

Human Rights Special Report, 8 June 1998

Human rights coordination centre

A cooperative effort within the Office of the High Representative

On 8 June, a working version of a new draft Law on Associations and Foundations will be distributed widely for public discussion. This first distribution is primarily aimed at domestic NGOs in Bosnia and Herzegovina, the aim being to solicit their views on legislation that will crucially affect them. Domestic NGOs and other interested commentators are actively encouraged to comment and give input upon the law until 8 July. June 8 also marks a day of action by domestic NGOs intended to raise awareness of the role of NGOs and the Third Sector. Public discussions, radio shows, roundtables and street activities will take place in Sarajevo, Mostar, Banja Luka, Bijelina, Zenica, Tuzla and Bihac.

This initiative marks a crucial stage in the LEA/LINK project, which is supported by a host of domestic NGOs, legal experts and international organisations. Established in 1997, this aims to improve the environment in which non-governmental organisations function in BiH. It combines Law, Education, Advocacy and Networking to develop a legal structure for NGOs which allows them to operate effectively: a legal task force made of lawyers from around the country has focused on drafting the law; in the meantime, seven regional NGOs are responsible for running regional educational campaigns to raise general understanding of the role of NGOs, and how they contribute to society. Now they will work together to distribute the law and elicit comments upon it.

A sound legislative framework for NGOs is vital. Freedom of expression, association and peaceful assembly are fundamental to an enduring peace in Bosnia and Herzegovina. Expression of these rights through a vigorous civic society helps build social stability and respect for the rule of law. Appropriate legislation protects these rights and instills accountability. Modern economies also flourish best where those conditions are accepted and practiced. In Bosnia, a viable civic sector is also instrumental in integrating divided communities. Many countries in Eastern Europe have recognised the vital role that NGOs play in setting parameters for sustainable democracy. Poland, Czech Republic, Hungary and Estonia, for example, have gone through processes which have resulted in the adoption of sound legal frameworks for the civic sector.

This need exists also in Bosnia and Herzegovina. Here, the current legal situation is inadequate and differs in the two Entities. The civic sector in the Republika Srpska is governed by a pre-war law (the Law on Citizens Associations of the Socialist Republic of BiH (1990)), while different laws in the Federation further complicate the situation (the above Law on Citizens Associations (amended 1995), a Law on Humanitarian Activities and Humanitarian Organisations (1995); and a recent Law on Foundations). These laws fail to address sectoral needs: NGOs cannot register to operate throughout BiH; registration processes are not harmonised; 30 individuals are required to create an association; mutual and public benefit organisations are not distinguished (this distinction vital to entitlement to tax deductible contributions and access to government grants/contracts); norms that regulate economic (income-generating) activities of NGOs are lacking or inappropriate. As a result, many NGOs complain about the non-transparent and inappropriate legal situation.

A team of Bosnian and international experts have developed a working version of a law on Associations and Foundations, their methodology being analytical and comparative. To marry best practise with the need to regulate the civic sector, legal solutions from countries of the region have been included in the working version. This addresses many of the present shortcomings: it covers associations and foundations carrying out activities in the economic, social, humanitarian, cultural, ecological and sports spheres; only three individuals are required to register an Association; courts and not the government are responsible for registering associations and foundations; distinction is made between public and mutual benefit organisations; and a beneficial balance between the need for control versus the protection of rights is struck. (Explanatory notes are attached to the working version that explain the needs for such a new law, its applicable constitutional framework and reference to taxation and financial issues).

Fundamental to the consultation process is that it gives interested parties the opportunity to read, discuss,

and comment upon the law. In other words, the entire consultation process is not confined to merely obtaining comments and support, but also encourages a ground swell of professional opinion in favour of the new law, providing further legitimacy to the law. This process will run until 8 July, when the legal experts associated with LEA/Link will incorporate comments and suggestions as appropriate. They will then produce a final text Law on Associations and Foundations. This will be officially submitted, with public approval, to the relevant authorities of both Entities. Interested parties can comment directly and in writing on the substance of the proposed law to the designated NGOs or the Open Society Fund BiH; copies are available in local language and in English; access can also be obtained via the Open Society Fund BiH Web Site.

- *LEA/LINK Partner NGOs (Regional Representative Offices)*

Banja Luka:

Genesis Project, Filipa Macure 1, Tel: 078 14751

Bihac:

Democratic Circle, Buzimska 33, Tel: 077 331 519

Bijeljina:

Helsinki Committee for Human Rights RS, P.O. Box 126, Tel: 076 472 851

Mostar:

Stope Nade, Ante Starcevic 32B, Tel: 088 310 190

Sarajevo:

NGO Information and Support Centre, Hakije Kulenovica 26, Tel: 071 204 384

Tuzla:

Office for Human Rights, VI Bosanske 34, Tel 075 250 504

Zenica:

Centre for Women's Help, Kulina Bana 9, Tel: 072 22049

- *OSCE Reading Rooms*

Caplina:

Contact: Nada Decovski, Tel: 085 803 989

Livno:

Contact: Maja Persen, Tel: 080 201 774

Mrkonjic Grad:

Contact: Sinisa Vucenovic, Tel: 070 11 446

Visegrad:

Contact: Mila Gracanin, Tel: 073 683 812

- *Further Reading and Notes*

IRC Novosti: The Special Edition containing the full first working version of the law on Associations and Foundations is available through the LEA/LINK partner NGOs and the mentioned OSCE reading rooms.

Copies of the first working version of the Law on Associations and Foundations (in local language and English) will also be available at the Open Society Fund BH home page at www.soros.org.ba.

Guidelines for Laws Affecting Civic Organisations prepared for the Open Society Institute by the International Center for Not-For-Profit Law (ICNL). Available in English from Open Society Fund B-H and its Law Center (at the Law Faculty Sarajevo); in local language from LEA/LINK partner NGOs.

Checklist for Non-Profit Organisations Laws, available at ICNL's home page at www.icnl.org/cheklist.htm.

NOTE: The HRCC Human Rights Monthly Report is based on the regular and special reporting of inter-governmental and non-governmental organisations. The aim of the Report is to provide a concise overview of human rights

issues, cases and trends affecting the overall human rights situation in Bosnia and Herzegovina during the reporting period. Questions on specific items should be directed to the reporting organisation or to the HRCC. Please send information for inclusion in the report to 387-71-447-420 to the attention of Michelle Morris or by e-mail to michelle.morris@ohr.int.

Office of the High Representative