areas such as transitional justice and education are not explicitly included. Furthermore, no reference is made here to the inability of civil society to carry out ad hoc advocacy and monitoring work with EU grants. Each of these issues is highlighted by peacebuilders in section 4.6.2.

It goes on to state that IPA ‘cross-border cooperation has been expanded to Serbia, Montenegro, Bosnia and Herzegovina with a contribution of 4.4million euros.’ This expansion of IPA cross-border cooperation to Serbia and BiH is promising, especially in the area of transitional justice and in particular the truth-seeking and truth-telling aspects of transitional justice. To be effective, such mechanisms require a regional, cross-border approach. However, without an explicit reference by the EU to such activities when outlining the objectives of cross-border cooperation, there is no guarantee that such activities will receive the support that they need.

We recommend that:

- The EU includes civil society in the 2010 partnership thereby making it a partner in the enlargement process;
- The EU includes transitional justice and education in the civil society grant scheme;
- The EU provides more support in the MIPD for peacebuilding activities; and that
- The EU explicitly refers to transitional justice initiatives when providing for cross-border cooperation in the MIPD.

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388 Ibid., p.6.

389 Ibid., p.6.
5.6.3 Serbia

The 2008 Accession Partnership

There is only one priority that mentions civil society in the 2008 partnership and it addresses two of the concerns mentioned in section 4.6.3 of this report. The priority requires the Serbian authorities to ‘adopt legislation on associations and the legal status of NGOs, encourage the development of civil society organisations and [to maintain a] regular dialogue with civil society on policy initiatives.’ These are important points and their inclusion here is welcome.

The 2008-2010 Multi-Annual Indicative Planning Document (MIPD)

The MIPD elaborates on the broad priority set down by the partnership. The IPA will be able to support measures that ‘further support [...] civil society in order to promote the creation of a genuine dialogue and partnership between the Serbian authorities and the Civil Society in the democratic stabilisation and the economic and social development of the country.’ The MIPD goes on to say that it will contribute to the ‘consolidation of civil society through mainstreaming civil society issues in all programmes and supported also by other components of EC assistance.’ This is a very encouraging development and a boost to peacebuilders and civil society in general.

As we can see, the role of and need for civil society in a healthy and functioning democracy is not being overlooked by the EU. The MIPD goes on to say that an aim of mainstreaming civil society issues in all of its programmes is to promote and strengthen ‘civil society capacity in monitoring the effectiveness of government policies and programmes.’

The expected result of IPA support in these areas is ‘a permanent dialogue between authorities and the civil society.’ The MIPD also expects ‘Civil Society Organisations (CSOs), Professional Associations and their partners [to] improve their internal communication and improve their capacity both to scrutinise and build viable partnerships with the Serbian authorities both on central and local level.’

The 2008 Progress Report

The report notes that ‘offensive and inflammatory language against political opponents and human rights defenders recurred in parliament’ and that the current parliamentary rules have been insufficient to prevent such behaviour. Furthermore it reports that ‘a number of NGOs, in particular human rights defenders were subjected to threats and verbal abuse for holding diverging views on issues such as the situation in Kosovo. Such incidents have not been fully

390 Section 4.6.3 looks at the main concerns of peacebuilders in Serbia regarding civil society & peacebuilders.
393 Ibid., p.20.
394 Ibid., p.20.
395 Ibid., p.21.
396 Ibid., p.21.
investigated. This acknowledgment is welcome, however a public denunciation of such treatment would be even more so.

Regarding the legal status of NGOs in Serbia, the progress report notes that ‘longstanding legislative deficiencies have not been adequately addressed. These concern the legal status of NGOs and their financing, including restrictive and unfavourable fiscal conditions applied on an ad hoc and arbitrary basis.’ No mention is made of the lack of legal distinction between NGOs and political parties in Serbia.

We recommend that:

- The EU publicly denounces the attacks on peacebuilders in Serbia;
- The EU calls for greater protection for civil society organisations;
- The EU continues to pursue the partnership priorities relating to civil society; and that
- The EU maintains the provisions in the MIPD supporting genuine dialogue and partnership between the Serbian authorities and civil society.

5.7 IPA - Issues of concern and the EU’s response

Section 3.4 identifies the main concerns that peacebuilders across the region have about the Instrument for Pre-Accession Assistance (IPA) and its implementation. Below, these concerns are summarised and the EU’s response to them is examined in more detail.

5.7.1 The Council Regulation establishing the IPA

Peacebuilders consider that measures supported under the IPA should foster peacebuilding as a precondition of political, economic and social development of the beneficiary countries. The best way to ensure this is to modify the Council Regulation establishing the IPA. Peacebuilders would like to see the rules concerning the specific components include explicit references to peacebuilding, confidence-building, reconciliation and conflict-prevention. They would also like to see provisions aimed at improving dialogue between civil society and government institutions. Inclusion of such references would guarantee that projects supported under the IPA contribute to peacebuilding efforts.

The EU’s Response

It must be pointed out that there are some positive provisions already included in the Council regulation establishing the IPA. Article 2 sets out the scope of the IPA’s assistance and paragraph (1) has a number of encouraging sub-paragraphs, specifically:

- The promotion and protection of human rights and fundamental freedoms and enhanced respect for minority rights, the promotion of gender equality and non-discrimination;
- The development of civil society;
- Social inclusion;
- Reconciliation, confidence-building measures and reconstruction;
- Regional and cross-border cooperation.

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398 Ibid., p.16.
399 Ibid., p.16.
401 Ibid., Title II, Articles 8-12.
402 Ibid., Title I, Article 2, paragraph 1, indents (b), (e), (f), (g), (h).
Article 9 of Title I sets out the rules concerning component II, which deals with cross-border cooperation. Paragraph 2 of Article 9 provides that:

‘Such cooperation shall have the objective of promoting good neighbourly relations, fostering stability, security and prosperity in the mutual interest of all countries concerned, and of encouraging their harmonious, balanced and sustainable development.’

Whilst the provisions of Articles 2 and 9 hold potential and could be said to provide for peacebuilding implicitly, stronger and more direct wording would be a better guarantee. Furthermore, the wording of Article 9 suggests that it is intended more for state-level actions and relations and not for grassroots, people-to-people actions.

We recommend that the EU should make the following changes to the Council Regulation establishing the IPA:

- Add the following provision to Articles 8 and 9 (components I & II): ‘Assistance under this component may also support capacity-building measures to improve dialogue between civil society and government institutions’;
- Add the following provision to Articles 8 and 9 (components I & II): ‘Assistance under this component may also support peacebuilding, post-crisis rehabilitation and reconstruction’;
- Add the following provision to Article 9 (components II): ‘Assistance under this component may also support joint actions of state and non-state actors that are contributing to peacebuilding, reconciliation and the promotion of peace’;
- Add the following provision to Articles 11 and 12 (components IV & V): ‘All projects supported under this component must be conflict-sensitive’.

5.7.2 Programming

Peacebuilders across the region are concerned that the decentralisation and local ownership of the IPA will result in the exclusion of organisations involved in the promotion of human rights and transitional justice, as such organisations tend to be critical of their governments.

What is more, peacebuilders see a need for regional calls for proposals for projects dealing with transitional justice. They see little chance of such calls being made without a strong commitment to such projects from the EU.

Another aspect of decentralising EU support that peacebuilders in Serbia are wary of is corruption. They fear that NGOs with close links to political parties will be favoured. Such NGOs, they argue, do not criticise the government and do not contribute to the strengthening of democracy. Rather they reinforce the pre-eminence of established political figures.

In BiH peacebuilders point out how unsuitable the IPA’s structure is for the country’s political situation. The state-level Special Programming Officers (SPOs) who are responsible for IPA programming on the local side are prevented from doing their job by the lack of cooperation from the Republika Srpska (RS), which has set up an identical programming structure within its institutional framework and thereby undermines the BiH state.

Peacebuilders in Croatia have noticed that issues that they raised several years ago are only now being addressed by the EU’s calls for proposals. They consider the time that it takes for an issue to be acted upon to be too long.

\[403\] Ibid., Title I, Article 9, paragraph 2.
EU Response
Article 6 of the Regulation deals with the programming of assistance under the IPA and states that ‘civil society and other stakeholders shall be associated where appropriate.’ Stronger wording would be more welcome here and would serve as an example to the governments of the beneficiary countries. A phrase such as ‘civil society and other stakeholders shall be consulted regularly and on a systematic basis’ would help establish civil society as a partner in the enlargement process and send the right message to the region’s governments.

It is easy to understand why peacebuilders are concerned by the involvement of the beneficiary governments in the programming of assistance under the IPA considering the resistance shown to transitional justice and human-rights issues by their governments. If national officials working on programming are charged with drawing up project fiches, there is a risk that key issues, such as transitional justice and human rights, will be left out.

However, as set out in section 3.4.2 (above) IPA programming is carried out in three stages and at the second stage all project fiches are assessed by a programme management committee consisting of both national officials and Commission delegation staff. The committee checks that the fiches are in conformity with the country’s MIPD before sending them to DG Enlargement for a final check.

This shows the importance of the MIPD and the need for peacebuilders to be involved in the drawing up of the MIPD. Civil society experts are not involved in the translation of the Partnership priorities and the multi-annual indicative financial framework (MIFF) into more specific action areas to be carried out under the IPA Components. Rather they are consulted once the action areas are drawn up and asked to make written comments. Civil society should be involved in this process before the action areas are produced. Involvement at an earlier stage will ensure that the process responds better to the needs on the ground, and that issues such as transitional justice and human rights are not excluded.

Regarding regional calls for proposals dealing with transitional justice, as yet there have not been any. The Commission adopted an ‘IPA Programme on Civil Society Facility’ in August 2008; the structure of this appears to carry potential for such projects (see section 5.8.1 below).

The political situation in BiH has frustrated the efforts of peacebuilders from local grassroots level and beyond. The IPA cannot be immune to the problems that BiH faces, nor can it be immune to the political problems in Serbia. Currently the EU is programming the IPA support in BiH as the country has not established an adequate Decentralised Implementation System (DIS). The EU should obviously do whatever is possible to ensure that local organisations are not disadvantaged by the country’s political impasse. However, neither should it stand by and allow the RS to undermine the BiH state. A “double-hatted” EUSR/Head of Delegation would be well placed to help to work towards the removal of the administrative structures erected in the RS which parallel the state-level Department for European Integration.

The slow response to EU calls for proposal in relation to needs on the ground could be solved by better civil society consultations (see section 5.7.4 below).

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404 Ibid., Title I, Article 6, paragraph 1.
We recommend that:

- The EU replaces the phrase ‘civil society and other stakeholders shall be associated where appropriate’ in Title I, Article 6, paragraph 1 of the Council Regulation establishing the IPA with the phrase ‘civil society and other stakeholders shall be consulted regularly and on a systematic basis’;
- EU officials should support transitional justice when programming the IPA project fiches;
- The EU makes more regional calls for proposals in the area of transitional justice;
- Civil society is involved in the drawing up of the MIPD’s ‘action areas’.

5.7.3 The impact on civil society of the move to EU funding

The most immediate problem here is the technical requirements of the application process. They strain an organisation’s already thin resources and discriminate against small local civil initiatives. An even greater cause of concern is the lack of core funding provided by the EU. Core funding enables an organisation to take care of survival questions such as paying its staff’s wages and coping with a failed project proposal and to be a functioning organisation rather than a mere project delivery vehicle.

The funding itself covers only 80-90% of the project’s costs with the rest to be provided by the applicant organisation from another source. Most local NGOs do not have the money needed to co-finance the grant and have to seek additional funding sources which often have their own set of requirements that often clash with those of the EU. This approach to funding also discriminates against small, local, civil initiatives. Indeed, peacebuilders call for a “civil initiatives” instrument of some sort to cater for grassroots, bottom-up work. An alternative to such an instrument would be sub-granting, which is currently not permitted under EU regulations.

Finally, many local peacebuilders face a language barrier when following the application procedure. Applications must be made in English, not the local language, which favours a minority of organisations with access to a strong English-speaker and international NGOs.

The EU’s Response

There is no response from the EU that one can point to regarding the technical nature of the applications process, core funding, co-funding, a civil initiatives instrument and the language in which applications are made. All that can be said here is that the EU should consider making improvements with respect to each of them.

We recommend that:

- The EU reduces the technical nature of grant applications and provides better advertised, more frequent and more accessible training to civil society organisations (CSOs) on how to make applications;
- The EU provides core funding for regional civil society networks dealing with transitional justice and human rights;
- The EU establishes a civil initiatives instrument which provides smaller grants that do not require co-financing;
- The EU allows larger, well established NGOs and CSOs to issue sub-grants for local or community initiatives that cover inter-ethnic tolerance, pluralism, anti-discrimination, gender equality, democracy and multiculturalism;
- The EU increases the capacity of the EC’s delegations to manage applications in the local language and accept grant applications in both the local language and a number of other EU languages.
5.7.4 Consultations and communication

Peacebuilders consider that the EU’s consultation strategy needs to be more systematic and implemented sector-by-sector. In this way they feel that NGOs can plan in advance their regular contributions to the consultations and that progress will be made more quickly.

The main issues surrounding communication were a call for more feedback following the rejection of an application so that lessons can be learnt and more training courses for civil society in how the IPA works and how best to approach the application process. A practical matter that peacebuilders have noticed is that calls for tender spread out across several websites and should be collated in one single website.

The EU’s response

In recent months there have been some changes in the EU’s approach to civil society consultations. Large conferences took place in Brussels and Ljubljana and a systematic consultation of all civil societies regarding the progress report for 2008 has also taken place. This is markedly different to previous years and many peacebuilders welcome this development. However, peacebuilders feel that the EU’s consultation strategy can still be improved, as can its communications strategy.

We recommend that:

- The EU holds systematic and regular consultations, sector by sector;
- The EU holds sectoral consultations every 3 or 4 months;
- The EU holds a large, cross-cutting plenary consultation once or twice a year;
- The EU provides more detailed feedback following the narrow rejection of a promising grant application;
- The EU provides more frequent and accessible training to CSOs on how to make grant applications.

5.8 The Multi-Beneficiary MIPD

As stated in section 3.4.2, the Multi-Beneficiary MIPD is a part of the IPA’s budgetary process. It is explored here in more detail not because it has been highlighted by peacebuilders in the region as something that they think needs attention, but because of the potential support for peacebuilding activities contained within its provisions. The 2007-2009 Multi-Beneficiary MIPD has two broad objectives which are to:

1) Tackle cross-border problems: certain problems faced by the beneficiaries cross frontiers and require ‘truly regional solutions based on close cooperation between beneficiaries.’

2) Obtain ‘efficiencies through a Multi-Beneficiary Approach.’

As we saw in section 3.4.2, the Multi-Beneficiary MIPD aims to develop regional cooperation in 11 difference fields, or areas of intervention. Two of those areas contain provisions that are of particular interest to peacebuilders:

Area vi) Supporting Civil Society; and
Area vii) Education, Youth and Research.

Despite the potential for peacebuilding activities contained in these areas, we would argue that a 12th area that deals specifically with peacebuilding, transitional justice and

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407 Ibid., p.6.
reconciliation should be added to the Multi-Beneficiary MIPD. Before exploring what this additional area might look like we shall examine the two existing areas that potentially support peacebuilding activities.

5.8.1 Area vi) - Supporting Civil Society

Within this area of intervention the EU identifies four sub-areas on which it will focus. The three of these which are of particular interest in this context are:

- **Civil Society Dialogue**: support will be given to initiatives that work towards creating a more supportive legal and administrative environment for civil society activities, to initiatives that strengthen the administrative capacity of civil society and to initiatives that facilitate networking and partnership-building;
- **Refugee Return**: support will be given to initiatives that facilitate refugee return and local integration, to initiatives that build the capacity of local civil society organisations and to initiatives that address the issue of missing persons;
- **Social Inclusion**: support will be given to initiatives that aid the non-discriminatory participation in society of minority communities.

Each of these sub-areas addresses some of the concerns of peacebuilders as explored in chapter 4 under sections 4.6 (Peacebuilding and civil society), 4.3 (returnees) and 4.1 (nationalism) respectively.

In August 2008 the EU established a special facility that addresses the first of these three sub-areas, civil society dialogue. It is called the IPA Programme on Civil Society Facility. The EU has not yet established a special facility to address the other two sub-areas. We think it should.

5.8.2 IPA Programme on Civil Society Facility

The Facility provides assistance under three other areas, namely ‘Technical Assistance’, ‘People-2-People Programmes’ and ‘Partnership Actions’. The latter focuses on the environment and organised crime. The other two are of more direct interest in this context:

- **Technical Assistance**: support will be given to projects that increase the capacity and actions of CSOs and improve the democratic role of CSOs. The expected results are that CSOs will become more influential in the decision-making process and that citizens' awareness of their democratic rights and duties will be increased.
- **People-2-People Programme**: support will be given to projects that stimulate civic participation, essentially through visits to EU institutions and the sharing of such experiences.

The recent adoption of an IPA Programme on Civil Society Facility indicates that the EU is committed to making civil society a stakeholder in the enlargement process. Civil society is essential to democracy yet ineffective without a place in the decision-making process, so support for measures that establish and enhance dialogue between the region's governments and civil society are important and welcome. Nonetheless, we see a need to realise the peacebuilding potential of the facilities “people-2-people” programme.

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408 Ibid., pp.21-24.
410 Ibid., pp.6-7.
A similar facility addressing refugee return and another that promotes social inclusion would also build positively on the establishment of this facility. Therefore,

We recommend that:

- The EU includes within the scope of the IPA Programme on Civil Society Facility’s People-2-People Programme joint actions of state and non-state actors that are contributing to reconciliation, peacebuilding and the promotion of peace;
- The EU establishes an IPA Programme on Refugee Return Facility; and that
- The EU establishes an IPA Programme on Social Inclusion Facility.

5.8.3 Area vii) - Education, Youth and Research

This area of intervention also has three sub-areas on which the Multi-Beneficiary MIPD will focus. Two of these are particularly relevant:

- **Education**: support will be given to initiatives that address issues concerning higher education, in particular implementation of the Bologna Process and Erasmus Mundus;
- **Youth**: support will be given to initiatives that provide non-formal education and intercultural youth exchanges that promote dialogue, tolerance and social inclusion among young people, as well as the strengthening of youth NGOs.

This area has significant potential and the wording provides for many of the activities that existing youth organisations engaged in peacebuilding are undertaking. The intercultural exchanges are of particular importance to regional peacebuilding and transitional justice efforts. However, this area of the multi-beneficiary MIPD could make a bigger contribution to peacebuilding. Therefore,

We recommend that:

- The EU establishes an IPA Programme on Education and Youth Facility.

5.8.4 Area xii) - Peacebuilding, transitional justice and reconciliation

We think that a 12th area of the multi-beneficiary MIPD should be established and focus on peacebuilding, transitional justice and reconciliation. Such an area would be well placed to provide support for the Coalition for the Regional Commission for Truth-seeking and Truth-telling about War Crimes (RECOM). As we saw in section 4.2.4, RECOM is a regional initiative undertaken by civil society in the Western Balkans in order to deal with the region’s past. The impact that the past has on the present is a cross-border problem which requires a truly regional solution based on close cooperation. This sort of problem and its solution is exactly what the multi-beneficiary MIPD was established to address. Therefore,

We recommend that:

- The EU establishes a 12th area of focus for the multi-beneficiary MIPD that deals with peacebuilding, transitional justice and reconciliation;
- The EU establishes within the 12th area an IPA Programme on peacebuilding Facility;
- The EU establishes within the 12th area an IPA Programme on transitional justice Facility; and
- The EU establishes within the 12th area an IPA Programme on reconciliation Facility.

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412 See section 4.2.4 under transitional justice.
Annex I - List of interviewees

**Bosnia-Herzegovina**

Duška Andrić-Ružičić, Medica & Infoteka  
Goran Bubalo, TERCA  
Davorin Brđanović, American Friends Service Committee  
Anela Čavdar, AEO BiH  
Slavica Drašković, Izbor Plus  
John Furnari, United Nations Development Programme  
Jagoda Gregulska, Research and Documentation Centre Sarajevo  
Aden Hasanbegović, Centre Non-violent Action  
Victor Jovev, International Commission for Missing Persons  
Alma Mašić, Danish Embassy (Now Head of Office YIHR Sarajevo)  
Jadranka Milicevic, CARE, Women in Black  
Milan Mirić, Bosnia-Herzegovina NGO Council Secretariat  
Jasmina Pjanić, War Crimes Defence Team  
Nela Porobic, United Nations Development Programme  
Randy Puljek, Mennonite Centre Sarajevo  
Borka Rudić, BH Novinari  
Elmida Saric, MDF Training & Consultancy  
Amela Suljić, Youth Initiative for Human Rights Sarajevo  
Eli Tauber, Jewish Community of Sarajevo  
Mirsad Tokača, Research and Documentation Centre Sarajevo  
Aleksandar Trifunović, Nansen Dialogue Centre Banja Luka  
Marina Vasilj, former Director of US CRP  
Iva Vukušić, War Crimes Prosecution Team

**Croatia**

Srđan Antić, Nansen Dialogue Centre Osijek  
Anna Bitoljanu, Former Peacemaker  
Gordan Bosanac, Centre for Peace Studies  
Goran Božičević, Miramida  
Kaselj Brawka, Centre for Peace Osijek  
Srđan Dvornik, Word of Advice (formerly with Croatian Helsinki Committee for Human Rights)  
Tin Gazivoda, Human Rights Centre  
Dijauq Lazić, Europe House Vukovar  
Ljubomir Mikić, Centre for Peace, Legal advice and Psychosocial Assistance  
Paul Stubbs, The Institute of Economics, Zagreb  
Charles Tauber, Coalition for Work With Psychotrauma and Peace  
Vesna Teršelič, Documenta - Centre for dealing with the past  
Sanja Vuković-Čović, PRONI - Centre for Social Education

**Serbia**

Dragona Aleksandrić, European Movement in Serbia  
Tatjana Azanjac, Civic Initiatives  
Sonja Biserko, Helsinki Committee for Human Rights in Serbia  
Suzana Blesić, Lawyers Committee for Human Rights (YUCOM)  
Dusan Bogdanović, Lawyers Committee for Human Rights (YUCOM)  
Ann Bu, Ecumenical Humanitarian Organisation  
Radmila Dudić, Civic Initiatives
Biljana Kovačević-Vučo, Lawyers Committee for Human Rights (YUCOM)
Boris Llijevski, Nansen Dialogue Centre Belgrade
James May, Youth Initiative for Human Rights Belgrade
Sandra Orlović, Humanitarian Law Centre
Dragon Popović, Youth Initiative for Human Rights Belgrade
Tatiana Popović, Nansen Dialogue Centre Belgrade
Zorica Trifunović, Quaker Peace and Social Witness
Stasha Zajovic, Women in Black Serbia

Macedonia
Sasho Alushevski, Centre for Human Rights and Conflict Resolution
Stephanne Broughton, European Peacebuilding Liaison Office
Albert Hani, Centre for Management of Conflict
Blerim Jashari, NGO Loja
Aleksandar Krzalovski, Macedonian Centre for International Cooperation
Gordana Pirkovska, MEGJASHI (First Children's Embassy in the World)
Xhevahire Pruthi Sajăis, Nansen Dialogue Centre Skopje
Veton Zekolli, Nansen Dialogue Centre Skopje
Dragi Zmijanac, MEGJASHI (First Children's Embassy in the World)

European Union
Esmerelda Aragones, European Commission Delegation to the Republic of Serbia
Arnuad Appriou, European Commission Directorate General for Enlargement
Sanda Babić, European Commission Delegation to the Republic of Serbia
Michael Docherty, European Commission Delegation to Bosnia-Herzegovina
David Hudson, European Commission Delegation to the Republic of Croatia
Naif Saracini, European Commission Delegation to fYR Macedonia
Stefan Simosas, European Commission Directorate General for Enlargement
Dominika Skubida, European Commission Delegation to Bosnia-Herzegovina
Therese Sobieski, European Commission Directorate General for Enlargement
Annex II - Interview questions

1. What are the main obstacles to achieving a lasting peace in your country and in the Western Balkans?

2. What tensions exist between and within the communities in the region?

3. What is the best way to deal with those tensions so that they do not result in conflict?

4. Are your country’s institutions dealing with the past as an aspect of their work?

5. In your opinion does the enlargement process foster sustainable peace or not? How or why not?

6. Does your work receive funding from the EU? Is it eligible for funding from the EU?

7. What are the strengths and weaknesses of the EU’s civil society consultation strategy?

8. What would a regional framework for reconciliation look like and how would it be structured?
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Vukovar: a town scarred by war

The Bridge at Mostar
William Penn brought this intense desire for peace, justice and tolerance to his study of contemporary international affairs. His farsighted essay ‘Towards the present and future Peace of Europe’ seeks to take away the causes of dispute and ultimately of war between states...

Within the European Community we trust we have laid the old ghosts of national aggression once and for all. We have taken the path Penn prophetically pointed to so long ago and we have gone further, with supranational institutions such as the European Parliament and the European Court of Justice taming the potential for antagonism between Member States. Another great Englishman was to put it even more forcefully after the continent had torn itself apart twice in our century. Winston Churchill recommended the creation of a ‘kind of United States of Europe’.

We have only to look outside our present borders today to see how much we still have to do to make such ideas as Penn’s prevail. War in the former Yugoslavia with its tragic trail of slaughter and destruction, displacement and despair, or refugees and revenge reveals the precarious nature of our political arrangements even within the cultural confines of Europe.

Dr Egon Klepsch
President of the European Parliament 1992 0 1994

Extract from the Preface to ‘An Essay Towards the Present and Future Peace of Europe’ by William Penn for its republication in 1993, the tercentenary of its first publication.

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413 Early Quaker, born 1644, died 1718, founder of Pennsylvania, wrote ‘An Essay Towards the Present and Future Peace of Europe, 1693