

**THE ESSENTIAL ROLE OF NGOs IN THE RECONSTRUCTION
OF WAR-TORN COUNTRIES**

**PART I:
THE CASE OF FORMER YUGOSLAVIA**

**PART II:
PRESENT AND FUTURE REGULATIONS ON ASSISTANCE TO THE
COUNTRIES OF THE WESTERN BALKANS**

A POLICY PAPER BY VOICE

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Contents

Introduction

PART I: THE CASE OF FORMER YUGOSLAVIA

Summary

1. Context: Post-Conflict Reconstruction

2. The case of Bosnia-Herzegovina – NGOs essential role in resettlement and reconstruction

2.1 The capacity of NGOs to work at different levels of society and to link state and civil society

2.2 The capacity to approach the complexity and multiple aspects of the return process

2.3 The role of NGOs in economic regeneration

PART II: PRESENT AND FUTURE REGULATIONS ON ASSISTANCE TO THE COUNTRIES OF THE WESTERN BALKANS

Summary

1. The Present: Problems encountered as regards to the EC framework for refugee return and rehabilitation in Bosnia-Herzegovina: OBNOVA

1.1 Problems concerning the approach

1.2 A structural deficit on the side of the EC

1.3 Contractual approach versus partnership

1.4 Problems related to the question of responsibility

1.5 Problems related to EC funding procedures

1.6 Problems linked to the budget

1.7 Proposals for improvements

2. The future – regulation on assistance to the countries of the Western Balkans

2.1 The new regulations

2.2 The role of NGOs in the Balkans

2.3 NGO contribution to the regulation's objectives

2.4 A missing priority area?

3. Conclusions and Proposals

3.1 Policy Recommendations

3.2 Recommendations for Administration and Funding

Introduction

With this document, with its two complimentary parts, VOICE aims at illustrating the essential role of NGOs in reconstruction of War-Torn Countries, more specifically in Bosnia-Herzegovina, and the problems NGOs encounter as regards to the EC framework for assistance to Western Balkans. VOICE not only calls for changes in the approach and administrative procedures, but also offers practical suggestions to how these could be carried out in order to enhance the possibilities of a truly successful reconstruction and return process in Bosnia-Herzegovina.

In Part I the role of NGOs in Post-Conflict reconstruction is discussed, with particular focus on Bosnia-Herzegovina. It is argued that NGOs, due to their specific nature and capacity, provide fundamental contributions to the return process and post-conflict reconstruction in Bosnia-Herzegovina. Donors and policy-makers are *urged* to recognise the essential role of NGOs in post-conflict reconstruction and *called* on to acknowledge and capitalise on NGOs' expertise, experience and know-how.

The second part of "The essential role of NGOs in the Reconstruction of War-Torn Countries" provides constructive criticism and suggestions for improvements as regards to the present and future EC regulations on assistance to the countries of the Western Balkans. NGOs *urge* the EC to draft the new regulation – CARDS – so that it recognises the many aspects of post-conflict reconstruction *and* allows space for NGO intervention. Furthermore, it calls for administrative procedures that allow for swift and flexible actions *and* amendments of all administrative conditions that unfairly limit access to NGOs. Finally, NGOs invite the European institutions to proceed with a thorough evaluation of NGOs' performance in the Balkans, in order to assess the real potential and achievements of their actions. NGOs would welcome any constructive criticism, but also wish to be recognised for their real value, beyond any political prejudice and cultural stereotype.

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THE ESSENTIAL ROLE OF NGOs IN THE RECONSTRUCTION OF WAR-TORN COUNTRIES

PART I: THE CASE OF FORMER YUGOSLAVIA

Summary

The first chapter of Part I sets the context to the discussion. Drawing from research and policy papers it argues that post-conflict reconstruction is an “overall, dynamic and intermediate process” needing “united or separate of multiple actor categories”. The argument that NGOs play a specific and essential role in post-conflict reconstruction is introduced.

Placing these arguments within the geographical area of Bosnia-Herzegovina, the second chapter reiterates that a successful post-conflict reconstruction encompasses multiple aspects. Policies would need to expand from re-building – return – restore market economy, to include aspects that address civil society, rule of law, political dialogue, reconciliation and public participation. NGOs are also aware of the benefits of promoting an inclusive economic development.

The three following chapters illustrate how and why NGOs are well equipped to play an important role in the reconstruction of Bosnia-Herzegovina, as in other post-conflict areas. NGOs have access, at a grassroots level, to the groups and organisations responsible for the ethnic tension, and are in a position to foster links between both state and civil society actors. The fact that NGOs have been present for an extended period of time in the Balkans means that they are aware of the specific needs of regions and individual countries. This experience along with NGOs specific rational and way of functioning enables them to approach the complexity and multiple aspects of the return process, reconstruction and inclusive economic development.

1. Context: Post-Conflict Reconstruction

There is no doubt that post-conflict situations call for physical reconstruction. However, a well-developed civil society along with independent media and a reliable police and judiciary are equally essential to physical reconstruction for obtaining sustainable economic growth and stability.ⁱ Reconstruction in post-conflict situations must go beyond the technical aspects of reconstructing infrastructure and services. It also, essentially, should include a human dimension, calling for a reintegration of people into civil society and all its aspects – economic, social and political. The importance of efforts to rebuild civil society, through the re-establishment of the rule of law, and the creation of political dialogue and public participation must not be under-estimated, as they provide both formal and informal institutions on which reconstruction in post-conflict situations rests. Therefore, efforts to strengthen all aspects of civil society need to be implemented *early* and at all stages of the post-conflict reconstruction.

This is acknowledged by the European Commission in its paper “Linking Relief, Rehabilitation and Development”. The paper defines rehabilitation as “an overall, dynamic and intermediate strategy of institutional reform and reinforcement, of reconstruction and improvement of infrastructure and services, supporting the initiatives and action of the populations concerned, in the political, economic and social domains, and aimed towards the resumption of sustainable development.”ⁱⁱ

Putting a rehabilitation strategy which encompasses all the elements above at the fore, calls for the involvement of a wide range of actors, complementing each other according to their capacity, expertise and ability to influence. Strategies that respond to “various issues such as the integration between displaced people and the host population, the co-ordination between relief and development agencies, the collaboration between international and local organisations, the utilisation of displaced population's skills and knowledge, etc.”ⁱⁱⁱ should be produced and implemented. This is particularly important if one acknowledges that activities should be tailor-made in line with the specifics of the area of intervention.

Acknowledging the need for the united or separate involvement of multiple actor categories such as governments, the business community, international and local NGOs, media, private citizens, etc. in post-conflict reconstruction, we here focus on the role of NGOs in resettlement and reconstruction in the context of Bosnia-Herzegovina. We argue that NGOs, due to their specific nature and capacity, provide fundamental contributions to this process. NGOs have, despite their diversity, in common their strong commitment to utilise people-to-people channels, to proceed with can-do determination and to avoid heavy bureaucratic burdens.^{iv} NGOs “embody an internationalist, moral position, with a strong involvement directed towards empowerment, peace, well-being and economic justice”^v and work at lower cost.

The role of NGOs should therefore be recognised and capitalised upon - NGOs are serious and important partners and should be considered as such. This needs to be acknowledged in the development of EC strategies and programs, such as the return programs Obnova and CARDS, discussed in the complimentary document “Present and Future regulations on assistance to the countries of the Western Balkans”.

2. The case of Bosnia- Herzegovina – NGOs’ essential role in resettlement and reconstruction

The Kosovo crisis once again highlighted that the Balkans is a region torn by ethnic and political tensions and that reconstruction cannot merely be treated as a technical issue of the physical rehabilitation of living space. In the Balkans as in all post-conflict situations “it is a prerequisite that relief assistance should not only focus on physical and technical aspects of the resettlement process, but also more towards socio-economic, psychological and cultural issues. In other words, the progression from relief to reconstruction should tackle the challenge of resettlement through a perspective that not only focuses on the savings of lives, but also livelihoods.”^{vi}

The over-riding aim of reconstruction in BiH is the normalisation of the society and the return of internally displaced persons and refugees to their home of origin. NGOs, both international and local, recognise that in addition to the technical aspects, the process of return involves political and humanitarian problems of enormous dimensions as they pervade the entire fabric of Bosnian society. A special report on refugee return and minority repatriation^{vii} in Bosnia-Herzegovina asserts that the political and security related problems are the main causes for slow return. The reason for refugees not returning is to some extent due to a lack of confidence in the post war settlement. It is also due to a lack of political will and commitment by the local authorities and the international community to the idea of returns; continued threats to the safety of returnees; absence of an effective human rights protection regime; ethnicity-based discrimination in employment etc. Unfortunately, this level of analysis seems to be largely forgotten by donors' policies: a more simplistic approach prevails, based on the trinity of Re-building – Return – Restore market economy. This is especially true for the EC programme Obnova.

2.1 The capacity of NGOs to work at different levels of society and to link state and civil society

International NGOs' impartiality allows for them to play a specific role as promoters and implementers of reconciliation programmes in the Balkans. Both international and local NGOs are well suited to such work as they often have access to the groups and organisations responsible for the ethnic tension.^{viii} Moreover, NGOs have a strong capacity to do advocacy, lobbying and public awareness campaigns and their credibility permits them to reach into different layers of society. Working with balanced ethnic, religious or political bias, NGOs are in a position to approach both state (national and local government) and civil society (returnees, local NGOs, local population etc) and to create links between them.

Indeed, international NGOs' programmes often aim at strengthening civil society through the creation of partnerships (e.g. capacity building of the third sector) or assistance to local NGOs. Drawing on experiences from activities in support of reconciliation, democratisation and civil society in Bosnia, scholars and practitioners recommend increased efforts to strengthen local NGOs, citizen participation, training of trainers, the viability of grass root efforts to promote dialogue etc^{ix}. Not only does the support and invaluable transfer of know-how provided by international NGOs enable continuity in activities and sourcing of funds when the international community withdraws. It also contributes to the formation of a pluralistic society, involving different types of actors in program design and implementation. The fact that international – and local - NGOs' programs are community based oriented allows them to have an impact at the regional and municipal level, complementing bilateral programmes that tend to focus on governmental issues.

NGOs have in many cases indeed a long experience of working as a *complement* to governmental institutions. Familiar with the local situation, international and local NGOs can act as valuable advisors for the national government. NGOs should not replace the states functions – except in emergencies – however, NGOs traditionally support certain industries and sectors – the social services sector among them.¹ In the social services sector, NGOs tend to be more trustworthy than business organisations and more innovative and flexible than public sector institutions. Furthermore, NGOs intervene in the case of under-provision of certain (public) goods and services – both in terms of quality and quantity. In this way, they rectify either state or market failure or indeed both. In a situation where technical, political, social and humanitarian needs currently cannot be addressed at a central level and/or by governmental structures, NGO contributions are essential. NGOs can ensure that those vulnerable people, whose needs are insufficiently taken into account or simply ignored by governments, are provided with assistance and support. For instance, NGOs are in a position to approach refugees and internally displaced persons and to offer counselling, assistance and solutions to their grievances on an individual basis.

¹ Research show that NGOs have an essential role within national economies: in many developed countries for instance, NGOs contribute to some 5 to 10 % of the GDP.

Thus, international and local NGOs and their programs reach and influence different levels of society. Not only does this give them a broader understanding of the complex issues related to the return process, it also gives them a valuable role as a “buffer” or link between state and civil society, as well as between the international community and local beneficiaries. This places them in a unique position to mitigate social and/or political conflict. International and local NGOs can also create strong links with and between local people and agencies. Such links are crucial to allow international policy makers to benefit from local expertise and to ensure sustainable transition from emergency assistance to functioning administration. It also enhances regional involvement and ownership of the post-conflict reconstruction.^x

2.2 The capacity to approach the complexity and multiple aspects of the return process

NGOs, both international and local have been present in the Balkans during an extended period of time, and are well aware of the specific needs of the region and individual countries. This experience, based on close relations with local partners, has given them an invaluable understanding of the situation and the problems related to it. Furthermore, such experience provides them with essential and detailed information for initial planning of project funding and puts them in an excellent position for choosing suitable, reliable and serious partners. Provided with such immediate and timely information, donors can intervene with appropriate funding early in the rehabilitation process. This is essential in the complex and highly sensitive issue of the return process.

Due to their specific rationale and way of functioning, NGOs have a capacity to integrate several aspects of the return process. By developing and implementing multi-sectoral programs. NGOs can efficiently deal with the entire complexity of issues connected with the return process, not only because their projects span over a range of issues but because of their participatory approach, engaging both civil society and governments. A modest example, built on lessons from Bosnia on civil society initiatives, is how an international NGO joined expatriates and local staff in problem-solving workshops in connection to their projects. Doing so, they succeeded in introducing the staff to basic concepts of civil society, while at the same time giving the initiative a practical credibility.^{xi}

NGOs' holistic approach to development, aiming at improving the situation of the beneficiaries without making profit and “just doing the job” enables better relations with local partners, who consider NGOs as serious, disinterested and constructive partners. This works two-ways, since local ownership improves the chances of successfully implemented projects. Secondly, compared to the public and the business sectors, NGOs generally work less formally, are less bureaucratic and therefore more flexible. This allows them to adapt to changing situations, find professional and rapid solutions to concrete problems and secure more autonomy for their beneficiaries and themselves. For instance, NGO administrative structures tend to be leaner and a higher percentage of their budgets go to the beneficiaries.^{xii} NGOs' independence permits space and freedom to implement projects in the very complex environment of incoherent political agendas, conflicting economic interests, social problems and ethnic controversies.

The role of international NGOs will be accomplished when the governmental structures, supported by civil society, are completely able to take over their tasks, with *credibility* (e.g. political and economic willingness, impartiality and accountability) and *feasibility* (concrete capacity and professionalism).

2.3 The role of NGOs in economic regeneration²

The imperative of economic regeneration

Today, the Bosnia and Herzegovina (BiH) import bill is \$2.6 billion against a revenue of \$750 million from export. GDP growth fell from 18% in 1998 to 8% in 1999, despite the increase in donor assistance. According to the World Bank, BiH is the second poorest country in Europe and is the most donor-dependent.

The estimated unemployment figures are 40% in the Federation and 50% in Republika Srpska. These figures are likely to increase as a direct result of privatisation and because of the disastrous performance of the BiH economy. The situation is potentially further exacerbated in the short-term by anticipated dramatic changes in donor priorities, away from reconstruction/emergency assistance to economic development and the resulting time-lag in job market development.

Due to the unfavourable conditions for conducting business, it is accepted that little international investment will take place in BiH in the short-term. Significant changes will need to be made to commercial law and the banking sector before foreign investment can be attracted in large amounts.

At the Peace Implementation Council meeting on May 23-24, 2000, Mr Wolfgang Petritsch, Head of OHR, identified the following priorities as crucial:

- Creating a single economic space across BiH
- Enabling private sector growth
- Privatisation

The World Bank Country Assistance Strategy identified the following priorities:

- Strengthening public institutions & governance
- Fostering private sector-led growth
- Social sustainability: Provision of affordable and equitable social services, promoting inclusion & building human capital

The World Bank proposes “to assist BiH realise its medium-term vision of a market based economy, consistent with the its three pillars to reform mentioned above”. NGOs fully support this view and are concerned that further instability will be created unless the poor are brought into the process of economic regeneration. As reconstruction/emergency funds wither, donors and the government must carefully manage the transition with a strategy that will break the dependency of local communities on emergency aid by allowing and creating economic regeneration which will lead to broad-based increases in living standards.

The rationale for inclusive economic regeneration

The proposed three pillars for economic reform (Private Sector led growth, Institution Building, Social Protection) are all necessary in the building of a sustainable economy which will support a multi-ethnic citizenry. NGOs feel that the development of the three pillars must occur simultaneously. A dynamic market economy can only occur within a functioning democracy where citizens and their elected officials uphold rights and obligations.

NGOs consider the inclusion of vulnerable people in economic rejuvenation critical to sustainable economic growth in BiH. NGOs propose responsible and inclusive economic development for three inter-related sets of reasons:

² Shortened Version of SME Working group Paper : THE ROLE OF NGOs IN THE ECONOMIC REGENERATION OF BOSNIA AND HERZEGOVINA July, 2000

1. The economic and social rationale

- Economic development results in increased incomes, increased purchasing power and increased employment.
- Increased economic activity means greater potential contribution to an increased tax base, generating state revenue for social protection purposes.
- By providing the poor with economic opportunities, levels of assistance required from the state to subsidise the unemployed will decrease, making more funds available for pensioners and the more vulnerable.

2. The ethical and stabilising rationale

- Growth without equity is wrong, creates instability and, in a politically volatile context, renders people vulnerable to manipulation and oppression by nationalist elements.

3. The governance rationale

- Without access to economic opportunity, it is hard for people to believe in the importance and realism of transition to genuinely democratic and plural forms of governance.

The role of NGOs in promoting inclusive economic development

- Globally, NGOs have a successful track record in developing and implementing economic regeneration activities and are playing an increasingly large role in these activities in BiH.
- NGOs, because of their work with local communities across Bosnia over the past 5-7 years, have a particular understanding of the strengths, weaknesses and needs of the people. Integrated community development programmes have long been recognised as an important facet of economic generation. NGOs are well placed to facilitate such activities through their contacts in the communities of BiH. Such knowledge and understanding constitutes an invaluable resource for donors and governments when designing economic regeneration strategies.
- Furthermore, NGO staff are aware of significant opportunities for economic regeneration programmes and are well placed to promote them. The NGOs can facilitate development in a number of ways: through assisting local communities and individuals in the design of programmes, providing capacity-building services, access to financing, and through their expertise in the establishment of legal entities such as co-operatives.
- NGOs have an existing infrastructure, which enables them to reach a wide base of citizens in BiH and have a pool of local staff with the capacity to assist in the execution of projects and initiatives.
- Many NGOs have job-creation and income-generation budgets, which they can use to start new economic projects or to expand existing ones. Experience has proven, however, that with more substantial inputs of funding and expertise, such as those, which can be resourced by multi-lateral and bi-lateral agencies, these projects could achieve more and reach a greater number of people.
- Economic generation programmes in BiH generally involve organisations and individuals with specialised technical knowledge on economic development. An opportunity therefore exists for NGOs to inform such decision-making bodies.

The proposal to co-ordinate EU economic generation activities and establish regional Enterprise Development Agencies (REDA's) to implement strategy and disperse funds is a recent development in this respect. The NGO sector should liaise with the EU to establish a close working relationship with these proposed agencies. The three pillars presented by the World Bank for their framework for economic rejuvenation requires the people of Bosnia to be

involved in the process. NGOs have the contacts and expertise to assist in the execution of the proposed strategy. A Culture of Participation is the essential ingredient to the effectiveness of any economic rejuvenation strategy.

THE ESSENTIAL ROLE OF NGOs IN THE RECONSTRUCTION OF WAR-TORN COUNTRIES

PART II: PRESENT AND FUTURE REGULATIONS ON ASSISTANCE TO THE COUNTRIES OF THE WESTERN BALKANS

Summary Part II

The first chapter of Part II comments on the current EC regulation for refugee return and reconstruction in Bosnia-Herzegovina, Obnova. Concerns evolve around the approach, the structural deficit in the EC, and funding, which are discussed in detail in the following chapters. Essentially, the current circumstances not only fail to recognise the essence of post-conflict reconstruction and the fundamental contributions and expertise of NGOs. They also prevent NGOs to fulfil their role in post-conflict reconstruction.

Suggestions for improvements finalise the comments on Obnova before the paper goes on to discuss the future. In addition to practical improvements, drawing on positive experience with ECHO, it is suggested that rules should be interpreted in an informed, intelligent and flexible manner and that a partnership based on mutual confidence, dialogue, flexibility and understanding, be established.

The last chapter of Part II discusses the future regulation on assistance to the countries of the Western Balkans – CARDS. The line of reasoning is based on the arguments developed in Part I: Post-conflict reconstruction is a multi-faceted process in which NGOs play an essential role. A concern is expressed that the draft regulation misses a priority area – support to operations aimed at and associations playing a role in post-war relief, reconciliation and the restoration of civil society – along with a recommendation to include this area. Welcoming the inclusion of NGOs in the regulation's list of eligible partners, it is recommended that local and international NGO participation is explicitly acknowledged and implemented in practice.

1. The Present: Problems encountered as regards to the EC framework for refugee return and rehabilitation in Bosnia-Herzegovina - OBNOVA

ECHO has announced its intention to progressively fade out of the Balkans - in a time when the return process is still going on. This is regrettable since ECHO is well equipped to approach the current situation in Bosnia-Herzegovina, which requires a more humanitarian rather than developmental approach. The lack of continuum, in form of a “vacuum” due to the fact that no device has been put in place to replace ECHO, further exacerbates this situation. DGER does not seem to be prepared to take over yet, and its existing specific regulation and conditions for financing make it extremely difficult for NGOs to implement activities in support of the return process and rehabilitation in Bosnia-Herzegovina.

The objective of the OBNOVA programme indicated in the “Instructions for the preparation of the proposal” is to achieve breakthrough returns, regional cross border returns, contested space and spontaneous return, which means to achieve return of minorities in politically difficult areas. The procedures and rules currently adopted are not adequate to achieve this aim. Our concerns in this respect relate to the funding, the approach and the structural deficit in the EC, which are discussed in further detail below. We also stress that it would be of benefit to all, if the EC developed a partnership with NGOs, a move which would be in line with the proposed Commission policy of strengthening the partnership with NGOs^{xiii}, rather than establishing commercial contractual relations. Only a few EC budget lines are open to NGOs, which experience very limited access to EC regional programmes and have difficulties in participating in call for tenders whose rules are tailor made for the commercial sector. The partnership regarding regional programmes should furthermore be expanded, to profit from the NGOs' valuable experience on the ground in the design and implementation of regional programmes.

Essentially, the current circumstances not only prevent NGOs from fulfilling their fundamental role in the reconstruction of Bosnia-Herzegovina, they also fail to capitalise on the expertise, experience and know-how formed over nine years of activity in the country.

1.1 Problems concerning the approach

In Part I of this document, the issue of a global approach to refugee return and reconstruction was discussed. It was reiterated that the EC itself promotes “an overall, dynamic and intermediate strategy of institutional reform and reinforcement, of reconstruction and improvement of infrastructure and services, supporting the initiatives and action of the populations concerned, in the political, economic and social domains, and aimed towards the resumption of sustainable development.”^{xiv} The Obnova programme's regulation mentioned the restoration of civil society as one of the prerequisites for peace and stability (introduction). It also emphasised the need for “operations aimed at achieving economic and social objectives, in particular employment, the restoration of civil society and the return and reintegration of refugees and displaced persons” (introduction). Furthermore, it specifically included “cooperatives, mutual societies, associations, foundations and non-governmental organisations” among the actors eligible to participate in the implementation of projects (Article 3). This approach is not implemented in practice in Bosnia-Herzegovina today. The bulk of the EC funds for BiH concentrate on the technical aspects of reconstruction and there is a clear lack of a global approach. This, at its worst prevents a successful return process, and at least makes it difficult to implement projects in other spheres. A more integrated framework should be developed, encompassing activities in various domains (agriculture, business development, education, community reconciliation, civil society, psychosocial measures, etc).

The EC is keen on measuring success in result and outputs – indeed, it cannot and should not be contested that the approximately 80% occupancy level of reconstruction³, is a good result. However, taking into account the problems that returnees face, described in the previous section, it becomes clear that results must be based on the well being of the target

³ Figure stated by Johnston, Marc Administrator of Obnova Program DG RelEx 16 March 2000

groups. In practice, there is a tendency on the part of the EC to concentrate on easily measurable results and outputs and not enough on target groups.⁴

The process of return and rehabilitation also suffers from problems relating to the limited time frame of projects. No procedure was foreseen to follow-up the development of the funded activities (e.g. the return process). A long-term approach should be elaborated to enable a better sustainability of the projects financed by the EC.

1.2 A structural deficit on the side of the EC

The EC bodies are often slow to react due to them being understaffed and overloaded with work. This results in long processing periods for amendments and side letters. The late transmission of monitoring tasks, which caused extended (backlog) work for NGOs, provides a good example. If the criteria and requirements had been known at the beginning of the project, the extra staff and equipment would have been catered for in the budget. In addition, so far the EC has not been willing to accept the extra costs related to IMG monitoring.

The lack of EC staff also often results in a lack of efficiency: there does not seem to be a proper tracking system for proposals, requests for amendments and side letters, reports, etc. There are many reports of faxes and hand-delivered letters "conveniently" not received, or just lost in the system. This caused many delays and additional work for NGOs.

There is also often a problem of lack of flexibility. Despite the nature of the return process and rehabilitation, often demanding changes in programs and activities in particular as regards to spontaneous return, NGOs necessary flexibility is regarded as a fault rather than an asset, while rigidity is seen as a proof of good rather than poor management. This viewpoint is visible through administrators' imposition of constraints on NGOs instead of listening to them and trying to solve problems for the sake of target population. NGOs often feel that they are confronted with "the display of arrogance by the powerful". The EC sets the rules and does not allow any space for interpretation, while being much more indulgent with itself. NGOs never receive official communications informing on delays, offering apologies or constructive and acceptable ways to solve problems related to absence or poor performance on the part of the EC. In addition, the communication with responsible officers is often extremely difficult, and seldom produces any response. The creation of a comprehensive e-mail system would improve communication considerably. Better qualified staff at EC-DGER office level to process project affairs would also improve the output and quality of the EC programme.

1.3 Contractual approach versus partnership

In recent years, we have seen a partnership developing between NGOs and the EC, particularly with ECHO. Based on mutual respect, dialogue and understanding of constraints, such partnership stands in stark contrast to a client/contractor relationship. The latter draws on commercial contracts to supply a clearly pre-defined service entered into following a tender procedure. We believe that the "partnership approach" is essential to achieving the highest possible efficiency and results in many areas and aspects^{xv}, including in the context of Bosnia-Herzegovina.

Unfortunately, it seems that in Bosnia and Herzegovina, DGER is going in the opposite direction, thus moving away from partnership towards a client/contractor-oriented relation with NGOs. This also includes the funding framework for return: the logic that inspired the adoption of the rules for the funding of return projects seems to be based on a "controller-executor" relationship, rather than on constructive partnership. This is evident also in the calls for proposals targeting NGOs, which are increasingly similar to tender procedures.

In addition, the policy seems to be guided by the need to control rather than on objectives and clearly defined priorities. Seen from an NGO perspective, the multiplication of rules and

⁴ By treating its financial support to humanitarian aid issues as a commercial venture, requiring inappropriate bureaucracy, contractual and financial arrangements, that few INGOs can afford to comply with, the EC limits their choice of partners to those who can prove the capacity to work with them. This means that the partner might not always be the best from a humanitarian and/or developmental perspective.

controls as well as the number of prior approvals required during implementation has made it more and more difficult to reach the actual objectives of the activities. Furthermore, the interpretation of rules and guidelines are often contradictory.

1.4 Problems related to the question of responsibility

It is clearly indicated both in the General Conditions⁵ and in the Special Conditions⁶ that the NGO is solely responsible for the implementation of the project. However, even though NGOs have very little influence over decisions taken by the European Commission and the bodies in charge of monitoring and control (e.g. EC Monitoring Unit and IMG), they are held responsible for the consequences of these decisions:

- ◆ Prior approvals of staff CVs and change of staff - often delayed - may lead to a lack of flexibility and delay the replacement of staff, which in turn influences the implementation of projects. The NGOs should not be held solely responsible when such problems occur.
- ◆ The necessary approval by the monitoring bodies (specifically by IMG) of the tendering procedures and selection of enterprises for works, supplies and services, often results in the imposition of contractors on NGOs. This should reduce the responsibility of the NGO. In practice however, the NGO - limited in its free choice - is held responsible for the consequences should something go wrong. This is illustrated by an example where IMG forced the selection of contractors exclusively on the basis of the lowest offer, despite the NGO's explicit doubts on the reliability of that contractor. The contractor concerned did not pay his suppliers and workers, managed the works badly and required close supervision and constant monitoring. Although the decision was practically taken by IMG, the NGO was held responsible for the consequences.

The delay in payments and in responding to amendment requests can have severely negative effects on the implementation of projects, when timing is a crucial element. NGOs are called to respond to this even if they are not able to control the circumstances.⁷

1.5 Problems related to EC Funding procedures

Limited funds

The budget lines directly available to NGOs are limited and depend on the willingness of the EC Representation in BiH to work with NGOs. Although other opportunities are provided through tendering, the procedures linked to the tendering process do not take into account the specific nature and work of NGOs.⁸

Delay in payments and its consequences

As the Commission decided to decentralise the management of its programme to the delegations, expectations were that administrative procedures etc., would run more smoothly. This has not been the case, and this has resulted in i.a. extensive delays in payments. This in turn has forced NGOs to delay payments (local contractors etc.), and has placed many NGOs in a critical financial position. Delays in payment has also forced NGOs give up new contracts, as they could not commit themselves to new financial obligations due to lack of assets to provide as guarantees to banks. Some NGOs have found themselves in a position where they have had to consider closing their programs. This will happen more frequently, should improvements in the problem of delays in payments not take place.

⁵ General Conditions article 1...*"the Beneficiary alone shall be accountable to the Commission for the implementation of the Operation"*

⁶ Special Conditions art. 1(3), *"The Beneficiary accepts... to carry out the Operation under his own responsibility"*

⁷ In addition, the EC's reluctance to allow for flexibility often require NGOs to request addendum. At the same time, NGOs are asked not to file "too many" addenda due to the lack of capacity from EC's side to process these.

⁸ Please see below in this document for a more detailed discussion.

It is to be stressed that even “normal” EC payment timing is not in line with market practices, thus creating difficulties in relationships with contractors.

Bank guarantees

The problem of bank guarantees has been already raised many times by NGOs and still remains a major obstacle in EC-NGO relations. DGER requires a bank guarantee for the duration of the whole project period until 4 months after the project implementation expires. The amount is 50% of the total project sum and equal to the first instalment from DGER to the implementing agency. Being non-profit, even large NGOs often do not have the cash reserves necessary for banks in EU countries to agree to issue the required guarantees.⁹ Such an EC mechanism, quite unusual in NGO financing, may therefore create enormous difficulties, make projects unsustainable and force many NGOs to give up contracts they could otherwise execute. At best, the cost of bank guarantees reduces the amount of funds reaching the beneficiaries. Given the actual risk involved (the EC monitors the execution of the project, checks all expenditures, contracts and progress on a regular basis), this measure is absolutely unjustified and represents an unfair condition whose legal/juridical aspects deserve further consideration.

1.6 Problems linked to the budget

Staff

In some cases, the instructions of the EC concerning staff requirement do not take into account the nature of the work to be implemented and the need for specific staff. This is illustrated by the following two examples taken from a call for tender issued by the OBNOVA 2000 programme for return in Bosnia and Herzegovina:

- ♦ Firstly, in the document “Instructions for the preparation of the proposal”, and in the section “Beneficiaries selection & follow up of return”, it is mentioned that *“the return co-ordinator remains a pivotal element to ensure maximum return rates”*. According to NGOs, the return co-ordinator is important but is not the only component to be budgeted for. In fact, in order to have an effective return process, beneficiaries, communities and local authorities have to be involved. This means that their representatives often have to work full-time for the project. The monthly refund of their expenses has been rejected by DGER. This seems inappropriate and not in line with the provision of art. 14 (2) of the General Conditions, where *“the expenditure incurred by the NGO’s partners are considered as eligible direct costs of the project”*, with no maximum limit. Representatives of local communities and local authorities, even when working full-time in the project, cannot be considered as staff if exceeding 6% of the total budget (see following paragraph).
- ♦ Secondly, it has been established that the maximum budget to be allocated for staff cost is 6% of the total budget. The approach of having a maximum percentage of the total budget is in general appropriate for lump sums. In a return project with a high level of community work, 6% is not enough to cover the staff costs.¹⁰ It is worth noting that art. 14 (2) of the General Conditions establishes that costs of staff are eligible as direct costs of the project, without fixing any maximum amount or percentage. Considering the rule applied in BiH as regards staff¹¹ - it is incomprehensible why DGER refuses to take the *real costs* of staff - even if exceeding the maximum percentage - into consideration. In addition, this rule is inconsistent with the provision of art. 14(1) of the General Conditions, where it is established that *“To be considered eligible in the context of the Operation,*

⁹ At the same time, the EC accepts bank guarantees from Balkans banks in which the EC has little confidence and which are a risky place for NGOs to deposit the required collateral.

¹⁰ **It is highly contradictory that such a percentage is allocated when, at the same time, full details of staff, including their job descriptions and CVs are requested. In any case, there should be more flexibility and understanding of the approach and the real needs of the methodology of work adopted by each NGO.**

¹¹ “Instructions for the preparation of the proposal : “staff costs shall not be considered as a lump sum, all expenditures need to be backed up by supporting documents”

costs must...have actually been incurred, be recorded in the Beneficiary's (the NGO) or Beneficiary's partners accounts, be identifiable and verifiable, and be backed by originals of supporting evidence".

- ◆ Moreover, the contract award procedures, as outlined by DGER, require a very high level of detailed work and management of tenders for construction, procurement and related activities. This implies the work of qualified staff as well as other costs. These aspects are not taken into consideration as the whole question is based on the allocation of 6% of the total budget without any insight on the real implication of the approach and methodology adopted by the NGOs.

Administrative costs: insufficiency of the administrative costs for regional programmes – incoherence between fixed percentage and invoicing

The administrative costs (such as office costs, vehicles, communications, etc.) are set at 4% of the total project budget, while most other donors recognise a percentage of 6 to 10%. This hampers the implementation of projects. Considering that all costs have to be justified by supporting documents, it seems inappropriate to fix a rigid amount regardless of the *real* costs. Costs exceeding 4%, even if fully justified and proved, are disallowed.

Also costs for bank transfers are considered as “administrative costs” and this also applies to costs for tendering (requiring a complex and expensive work - see Annex IV to the standard contract). This seems to be again a very restrictive interpretation of the General Conditions, where it is established that financial service costs are eligible as direct costs (par. 14 (2)).

Yet another example is the provision of only one return ticket for expatriate staff per year, against the two normally provided by all international organisations for operators working in critical conditions.

Indirect costs

Although the EC General Conditions established at art. 14 (3) state that “indirect costs shall be eligible....”, the Special Conditions set up in the Operation Contract overturn this article, establishing that “overhead/indirect costs are not eligible” (art. 7 (2)(3)). The Special Conditions, unlike conditions for EC contracts for other countries, also specify that no HQ costs are eligible, and yet, since distinct HQ costs such as compulsory audit, recruitment, payroll, bank charges and overhead costs are incurred, this makes these contracts more difficult for NGOs to undertake than EC contracts for other countries.

Interest costs

Both in the General Conditions and in the “Instructions...” it is specified that any interest on advance payments shall be considered as income and may be used to cover eligible costs of the Operation, upon prior approval by the EC. While this provision is obviously acceptable, it is not coherent with the fact that negative interests, paid by the NGOs because of delays in payment by the EC, are not considered as a cost of the project. Moreover, experience has shown that the rule (art. 15 of General Conditions) that the Commission will make payments within 60 calendar days of receipt of the request is rarely applied in the practice. Consequently, NGOs regularly have to advance funds in order to avoid delays in implementation. Not only could such delays, if not avoided, adversely affect the achievement of objectives, their costs (for example in case of extension of contract) might not be covered by the EC anyway.

1.7 Proposals for improvements

Many of the problems described above need not occur, they could simply be avoided. Drawing on the positive experience NGOs have had with ECHO and its regulations, some

proposals for improvements are suggested below¹². However, in addition to the suggested improvements, rules should be interpreted in an informed, intelligent and flexible way in order to adapt to the contexts and needs, in accordance with recommendations of EC policy papers. It should be clarified that NGOs do not reject thorough operational and financial control, and would welcome impact evaluations. These should take place on the basis of verifiable performance indicators, measure concrete results, and assess the level of operational and financial management. At the same time NGOs believe that achieving the programme's goals and complying with its criteria should not be hampered by inaccurate interpretations, unfit practices, scarce expertise and personal behaviour.

Beyond the more practical aspects, we strongly hope for a change in the philosophy and approach of the DGER towards NGOs. A *real* partnership should be established on the basis of mutual confidence and open dialogue, flexibility, understanding of the strategies and methodologies adopted, and identification of best practices. Responsibility for success and failure should be shared. Finally, no discrimination against NGOs on the basis of them being non-profit should be considered.

2. The future – Regulation on assistance to the countries of the Western Balkans

2.1 The New Regulation

VOICE welcomes the EU's initiative to adopt a new regulation (CARDS) that will provide a single legal basis and a single set of procedures for assistance to five countries of the Western Balkans. Provided enough resources are allocated for programme management, this should contribute to speeding up the implementation of EU assistance and reducing operational problems.

However, the spirit of the New Regulation's guidelines is markedly different from that of the Obnova programme^{xvi} (and of the draft regulation adopted by the Commission in June 1999^{xvii}, when the solution envisaged was to amend the Obnova programme rather than set up a new programme).

The Obnova programme's regulation mentioned the restoration of civil society as one of the prerequisites for peace and stability recognised (introduction). It also emphasised the need for "operations aimed at achieving economic and social objectives, in particular employment, the restoration of civil society and the return and reintegration of refugees and displaced persons" (introduction). Furthermore it specifically included "cooperatives, mutual societies, associations, foundations and non-governmental organisations" among the actors eligible to participate in the implementation of projects (Article 3). It should however be emphasised that including the following in the CARDS regulation is not enough – it also has to be implemented in practice.

¹² NGOs mark a difference in approach and performance between ECHO and DG RelEx/DG Development both as regards to building a partnership with NGOs and conditions for funding. This reveals not only an inconsistency in the overall EC approach towards NGOs, but shows that there are constructive and efficient ways of approaching the problems discussed in this paper. For instance, the ECHO Framework Partnership Agreement offers a positively experimented mechanism to ensure accountable and fair calculation of operational costs. ECHO uses a lump sum - named "administrative costs" - that is based on the total amount for the project. It consists of a fixed amount plus a percentage of the total project cost. The lump sum includes all operational costs as office rent, utilities, purchase/maintenance or repair of office equipment and office consumables. For vehicles, there are also lump sums with a maximum sum of respectively Euro.750, 00 and Euro.1.400, 00 per month as an all-in lease price. Exceeding of these budgets is not possible and the final amounts of the lump sums depend on the execution of the program. This may represent a financial risk for the implementing agency but is at the same time the incentive to execute the program properly. The use of lump sums makes projects manageable and transparent for the EU organisations because the large number of projects requires appropriate human resources. The effect of lump sums is that the financial/administrative audit from ECHO is executed within 5 months after the final narrative and financial reports are handed in. DGER takes at least 12 months with only auditing 10% of the total projects. For DGER this was a reason to add in 2000 budget the subject "external audit" for an average amount of Euro 40.000 per project. Implementing lump sums could dramatically reduce these costs.

Along similar lines, the Commission's communication of 26 May 1999 on the Stabilisation and Association Process for countries of South Eastern Europe^{xviii} mentioned "increased assistance for democratisation, civil society, education and institution building" among the main components of the new stabilisation and association process. Recognising that efforts to promote economic development would be greatly facilitated by, among other things, the viability of civil society, this document advocated support for civil society organisations and initiatives. It notably stated that "particular emphasis will be given, through civil society organisations, to the post-conflict rebuilding of consensus, to conflict-resolution and to the lightening of the psychological burden consequent to war" -- and considered it appropriate to channel financial resources to local community-based organisations.

All these elements are conspicuously absent from the new regulation's guidelines, which seem to favour a very "technocratic" approach to reconstruction and development based on large-scale (and implicitly, fast-disbursing) projects aimed almost exclusively at strengthening government and public institutions.

2.2 The role of NGOs in the Balkans

As discussed in the first chapter of this document, international and local NGOs have played an essential role in the reconstruction of Bosnia and Herzegovina as well as in early efforts to bring relief to the province of Kosovo and the neighbouring countries after the end of the war. Their extensive knowledge of conditions on the ground places them in a privileged position to contribute to the analysis of the situation of each country, on the basis of which multi-annual and annual assistance programmes may be drawn up.

NGOs can also be instrumental in ensuring a smooth transition between humanitarian aid and reconstruction/development assistance. This is especially important if, as outlined in the Commission's latest communication, assistance will primarily focus on a small number of sectors and on large-scale projects. This approach has its merits but tends to leave entire parts of society out of the development process during the initial stages, and may be out of touch with some realities on the ground.

2.3 NGO contribution to the regulation's objectives

We believe that NGOs can make a useful contribution to the specific objectives of CARDS -- and that this contribution should not be limited to participation in humanitarian assistance and actions under the Democracy programme.

Bringing the countries of the region closer to the EU

Becoming eligible to enter the Stabilisation and Association Agreements, and then meeting the resulting obligations, will require a gradual and far-reaching transformation of the regulation's beneficiary societies. To be effective, this transformation will have to involve not only state and local institutions, but also grassroots organisations and ordinary citizens.

NGOs can make a significant contribution to the establishment of democratic principles by supporting the development of a civil society, the transfer of skills and knowledge to local citizen organisations, and the emergence of a dialogue between these organisations and official institutions. Beyond this "political" contribution, they can also contribute to the acceptance of market economy reforms by providing cost-effective, targeted relief (e.g. health, psychological, social and educational services) to the poorest and weakest members of society during the upcoming transition period. It is unlikely that official institutions and budgets are able to cater for all the needs of an impoverished, war-traumatised population).

Strengthening links between countries in the region

NGO projects can be focused on one country or community, but they can also foster cooperation between organisations from several countries in the region, thus contributing to a better understanding among people of various cultures, and to a strengthening of regional

links. The Commission's latest paper mentions the involvement of national and local administrations and "other institutions" in multi-beneficiary and cross-border cooperation programmes; the future regulation should explicitly mention the eligibility of NGOs to participate in these programmes.¹³

2.4 A missing priority area?

Chapter 2, paragraph 2 of the CARDS regulation specifies that "the assistance is for: the reconstruction and stabilisation of the region; the creation of an institutional and legislative framework to underpin democracy, the rule of law and minority rights; market-economy oriented economic and social development and economic reform; the development of closer relations between the receiving countries and between them and the European Union".

It would be useful to include an additional priority area, namely: *supporting operations aimed at and associations playing a role in post-war relief, reconciliation and the restoration of civil society*. Not only is this additional priority fully compatible with the programme's general objectives of bringing the countries of the region closer to the EU and strengthening regional links. The creation of a social and cultural foundation for reconstruction and development, is actually a pre-requisite for achieving the outlined objectives, and should be recognised as such.

As urgent humanitarian aid is phased out, the need for capacity-building NGO projects will remain as strong as ever. The Democracy programme remains the tool of choice for supporting projects in the field of democracy, human rights, the rule of law and the development of independent media; but it is not an appropriate legal basis for supporting NGO activities in other areas, such as social, cultural and economic development. The regulation should therefore provide funds to support these other activities.

EU support for these activities is all the more important because the other IFIs -- notably the World Bank and the EBRD, which play an important role in the Stability Pact and the reconstruction of the Balkans -- do not traditionally support NGO projects. The EU has funds as well as considerable experience in co-operating with NGOs in external relations projects, and its support is therefore essential.

3. Conclusions and proposals

VOICE welcomes the inclusion in article 1 of the list of organisations eligible to participate in the implementation of projects financed under the regulation, including "cooperatives, mutual societies, associations, foundations and non-governmental organisations";

3.1 Policy recommendations

VOICE would like to ask the EU institutions to:

- draft the regulation in such a way that the need for actions promoting post-war relief, reconciliation and the restoration of civil society is explicitly recognised;
- draft the regulation in such a way that the possibility for local and international NGOs to participate in the programme is explicitly acknowledged and implemented in the practice;

To this effect, the regulation should integrate parts of the Obnova regulation (with the necessary amendments), notably:

- the acknowledgement, in the introduction, of the need to restore civil society, foster reconciliation and facilitate the return and reintegration of refugees and displaced persons;

¹³ Mr Solana and Mr Patten, among others, have repeatedly argued that the EU is the only institution capable of providing a comprehensive response to regional crisis. NGOs strongly support the argument that the EU needs to work with civil society organisations in the region and with international NGOs to ensure that this comprehensive approach fulfils its potential.

- Article 4.1: statement of the aim of the projects, including: “to underpin the reconstruction process, to encourage the return of refugees, reconciliation and regional economic cooperation, and to create the economic and social conditions that will lay the foundations for the development of the recipient countries”;
- Article 4.2: fields covered by the projects, including: regional cooperation, good neighbourliness projects and cross border projects; the consolidation of democracy and civil society; the return of refugees; integration or reintegration of refugees, displaced persons and former soldiers into working life; strengthening of non-governmental organisations, cultural institutions and educational establishments;

3.2 Recommendations for Administration and Funding

Some elements of the draft regulation modifying the Obnova programme, as adopted by the Commission in June 1999, should also be included in the New Regulation, notably:

- the acknowledgement of the need to manage the reconstruction programmes so as to avoid delays in implementation;
- the proposal to ensure that the CARDS regulation allows the Reconstruction Agency a flexible and rapid response, while at the same time ensuring full managerial accountability and transparency in management;
- the possibility for natural and legal persons from States who are recipients under the Phare and Meda programmes to participate in invitations to tender and contracts.

Furthermore, we urge the amendment of all administrative conditions unfairly limiting the access to NGOs:

- ♦ Limit or abolish bank guarantees
- ♦ Simplify, speed up and increase efficiency in administrative procedures
- ♦ Apply lump sums for staff and administrative (operational) costs and allow these to cover HQ direct and indirect costs.
- ♦ Allow for an application period of project proposals in the period of December to February in order to match the actual timeframe for operations

Finally, NGOs invite the European institutions to proceed with a thorough evaluation of NGOs' performance in the Balkans, in order to assess the real potential and achievements of their action. NGOs would welcome any constructive criticism, but also wish to be recognised for their real value, beyond any political prejudice and cultural stereotype.

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- ⁱ Lagendijk, Joost, "Stability Pact: Time for Action" in *Focus Balkans*, Issue 2, May 2000, page 1.
- ⁱⁱ Communication from the Commission to the Council and the European Parliament on LINKING RELIEF, REHABILITATION AND DEVELOPMENT (LRRD) Brussels, 28/03/1996, page 7
- ⁱⁱⁱ University of York, Post-War Reconstruction and Development Unit (PRDU)
<http://www.york.ac.uk/depts/arch/prdu/research.htm#four> 24 May 2000
- ^{iv} Minear, Larry & Weiss Thomas G "Mercy Under Fire: War and the Global Humanitarian Community" Westview Press 1995, p.163
- ^v Tongeren van, Paul "Exploring the Local Capacity for Peace – The Role of NGOs"
<http://www.oneworld.org/euconflict/guides/themes/pp3a.html>
- ^{vi} University of York, Post-War Reconstruction and Development Unit (PRDU) web site, 24 May 2000
<http://www.york.ac.uk/depts/arch/prdu/research.htm#four>)
- ^{vii} USIP Special Report on Balkan return: An overview of Refugee Return and Minority Repatriation, December 1999
- ^{viii} Tongeren van, Paul "Exploring the Local Capacity for Peace – The Role of NGOs"
<http://www.oneworld.org/euconflict/guides/themes/pp3a.html>
- ^{ix} Tamches Blum, Orna "Voices for Women – Forces for Change: Building Peace in the Bosnian Community". PeaceWorks no 32: Three Dimensions of Peacebuilding in Bosnia: page 27-28, 30-31
- ^x See "Winning the Peace? Some lessons from the EU's aid to South East Europe, June 1999-June 2000" Oxfam International Policy Paper
- ^{xi} Bolling, Landrum "Lessons from Bosnia on Civil Society Initiatives", PeaceWorks no 32: Three Dimensions of Peacebuilding in Bosnia: page 33
- ^{xii} Minear, Larry & Weiss Thomas G "Mercy Under Fire: War and the Global Humanitarian Community" Westview Press 1995, p.163
- ^{xiii} Commission Discussion Paper COM (2000) 11 final Brussels 18.1.2000 "The Commission and Non-Governmental Organisations: Building a Stronger Partnership"
- ^{xiv} Communication from the Commission to the Council and the European Parliament on LINKING RELIEF, REHABILITATION AND DEVELOPMENT (LRRD) Brussels, 28/03/1996, page 7
- ^{xv} See for instance the Commission Discussion Paper COM (2000) 11 final Brussels 18.1.2000 "The Commission and Non-Governmental Organisations: Building a Stronger Partnership" pages 4-5.
- ^{xvi} Council Regulation (EC) No. 1628/96 of 25 July 1996, amended by (EC) No. 2240/97 of 10 November 1997 and (EC) No. 851/98 of 20 April 1998.
- ^{xvii} Commission's Proposal of 23 June 1999 for a Council Regulation (EC) No. .../... amending Regulation (EC) No. 1628/96 relating to aid for Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, and setting up a European Agency for Reconstruction.
- ^{xviii} "Commission Communication to the Council and European Parliament on the Stabilisation and Association Process for countries of South Eastern Europe" (ref. COM (1999) 235 of 26 May 1999).