

By Snježana Bokulić
with Florian Bieber
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Emelyne Cheney

minority
rights
group
international

Minority Rights Advocacy in the European Union: A Guide for NGOs in South-East Europe

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Minority Rights Group International

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations which represent minority and indigenous peoples.

MRG works with over 150 organizations in nearly 50 countries. Our governing Council, which meets twice a year, has members from 10 different countries. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights. MRG is registered as a charity and a company limited by guarantee under English law. Registered charity no. 282305, limited company no. 1544957.

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Abbreviations

BiH	Bosnia and Herzegovina
CARDS	Community Assistance for Reconstruction, Development and Stabilization
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEE	Central and Eastern Europe
CERD	Convention on the Elimination of All Forms of Racial Discrimination (also known as ICERD)
CESCR	Convention on Economic, Social and Cultural Rights
CFSP	Common Foreign and Security Policy
COREPER	Permanent Representatives Committee
CRC	Convention on the Rights of the Child
CSCE	Conference on Security and Cooperation in Europe
DG	Directorate General
EAR	European Agency for Reconstruction

Abbreviations

EC	European Commission
ECB	European Central Bank
ECSC	European Coal and Steel Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECJ	European Court of Justice
ECRI	European Commission against Racism and Intolerance
ECRML	European Charter for Regional or Minority Languages
EIB	European Investment Bank
EIDHR	European Initiative for Democracy and Human Rights
ENGO	European non-governmental organization
EP	European Parliament
EU	European Union
EUMC	European Monitoring Centre on Racism and Xenophobia
EUMM	European Union Monitoring Mission
Euratom	European Atomic Energy Community
FCNM	Framework Convention for the Protection of National Minorities
FRY	Federal Republic of Yugoslavia
GDP	Gross Domestic Product
GNP	Gross National Product
HCNM	OSCE High Commissioner for National Minorities
ICCPR	International Covenant on Civil and Political Rights
ICTY	International Criminal Tribunal for former Yugoslavia
INGO	International non-governmental organization
IPA	Instrument for Pre-accession Assistance

Abbreviations

MEP	Member of European Parliament
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OMC	Open method of coordination
OSCE	Organization for Security and Cooperation in Europe
PHARE	Poland, Hungary Assistance for the Reconstruction of the Economy
RAXEN	European Information Network on Racism and Xenophobia
SAA	Stabilization and Association Agreement
SAP	Stabilization and Association process
SEA	Single European Act
SEE	South-East Europe
SIS	Schengen Information System
STM	Stabilization and Association process Tracking Mechanism
TEC	Treaty Establishing the European Community
TEU	Treaty on European Union
UK	United Kingdom
UN	United Nations
UNDM	UN Declaration on Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Interim Administration Mission in Kosovo
USA	United States of America

Introduction

issues in their country's EU accession process, and for the protection and promotion of minority rights in the region.

Introduction

In recent years, the European Union (EU) has become the most influential player in South-East Europe (SEE). It is both the most prominent development actor and the most relevant political force in the region. For Balkan minorities this is a particularly hopeful moment. With all countries firmly set on their 'way to Europe', the prospect of EU membership and the EU accession conditionality provide both the carrot and the stick for the states to put their international commitments into practice, and improve the situation of their minorities.

Aims of this guide

MRG's partner minority and human rights non-governmental organizations (NGOs) have expressed the need for an advocacy-based EU guide for minorities. Existing guides, which may facilitate the interaction between NGOs and the EU, focus on the EU decision-making process, access to EU funding, and campaigning. All of them are written for an EU audience and do not address the civil sector in SEE, much less minority issues.

In response to this need, MRG is publishing *Minority Rights Advocacy in the European Union: A Guide for NGOs in South-East Europe*. Its aim is to empower minority and human rights activists from SEE to advocate successfully in the EU for the inclusion of minority

Contents

The first chapter introduces the EU, its evolution from an economic association to an ever-growing political union, its institutional structure and the relevant decision-making processes. The second chapter discusses the EU policy toward the region and the nature of its engagement, ranging from conflict management, the provision of reconstruction and development aid, to the enlargement process. The third chapter describes the EU standards for minority protection in the context of the enlargement process, as well as the instruments and mechanisms for minority protection available to member states. The fourth chapter presents the advocacy opportunities available for minority rights activists within the institutional setting of the EU, providing practical advocacy tools. The fifth chapter is a collection of resources, references and information for minority rights advocates from SEE. The annex contains key EU standards. The glossary is intended as a self-standing reference, which should facilitate the understanding of the structures, issues and processes described in the guide.

The guide addresses issues which are crucial for a thorough understanding of minority rights advocacy opportunities within the EU, including those issues which will be applicable once SEE states become EU members. It is a basic introduction, and readers are encouraged to further explore the main themes of this guide. Geographically, the guide covers the Balkan states that are encompassed by MRG's Diversity and Democracy Programme on the promotion and protection of minority rights in SEE. It includes Albania, Bosnia and Herzegovina (BiH), Bulgaria, Croatia, Kosovo, Macedonia, Montenegro and Serbia – but not Greece or Romania.¹ The information included in the guide is current as at publication, however, readers must be aware that the relationships both within the EU and the Balkans are rapidly evolving. For current information, it is best to consult regularly updated sources such as the EU website.

MRG is aware that the inclusion of advocacy case studies would have strengthened this guide. However, this is still a relatively new area

of work for many minority-based organizations in SEE, so there are few relevant cases to date.

Minorities: definitions and rights

This guide refers to minority rights and minorities, two much-contested concepts which lack a universally accepted definition. In this guide, ‘minorities’ refers to non-dominant ethnic, national, religious and linguistic groups in a state, whose members show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language.² In the context of SEE, the focus is on the so-called ‘old minorities’, groups which have been long established on the territory of the state in which they reside, as referred to in international instruments including the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM), the Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM), as well as the relevant instruments of the Organization for Security and Cooperation in Europe (OSCE). The term ‘new minorities’, as the *2005 Annual Report of the European Union Monitoring Centre on Racism and Xenophobia* (EUMC) explains,³ is used to denote minority groups resulting from the labour migrants of the three decades following the Second World War and their descendants, who generally gain citizenship rights but remain identifiable as minority ethnic groups, living primarily in the EU–15.⁴ There are also the newest migrant groups including refugees. According to this terminology, minorities in SEE are regarded as ‘old minorities’ as they are autochthonous to the territory of the Balkans. Recent population displacements and new state borders resulting in the creation of newly established minority groups do not change the fact that these groups are the beneficiaries of minority rights as enshrined in several peace treaties and recent minority legislation in SEE. However, this terminology can be unfairly used to deny citizenship and rights of newly established minorities classified as groups of economic migrants by the state they now live in.

Minority rights go much beyond the minimum understanding of culture and language. In MRG’s view, minority rights are based on four key pillars:

- protection of existence;
- protection and promotion of identity;
- non-discrimination; and
- effective participation.

The protection of a minority’s existence is linked with the prevention of genocide and forced assimilation of groups. The starting point for the protection of distinct identities is recognition that they exist. Failure to do so is a strategy used by states to deny groups the exercise of their minority rights. Having a distinct ethnicity, religion, culture or language is part of an individual’s identity. The protection and promotion of identity refers both to the right of individuals to choose which groups they wish to identify with, and the right of those groups to affirm and protect their collective identity. As defined by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), discrimination is:

‘any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.’

As discussed in chapter 3, EU legislation distinguishes between direct and indirect discrimination. Finally, the right to participate for minorities has two connotations: the right to participate in decision-making, particularly on issues that will affect them; and the right to participate in the benefits of development, i.e. equal access to the benefits of development.

Regarding the technical terms used in the EU enlargement process, each stage of accession has a specific reference: acceding countries, candidate countries and potential candidates. To avoid repetition, when referring to all countries at different stages of the process, this guide uses the term ‘enlargement countries’. This is not an official EU term, but is

practical for the purposes of this publication. Moreover, in this guide the abbreviation EC stands for European Commission. Readers need to keep in mind that in official EU documents 'EC' generally stands for 'European Communities'. To avoid confusion, the latter connotation is not used here.

It is hoped that this guide will serve as a useful resource to minority rights advocates from SEE in their effort to mainstream minority rights in the EU accession process, thus contributing to change and the improvement of minorities' lives.

Note: At the time of writing, Serbia and Montenegro split to form two countries. We have adapted the text wherever practical to reflect this.

Chapter 1

The European Union: an overview

The European Union: an overview

While much of SEE avoided religious and nationalist wars and conflict until the late nineteenth/early twentieth centuries, the history of Western Europe has been characterized by frequent conflict and tensions. It was only in the second half of the twentieth century that Western Europe came to enjoy more than 60 years of welfare and peace, largely thanks to the process of European integration. The economic organization, based on the premise that central control over the coal and steel industries would make preparations for another war impossible by securing a common market for German coal and French iron, has turned into the single, most effective peacebuilding effort in Europe. The EU today has 25 member states, is home to c. 457 million people, covers an area of almost 4 million km², has 20 official languages, an annual budget of 112 billion euros, a flag and an anthem. It is the largest trading block in the world, and the largest donor of humanitarian and development assistance.

The EU calls itself 'a family of democratic European countries, committed to working together for peace and prosperity.'⁵ It is more than an organization for international cooperation and some have described it as a system, rather than an institution. However, it is not a state intended to replace existing states, nor is this its aim. The EU does not yet have an explicit legal personality. It is a treaty-based association of states, which have set up common institutions to which states



delegate some of their sovereignty so that decisions on specific matters of joint interest can be made democratically at the European level.

Evolution of the EU

In the course of European integration, the scope of the founding treaties has evolved from a strictly economic union to a more political one. The EU was founded on four treaties. The founding treaties are the three community treaties establishing the European Community (formerly known as the European Economic Community [EEC]), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (Euratom), as well as the Treaty on European Union (TEU). These are collectively known as the ‘treaties’ and the term ‘treaty’ can refer to any of the above, depending on its context. The founding treaties were amended by a number of other treaties, among them the Merger Treaty, Single European Act (SEA), Treaty of Amsterdam and Treaty of Nice.

Treaty of Paris, 1951

The Treaty of Paris established the ECSC in 1951. The Treaty was signed by Belgium, France, Germany, Italy, Luxembourg and the Netherlands. The ECSC had the power to remove tariff barriers, abolish subsidies, fix prices and impose levies on coal and steel production. This treaty expired in 2002.

Treaties of Rome, 1957

A step further in European integration was taken in Rome in 1957 when the treaties establishing the EEC and Euratom were signed by the same countries. The former was renamed the Treaty Establishing the European Community (TEC) in 1992. The EEC aimed to establish a free trade area, by creating a single market and harmonizing the economic policies of the six member states. The Euratom Treaty was aimed at the swift establishment and development of the atomic energy industry.

Merger Treaty, 1965

The Merger Treaty, signed in Brussels in 1965, streamlined the decision-making and the Community institutions. The often-heard

Three pillars of the EU

First pillar:
European
Communities

European
(Economic)
Community

- Customs union and single market
- Agricultural policy
- Structural policy
- Trade policy
- EU citizenship
- Education and culture
- Trans-European networks
- Consumer protection
- Health
- Research and environment
- Social policy
- Asylum policy
- External borders
- Immigration policy

Euratom
ECSC

Second pillar:
Common Foreign and
Security Policy

Foreign policy

- Cooperation, common positions and measures
- Peacekeeping
- Human rights
- Democracy
- Aid to non-member countries

Security policy

- Issues of security of the EU
- Disarmament
- Financial aspects of defence
- Europe’s long-term security framework

Third pillar:
Cooperation in justice
and home affairs

- Cooperation between judicial authorities in civil and criminal law
- Police cooperation
- Combating racism and xenophobia
- Fighting drugs and the arms trade
- Fighting organized crime
- Fighting terrorism
- Combating criminal acts against children, trafficking in human beings

Rounds of enlargement

1952 Belgium, France, Germany, Italy, Luxembourg, the Netherlands
1973 Denmark, Ireland, United Kingdom (UK)
1981 Greece
1986 Portugal, Spain
1995 Austria, Finland, Sweden
2004 Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia
2007–8 Bulgaria, Romania

term 'Communities', still in use today, refers to the three initial communities, ECSC, EEC and Euratom, which have retained their independent legal status but have joint institutions. These Communities now constitute the first 'pillar' of the EU.

Single European Act, 1986

The definitive push towards the creation of the single market came with the adoption of the SEA, signed in Luxembourg in 1986. Its goal was to transform the common market into a single European market by 1992, by removing all physical, fiscal and technical barriers to trade. Creating new Community competences and reforming its institutions, the SEA established an area without internal borders in which the movement of goods, services, people and capital was supposed to be free.

Treaty on European Union – Maastricht Treaty, 1992

The landmark TEU, also known as the Maastricht Treaty, signed in 1992, deepened the economic integration and promoted closer political integration. In the economic sphere, an economic and monetary union was created which led to the introduction of a single currency, the euro. Politically, a Common Foreign and Security Policy (CFSP) was developed and common aims in the areas of home affairs and justice established. The inter-governmental cooperation in these three fields, which were added to the existing Community system and which are referred to as 'pillars', resulted in the creation of the EU. Free movement of goods, services, capital and people have become its four core freedoms. Further, EU citizenship was introduced making everyone who is a citizen of a member state also a citizen of the EU.

Treaty of Amsterdam, 1997

The Treaty of Amsterdam, signed in 1997, confirmed the plans for eastward enlargement and the goal of launching the single European currency. It also broadened the EU remit reinforcing its focus on asylum, consumer protection, environment, foreign affairs, health protection, immigration, social policy and unemployment. Moreover, it included the suspension clause under which some of a member state's rights may be suspended if it seriously and persistently breaches the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law on which the EU is founded.

Treaty of Nice, 2001

The goal of the Treaty of Nice, signed in 2001, was to ensure that institutional changes were undertaken which would enable the EU's efficient functioning, following its enlargement to 25 member states. It increased the size of the European Commission (EC) to 25 Commissioners, one for each member state. It redistributed the votes of the Council and simplified the voting procedure. The number of seats in the EP was also redistributed with the ceiling set at 732. Also of particular importance was the proclamation by the EP, Council and EC of the Charter of Fundamental Rights of the European Union.

Treaty Establishing a Constitution for Europe, 2004

Because these treaties are very complex, it became apparent that it was necessary to replace them with a single, shorter and simpler document. This new document is similar to the Constitution of a country, however it is not a Constitution in the commonly understood sense, just as the EU is not a country; it is the Constitutional Treaty. It aimed to set out clear rules for running the EU after the 2004 enlargement by consolidating the previous treaties into a single document, simplifying the decision-making, and replacing the three-pillar structure of the EU giving it a single legal framework and a legal personality of its own. Unlike the previous treaties, this document includes a reference to minority rights in its Article I–2.

To date, 15 states have ratified the Constitution. France and the Netherlands dealt a major blow to the process in rejecting the Constitution in referenda held in May and June 2005. In the light of these results, the European Council decided that an extension of the ratification process was needed, as the original deadline of 1 November 2006 was no longer feasible. It is a largely held view that the Constitutional Treaty will not be ratified and that a new legal solution for the EU is needed. The implication of the rejection of the Constitutional Treaty is that there is no framework for enlargement beyond Bulgaria and Romania. The accession of SEE states will require either the drafting and ratification of a new treaty, or amendments to the Treaty of Nice.

Structure of the EU

The institutions of the EU are the European Parliament (EP), Council, European Commission (EC) and the European Court of Justice (ECJ). Further, there is the Court of Auditors plus two advisory bodies which contribute to policy-making in the EU: the European Economic and Social Committee and the Committee of the Regions. Financial matters are overseen by two banks: the European Central Bank (ECB) and the European Investment Bank (EIB).

Institution	Composition	Interests represented
Parliament	Representatives elected by direct universal suffrage	Respective constituencies
Council	National government officials	Member states
Commission	European public servants	EU

European Parliament

The EP is a representative body elected directly by the citizens of the EU, but it is not a legislature in the way that national parliaments are. It is best described as a co-legislature in that it adopts European laws jointly with the Council in many areas. In addition to passing laws, the EP exercises democratic supervision over the EC and the Council. It also, jointly with the Council, decides on the EU's annual budget. Further, it has the right to censure the EC, i.e. to call for its collective resignation. It therefore holds legislative, budgetary and supervisory power.

Legislative power

The EP may not initiate legislation, as the EC is the only institution with the authority to do so. However, the EP can ask the EC to present legislative proposals for laws. Once a legislative text is presented by the EC, it is forwarded for consideration to both the Council and the EP. Working on a parliamentary committee, a Member of the European Parliament (MEP) drafts a report on the proposal. The committee may amend the report and takes a vote on it. When the text has been revised

and adopted in plenary, the EP has adopted its position at first reading. A second reading will follow upon the Council's discussion of the EP's opinion, if issues remain on which further compromise is needed.

Budgetary power

The EP also jointly decides on the EU's budget. The EC first prepares a preliminary draft budget which is submitted to the Council of the EU. On this basis, the Council draws up a draft budget that is forwarded to the EP for first reading. In plenary, the EP amends the draft and returns it to the Council, which can amend it before returning it to the EP. Again in plenary, the EP adopts or rejects the amended budget at second reading. The President of the EP finally adopts the budget, which cannot be implemented until it has been signed by him or her.

Supervisory power

The EP has supervisory powers over the EC. Moreover, it has the right to censure the Commission. The EP exercised this right in 1999 when it initiated the vote of no confidence against the Santer Commission, some of whose members were involved in corruption scandals. The motion failed, but the Commission tendered a collective resignation.

The EP's approval is required for the appointment of a new Commission. The EP has exercised its power of approval during the appointment of the current Barroso Commission, when it expressed its reservations over the expertise of several commissioners-designate. The composition of the Commission was then renegotiated and the EP ultimately approved it.

MEPs are elected by universal suffrage for five-year terms. The present Parliament has 732 MEPs, of whom 222 are women. In 2004, Josep Borrell Fontelles of Spain was elected President of the EP. The President is elected for a renewable term of two and a half years. MEPs do not sit in national blocks, but in seven Europe-wide political groups depending on their political affiliation.

The EP has three locations: Brussels, Luxembourg and Strasbourg. The General Secretariat is located in Luxembourg. Twelve annual plenary sessions take place in Strasbourg and occasionally in Brussels. Committee meetings are held in Brussels.

Number of seats in the EP	
Germany	99
France, Italy, UK	78
Spain, Poland	54
Netherlands	27
Belgium, Czech Republic, Greece, Hungary, Portugal	24
Sweden	19
Austria	18
Denmark, Finland, Slovakia	14
Ireland, Lithuania	13
Latvia	9
Slovenia	7
Cyprus, Estonia, Luxembourg	6
Malta	5
Total	732

Political groups in the EP as per the 2004 elections:

EPP–ED: Group of the European People’s Party (Christian Democrats) and European Democrats

PES: Socialist Group in the European Parliament

ALDE: Group of the Alliance of Liberals and Democrats for Europe

Greens/EFA: Group of the Greens/European Free Alliance

GUE/NGL: Confederal Group of the European United Left/Nordic Green Left

IND/DEM: Independence and Democracy Group

UEN: Union for Europe of the Nations Group

Council

The Council is the EU’s main decision-making body, set up by the founding treaties in the 1950s. It represents the member states, and its meetings are attended by one minister from each of the member states’ governments.

When Prime Ministers and/or Presidents of the member states meet, the Council is called the European Council. Since the European Council is the highest-level policy-making body, these meetings are called summits. They set overall EU policy and resolve issues that could not be settled at a lower level. The President of the Commission also attends the meetings. The European Council meets up to four times a year.

When the meeting is attended by the cabinet ministers, the Council is called the Council of the European Union. Which ministers attend depends on the agenda. If, for instance, agriculture is discussed, the Council will be attended by the ministers of agriculture. Altogether, there are nine different Council configurations:

- General Affairs and External Relations;
- Economic and Financial Affairs;
- Agriculture and Fisheries;
- Justice and Home Affairs;
- Employment, Social Policy, Health and Consumer Affairs;
- Competitiveness;
- Transport, Telecommunications and Energy;
- Environment; and
- Education, Youth and Culture.

Since the Council is made up of representatives of national governments, answerable to their national parliaments and constituencies, it primarily safeguards the member states’ national interests. Ultimately, however, Council decisions represent a compromise in the interest of all countries.

The Council has six key responsibilities:

- To pass European laws, in many policy areas jointly with the EP.
- To coordinate the broad economic policies of the member states.

- To conclude international agreements between the EU and other countries or international organizations.
- To approve the EU's budget, jointly with the EP.
- To develop the EU's Common Foreign and Security Policy (CFSP) based on the guidelines set by the European Council.
- To coordinate cooperation between the national courts and police forces in criminal matters.

The work of the Council is assisted by the Permanent Representatives Committee (COREPER). COREPER I deals with technical issues, while COREPER II deals with major political issues. Based in Brussels, COREPER comprises the permanent representations of each EU member state, which represent and defend their national interests at the EU level. The head of each representation is their country's ambassador to the EU.

Lisbon Strategy

The process launched at the Lisbon European Council in 2000 aimed to coordinate the economic policies of the member states. Its primary goal is, by 2010, to make the EU the world's most competitive and dynamic knowledge-based economy, which is capable of sustainable development and the creation of more and better employment opportunities through stronger social cohesion. The strategy hinges on five elements, namely: 1. opening up the internal market for services; 2. reducing administrative burdens on business; 3. meeting the goals on human capital; 4. reaching the target of investing 3 per cent of gross domestic product (GDP) in research and development; and 5. meeting the 70 per cent target for employment. By now, it has become apparent that the EU will not be able to achieve these objectives within the set timeframe.

The Presidency of the Council rotates every six months. This means that EU countries take turns in being in charge of the Council agenda and chairing all the meetings. To ensure continuity from one Presidency to the next, the Council uses a troika system in which ministers from the incumbent Presidency work closely with their predecessors and successors. The main advantage of holding the Presidency is that it allows a member state to convene meetings and launch strategic

initiatives on issues of particular national interest, and to try to bring those issues and initiatives to the top of the EU agenda. Different states have different national policy priorities, which are then reflected in the EU agenda during their respective terms.

The order of countries taking up the Presidency of the Council has been set until 2020. Bulgaria and Romania are already included, but any SEE countries joining the EU in the meantime will have to wait for their turn for some time after 2020.

2006	Austria	Finland
2007	Germany	Portugal
2008	Slovenia	France
2009	Czech Republic	Sweden
2010	Spain	Belgium
2011	Hungary	Poland
2012	Denmark	Cyprus
2013	Ireland	Lithuania
2014	Greece	Italy
2015	Latvia	Luxembourg
2016	Netherlands	Slovakia
2017	Malta	UK
2018	Estonia	Bulgaria
2019	Austria	Romania
2020	Finland	

The Presidency is assisted by the General Secretariat, tasked with preparing and ensuring the smooth functioning of the Council's work. Javier Solana was reappointed Secretary-General of the Council in 2004. He is also High Representative for the CFSP in which capacity he supports the coordination of the EU's action globally.

It is important to bear in mind that neither the European Council nor the Council of the European Union are in any way related to the Council of Europe. The Council of Europe is not an EU institution. It is an inter-governmental organization based in Strasbourg, which aims to protect human rights, promote Europe's cultural diversity, and combat social problems such as xenophobia and intolerance. The

Council of Europe was set up in 1949 and to date it has 46 member states. One of its greatest achievements was the creation of the European Convention on Human Rights, the implementation of which is overseen by the European Court of Human Rights, which is also based in Strasbourg. Europe's leading international legal instrument for the protection of minority rights, the FCNM, as well as the European Charter for Regional or Minority Languages (ECRML), were also drawn up under the auspices of the Council of Europe.

European Commission

The EC is the most visible institution of the EU, being both its key policy-making agency and its bureaucracy. The term Commission is used in two senses. First, it refers to the college of Commissioners appointed to run the institution and take decisions. Second, it refers to the staff of approximately 25,000 European civil servants who support the EC's day-to-day running. The task of the EC is to uphold the interests of the EU. Unlike a national government, the EC has a combination of legislative and executive powers. It is responsible for generating new laws and policies, and for overseeing their implementation by the member states. The EC, moreover, manages the EU budget and represents the EU in international negotiations. The President of the EC is José Manuel Barroso of Portugal. The seat of the EC is in Brussels, but it also has offices in Luxembourg, representation in all EU countries and delegations in many countries worldwide.

The Commissioners function much like a cabinet: there are 25 of them, one from each member state. Each Commissioner is

Procedure for the appointment of the Commission

Governments of member states jointly agree on who to designate as the new EC President

EP approves the EC President-designate

In discussion with governments of member states, the EC President-designate chooses the other members of the Commission-designate

EP holds hearings in its relevant committees with each Commissioner-designate and gives its opinion on the whole team

Upon EP's approval, the new Commission can officially begin work

responsible for a particular policy and oversees a directorate general (DG), which is the equivalent of a government ministry. A new Commission is appointed every five years, within six months of the elections to the EP.

The EC is divided into 26 DGs and nine services, which develop and implement EU policies. They are in turn divided into directorates and units. The DGs vary in their size, budgets and power. The most relevant DGs for the purpose of this guide are:

- DG Education and Culture, with the mission of building a Europe of knowledge, developing the European cultural area and involving citizens in European integration;
- DG Employment, Social Affairs and Equal Opportunities formulates policies in the area of employment, social inclusion and social protection, as well as equality between women and men;
- DG Enlargement manages the process of EU enlargement; and is divided into five directorates: Directorate A is in charge of the acceding countries of Bulgaria and Romania; Directorate B deals with the candidate countries of Croatia, Macedonia and Turkey; while Directorate C covers the remaining potential candidates of the Western Balkans;
- DG External Relations contributes to the formulation of an effective and coherent external relations policy for the EU;
- DG Justice, Freedom and Security deals with issues of freedom, security and justice; and
- DG Regional Policy is responsible for European measures to assist the economic and social development of the less-favoured regions of the EU.

EC delegations

The EC has five representations at international organizations, and 118 representations in third countries, including in all the SEE countries.

The role of the delegations is to:

- present, explain and implement EU policy;
- analyse and report on the policies and developments of the countries to which they are accredited; and
- conduct negotiations in accordance with a given mandate.

The delegations play a key role in the implementation of external assistance. They are closely involved in programming and managing projects. Jointly with the EU Presidency, they take the lead in local coordination of the implementation of multilateral and bilateral EU assistance. Depending on country priorities, the assistance covers myriad areas ranging from: humanitarian assistance; institution and capacity building; mine clearance and reconstruction; support for democracy and human rights, including independent media; and traditional development aid.

Delegations also play an increasing role in the conduct of the CFSP providing regular political analysis, conducting evaluations jointly with member state embassies and contributing to the policy-making process.

The European Court of Justice

The Court of Justice of the European Communities (ECJ) was established under the very first Treaty of Paris in 1952. It is based in Luxembourg. The ECJ is the Supreme Court of the EU; it should not be mistaken for the European Court of Human Rights, which is an institution of the Council of Europe.

The purpose of the ECJ is to make sure that EU legislation is interpreted and applied uniformly throughout the EU member states, so that the law can be equal to everyone. It ensures that national courts do not give different rulings on the same issue, and also that all EU member states and EU institutions apply the EU law. It has the power to settle legal disputes between EU member states, EU institutions, businesses and individuals.

The ECJ is composed of one judge per member state, so that all 25 of the EU's national legal systems are represented. For greater efficiency, however, the ECJ usually sits as a Grand Chamber of 13 judges or in chambers of three or five judges.

The judges and the advocates-general are appointed to the ECJ by joint agreement of the governments of the member states. The term of appointment lasts six years and may be renewed. Advocates-general assist with each case and deliver their opinions on questions with complete impartiality. Their role is to propose a legal solution to the case to the ECJ. Although often followed, their opinion is not binding on the ECJ. Judgements of the ECJ are decided by a majority and pronounced at a public hearing.

As the workload of the ECJ increased significantly, a Court of First Instance was created in 1989. This Court is responsible for giving

rulings on certain kinds of cases, particularly actions brought by private individuals, companies and some organizations, as well as cases relating to competition laws. Both the ECJ and the Court of First Instance have a President chosen by the judges for a renewable term of three years.

In addition, a new judicial body has been established to settle disputes arising between the EU and its civil servants. The European Civil Service Tribunal is composed of seven judges and is attached to the Court of First Instance.

Types of cases brought before the Court

Preliminary ruling	If a national court is in doubt about the interpretation or validity of an EU law, it may, and sometimes must, ask the ECJ for advice. The advice is given in the form of a preliminary ruling.
Failure to fulfil an obligation	If a member state fails to fulfil its obligations under EU law, the EC can bring the case before the ECJ. The proceedings may also be started by one member state against another. If the accused state is found at fault, it must right the situation. If the Court finds that a member state has not complied with its judgement, it may impose a fine on that country.
Actions for annulment	If any member state, the Council, the EC or the EP believes that a particular EU law is illegal, they may ask the Court to annul it. Individuals can also use the actions for annulment, to ask the Court to cancel a particular law because it has a direct and adverse effect on them as individuals. If the ECJ finds that the law in question was not correctly adopted or is not correctly based on the treaties, it may declare the law null and void.
Actions for failure to act	The treaties require the EP, Council and EC to make certain decisions under certain circumstances. If they fail to do so, the member states, other Community institutions and, under certain conditions, individuals or companies, can file a complaint with the ECJ to have this failure to act officially recorded.

European Court of Auditors

Based in Luxembourg, the Court's task is to check that EU funds, which come from the taxpayers, are properly collected, and are spent legally, efficiently and for the intended purpose. The Court has the right to audit any person or organization handling EU funds.

The Court has one member from each EU member state, appointed by the Council for a renewable term of six years.

European Economic and Social Committee

Founded under the Treaty of Rome in 1957, the European Economic and Social Committee is an advisory body that represents employers, trade unions, farmers, consumers and other interest groups that collectively make up organized civil society. Acting as a bridge between the EU and its citizens, the Committee takes part in policy discussions with the EC, the Council and the EP. As an integral part of the EU's decision-making process, it must be consulted before decisions are taken on economic and social policy. The Committee has 317 members nominated by member state governments. The members are appointed for four-year terms.

Committee of the Regions

The Committee of the Regions is an advisory body composed of representatives of member states' regional and local authorities. It was set up in 1994, under the TEU. The Committee has to be consulted in decision-making on matters that concern local and regional government, such as regional policy, environment, education and transport. It has 317 members who are elected municipal or regional politicians. The members are nominated by the respective governments and appointed by the Council of the EU.

European Central Bank

The ECB is the central bank for Europe's single currency, the euro. It was established in 1998 with its headquarters in Frankfurt am Main. The ECB is responsible for managing the economic and monetary union. Its main task is to maintain the euro's purchasing power and price stability in the eurozone. The eurozone comprises the 12 EU countries that have introduced the euro since 1999: Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy,

Luxembourg, the Netherlands, Spain and Portugal. Euro banknotes and coins are issued by national central banks, exclusively with the ECB's consent.

An EU member state does not automatically enter the eurozone. To be able to introduce the euro, a member state must meet a set of criteria called convergence criteria (or Maastricht criteria). These criteria require that: a country's budget deficit cannot exceed 3 per cent of its GDP; public borrowing be kept under 60 per cent of GDP; and prices, interest rates and exchange rates remain stable; among others. It is expected that Slovenia will be the first among the states that joined the EU in 2004 to join the eurozone. This is expected in 2007.

European Investment Bank

The EIB, the financing institution of the EU, was created by the Treaty of Rome. The members of the Luxembourg-based EIB are the member states of the EU, who have all contributed to the EIB's capital. The EIB's mission is to further the objectives of the EU by providing long-term finance for specific capital projects, in keeping with strict banking practice.

Decision-making in the EU

Decision-making in the EU follows the principle of subsidiarity, which is intended to determine whether the EU can intervene or should let the member states take action. It is the principle whereby the EU does not take action (except in the areas which fall within its exclusive competence) if more effective action can be taken at national, regional or local level. EU decisions should be taken as closely as possible to the citizen.

The principle of subsidiarity is closely related to the principles of proportionality and necessity, which require that any action by the EU should not go beyond what is necessary to achieve the objectives of the treaty.

The EU currently has three types of powers:

- Explicit powers: these are clearly defined in the treaties.

- **Implicit powers:** where the European Community has explicit powers in a particular area (e.g. transport), it also has powers in the same field with regard to external relations (e.g. negotiation of international agreements in the field of transport).
- **Subsidiary powers:** where the Community has no explicit or implicit powers to achieve a treaty objective concerning the single market, Article 308 TEC allows the Council, acting unanimously, to take the measures it considers necessary.

Decision-making at EU level involves the EP, Council and the EC. The rules and procedures for EU decision-making are laid down in the treaties. Every proposal for a new European law is based on a specific treaty Article referred to as the 'legal basis' of the proposal. This determines which legislative procedure must be followed. The three main procedures are consultation, assent and co-decision.

Consultation

Under the consultation procedure, the Council consults the EP, the European Economic and Social Committee and the Committee of the Regions on the proposals put forward by the Commission. The EP can approve the EC proposal, reject it or request amendments. If amendments are requested, the EC will consider the proposed changes. If it accepts the changes, it will send the amended proposal to the Council. The Council examines the amended proposal and either adopts it or amends further. If the Council amends an EC proposal, it must do so unanimously.

Assent

The assent procedure requires the Council to obtain the EP's assent (acceptance) before certain very important decisions are taken. In this case, the EP cannot amend a proposal: it either accepts or rejects it. Assent requires an absolute majority of the votes cast.

Co-decision

This procedure is now the most frequently used in law making. In the co-decision procedure, the EP shares legislative power equally with the Council. If the Council and the EP cannot agree on a piece of proposed legislation, the latter is put before a conciliation committee, composed of equal numbers of representatives of both institutions. Once the

committee has reached an agreement, the text is sent once again to the EP and the Council so that they can adopt it as law.

The democratic deficit

The EU has often been charged with lacking institutional openness, transparency, accessibility and accountability. Although the EP is directly elected, most powers reside with the EC and the Council, neither of which is directly elected or holds much public accountability. Consequently, concerns of democratic deficit have arisen. It is usually defined as the lack of accountability of EU institutions, or the gap between the powers transferred to the EU, and the ability of the EP to oversee and control these powers.

Council

Decisions in the Council are taken by vote. The number of votes is weighted in favour of the less populous countries.

Distribution of votes in the Council	
Germany, France, Italy, UK	29
Spain, Poland	27
Netherlands	13
Belgium, Czech Republic, Greece, Hungary, Portugal	12
Austria, Sweden	10
Denmark, Ireland, Lithuania, Slovakia, Finland	7
Cyprus, Estonia, Latvia, Luxembourg, Slovenia	3
Malta	3
Total	321

Decisions are taken either by unanimity or by qualified majority voting. Decisions in the most sensitive areas such as asylum and immigration policy, CFSP and taxation, must be unanimous. This effectively gives each member state the power of veto in these areas.

On most issues, however, qualified majority suffices. A qualified majority is reached if a majority of member states (in some cases a two-thirds majority) approve, and if a minimum of 232 votes is cast in favour (which constitutes 72.3 per cent of the total).

Citizenship of the EU is defined as citizens of member states being allowed to: 1. freely move, travel, stay and work in any country of the EU; 2. participate in municipal and European Parliamentary (EP) elections in the member state in which they reside, with both the right to vote and to stand in elections; 3. request protection from diplomatic bodies of any member state while in third countries in which their own country has no representation; 4. submit petitions to the EP and complaints to the European Ombudsperson.⁶ In practice, this is presently applicable only to EU-15 citizens, as the freedom to work of citizens of states which joined in 2004 has been severely restricted for up to seven years. It is likely that similar restrictions will be applied upon the accession of SEE countries.

In addition, a member state may request confirmation that the votes in favour represent at least 62 per cent of the total population of the EU. If this is not the case, the decision will not be adopted.

European Commission

Decisions are taken collectively on proposals coming from one or more Commissioners. The Commission decides by simple majority. If the vote is split, the voice of the President is decisive.

The Commission takes decision in four ways:

- At regular weekly meetings.
- By written procedure, whereby the proposal is circulated in writing to all members who must communicate their reservations and/or amendments by a certain deadline. Discussion can also be requested. If no reservations or amendments are communicated, the proposal is adopted by the Commission.
- By empowerment, whereby the Commission can empower one or more of its members to make a decision as long as the principle of collective responsibility is respected.

There are 20 official languages in the EU: Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish. The Irish language will become the 21st official language on 1 January 2007. Bulgarian and Romanian will become the 22nd and the 23rd official languages upon the countries' accession to the EU.

- By delegation, whereby the Commission can delegate the taking of certain decisions to directors-general and heads of service who then act on its behalf.

EU governance

In a white paper on European governance, the EC has established its own concept of governance, defining it as rules, processes and behaviour that affect the way in which powers are exercised at the EU level, particularly as regards openness, participation, accountability, effectiveness and coherence. These five 'principles of good governance' reinforce those of subsidiarity and proportionality.⁷ The paper contains recommendations on how to enhance democracy in the EU and boost the legitimacy of its institutions. Three new forms of governance have been identified as particularly relevant for the protection of minorities. They are:

- mainstreaming,
- impact assessment, and
- the open method of coordination (OMC).⁸

Mainstreaming

In this context, mainstreaming a minority perspective is the process of assessing the implications for various groups of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of different groups an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that minority groups and the majority population benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve equality.⁹

Impact assessment

The aim of impact assessment is to improve law-making by taking into account the benefits and costs of implementing legislation. This tool applies to directives and regulations as well as white papers, expenditure programmes and guidelines for international agreements. The policy proposal is screened for economic, social and environmental impact,

also taking into consideration any potentially severe impacts on a particular social group, economic sector or region.¹⁰

Open method of coordination

The OMC is a policy tool which allows the EU to address issues which would normally fall under the national domain. This method of governance, based on a flexible approach, has four stages:

- Council agrees on policy goals;
- member states translate guidelines into national and regional policies;
- benchmarks and indicators to measure best practice are agreed upon; and
- results are monitored and evaluated.

EU law and its sources

The entire body of Community law is collectively called *acquis communautaire*. The term comes from French and its literal meaning is ‘community patronage/heritage’. With more than 100,000 pages (and growing), the *acquis* consists of norms and legal practice, including primary and secondary legislation, as well as other legal acts, principles, agreements, declarations, resolutions, opinions, objectives and practices, including the case law of the ECJ, applying to the Communities. It is the set of rights and obligations that member states must accept and apply.

The *acquis* is particularly relevant for countries aspiring to become members of the EU, as its recognition, acceptance, adoption and application is a fundamental condition for their accession.

Community law is binding on both the member states and its citizens. It has become an integral part of the legal order of the member states, which the national courts are bound to apply. The rulings of the ECJ have clarified that Community law has primacy over the member states’ national legislation.

The founding treaties of the EU constitute primary legislation. Law made by the Community institutions in exercising the powers conferred on them by the treaties is referred to as secondary legislation. The legal acts can be binding and non-binding.

Schengen Agreement

Schengen is the town in Luxembourg where this agreement was signed in 1985. Under this agreement, Belgium, France, Germany, Luxembourg and the Netherlands agreed to gradually remove their internal border controls and introduce freedom of movement for all individuals. While removing internal border controls, the members of the Schengen zone reinforced external border controls. The Schengen Agreement was incorporated into the Treaty of Amsterdam and extended to all EU member states. Countries currently belonging to the Schengen zone are: Austria, Belgium, Denmark, Finland, France, Germany, Iceland,* Italy, Greece, Luxembourg, Netherlands, Norway,* Portugal, Spain and Sweden. Adopting the Schengen *acquis* has become a prerequisite for membership. The states which joined the EU in 2004 are expected to join the Schengen area in late 2007 as the new Schengen Information System (SIS) becomes operational and the present members of the Schengen area unanimously decide that the new states are able to ensure effective implementation of these provisions. The SIS allows competent authorities in the member states access to and the sharing of information on several categories of people and property. One of the effects of Schengen has been a severe restriction on the freedom of movement of people from SEE in the EU. *not an EU member state

Binding legal acts include regulations, directives and decisions. A regulation is binding and directly applicable in all member states. Directives are binding to the member states as to the results to be achieved, but the form, procedure and instrument of implementation are left to the member state’s discretion. Directives have to be transposed by the member states into their national legislation. The text of a decision is fully binding on those to whom it is addressed.

Non-binding legal acts are recommendations and opinions. A recommendation states what action or approach is expected from the addressee. An opinion sets out the position taken by the issuer.

EU budget

The EU’s financial plan, which sets out the ceiling on annual spending and the inflow of resources translating into financial terms the EU’s

policy priorities, is called the financial perspective. The financial perspective is not as detailed as an annual budget, which has about 1,150 separate items. The items, amounts, detailed remarks and payment schedules are set each year by the two budgetary authorities, the Council and the EP, on the basis of a proposal from the EC. The financial perspective for 2007–13 will aim to boost sustainable growth and competitiveness to create more jobs. It is expected that the EU will have 826.4 billion euro available for this seven-year period. This is slightly more than 1 per cent of the EU's gross national income.

Unlike its member states, the EU does not have the authority to levy any taxes. Instead, its budget is funded from four resources made available by the member states after consultation with the EP. They include:

- Customs duties from the common customs tariff applied to trade with third countries – about 10 per cent of the revenue.
- Agricultural levies charged on agricultural products imported from third countries – about 1 per cent of revenue.
- Value-added tax resource, which is a contribution by the member states equivalent to 1 per cent of the final selling price of a common base of goods and services – about 14 per cent of total revenue.
- GNP resource, which is a contribution by each member state on the basis of its share of the Community's total gross national product (GNP), with a maximum rate of 1.27 per cent – about 60 per cent of total revenue.

The Structural Funds and the Cohesion Fund are the financial instruments of EU regional policy. They are intended to narrow the development disparities among regions and member states.

The Cohesion Fund provides financial assistance to less prosperous member states whose per capita GNP, calculated at purchasing power parity, amounts to less than 90 per cent of the EU average. It grants major funds for projects in the fields of environment and transport infrastructure.

The Structural Funds are intended to facilitate the structural adjustment of regions whose development is lagging and whose per capita GNP is less than 75 per cent of the EU average, and the economic and social conversion of areas with structural difficulties and severe unemployment.

Structure of the EU budget – where is the money going?	
Agricultural subsidies	37%
Structural policies (aid to poorer regions; fishing communities; regions with high unemployment and industrial decline)	37%
Internal policies (cooperation on customs, and immigration and border controls; cooperation on justice; education exchanges; energy; the fight against fraud; freedom and security, including the harmonized visa policy; health and consumer protection; lifelong learning; research and development; and training)	8%
Rural development	6%
External actions (cooperation with countries about to join the EU; other neighbouring countries; and aid to poorer regions and countries worldwide)	6%
Administrative costs	5%
Compensation to 10 new member states to ensure that they do not pay more into the EU budget than they receive back	1%
TOTAL	100%

The EU budget must be balanced in revenue and expenditure, and unlike the national governments, the EU may not incur a budget deficit. The 2006 budget amounts to 121.2 billion euro.

Relevant links

European Union – <http://www.europa.eu>

The EU at a glance – http://europa.eu/abc/index_en.htm

Eurojargon – http://www.europa.eu/abc/eurojargon/index_en.htm

EU glossary – http://www.europa.eu/scadplus/glossary/index_en.htm

European Parliament – <http://www.europarl.europa.eu>

Council – <http://www.consilium.europa.eu/>

European Commission – <http://ec.europa.eu>

DG Enlargement – http://ec.europa.eu/comm/enlargement/index_en.htm

European Court of Justice – <http://curia.eu.int/>

Chapter 2

EU policy in South-East Europe

EU policy in South-East Europe

The European Community has been entertaining ties with the countries of SEE for decades. With the membership of Greece in 1983, it became obvious that membership of the Community was not limited to Western Europe. In 1988, the Community signed a first agreement with COMECON, the economic organization of the Warsaw Pact. This paved the way for bilateral agreements with the countries of Eastern Europe, first Poland and Hungary, and later Romania and Bulgaria. The Socialist Federative Republic of Yugoslavia (as was) received support from the Community since signing a cooperation agreement in 1980. In 1990, the EC proposed an upgrading of the ties, leading to an Association Agreement, which would contain the prospect of EU membership. As Yugoslavia dissolved, crisis management – rather than membership – became the primary form of European Community/EU engagement in the Western Balkans. Bulgaria signed a Europe Agreement with the EU in 1993, which opened the door for membership. Albania, having been even more isolated than Bulgaria, signed its first agreement with the EU in 1992, providing for trade and cooperation, but not including specific steps towards membership.

In former Yugoslavia, the EU primarily sought to negotiate both a political solution and military ceasefires, and struggled with these issues to breaking point. The emerging CFSP was too weak to unite

the gaps in the foreign policy of the member states, with Germany advocating the recognition of Slovenia and Croatia, and the UK and France seeking to preserve Yugoslavia. Failure to confront the conflicts in Croatia and Bosnia and Herzegovina (BiH) effectively, and the divisions within the EU led to its disengagement from the region. This disengagement ended only in 1999–2000. In the meantime, the United States of America (USA) and individual member states have become the main players, with the EU's role being largely reduced to providing humanitarian assistance.

The experience of failure in 1991–2 in Yugoslavia was key, however, for the EU to develop a more effective foreign policy, reconsider its engagement in the region and eventually the prospect of full membership for SEE countries. At an EU–Balkans summit in Thessaloniki in 2003, the EU underlined its commitment to the membership of the Western Balkans. Following the rejection of the European Constitution in France and the Netherlands in 2005, there has been a distinct enlargement fatigue. Although formally the possibilities of membership remain open, the prospects have cooled.

The impact of the EU cannot be underestimated for SEE. It transformed political and legal systems and economies across the region, and created a common goal for the SEE countries. The commitment to reform of political elites would be very much in doubt without the EU perspective. At the same time, past enlargements have brought economic benefits to the EU as a whole. In addition, the greater stability within the SEE is not only a success story for EU foreign policy, but also has meant great benefits in terms of security and stability in Europe as a whole, one of the EU's *raison d'être*.

To gain an understanding of EU policy in SEE, three aspects must be considered:

- forms of EU engagement in the region, including conflict management, reconstruction and development, in addition to enlargement;
- steps in the EU accession process; and
- the status of each SEE country in the accession process and key obstacles towards their full membership.

Forms of EU engagement

The description of the EU as a system rather than an institution is particularly applicable in SEE. EU policies are not driven by one actor or one interest. Instead, the EU will express itself with different voices, which might be mutually reinforcing but can also be discordant. In addition to the different priorities among the member states, the institutions of the EU also have different goals and means of engagement.

Conflict management

The EU has been active as a conflict manager in the Balkans since the beginning of the wars in former Yugoslavia. In the first years, the EU's conflict management focused on the mediations conducted by the EU Presidency. Later, the Council nominated negotiators for the peace conference on former Yugoslavia, the peace negotiations on BiH, and in 1998–9 on Kosovo. Similarly, the status negotiations on Kosovo, which began in late 2005, include an EU Special Representative, Stefan Lehne. With the creation of the High Representative for the CFSP and Secretary-General of the Council of the EU, the foreign policy and crisis management capacity has been significantly strengthened. Javier Solana, who has held the office since 1999, played a key role in the Ohrid Framework negotiations and in the creation of the State Union of Serbia and Montenegro in 2002.

The EU's field presence is epitomised by the EU Monitoring Mission (EUMM), consisting of c. 200 international and national observers, with headquarters in Sarajevo, but active in all countries of the Western Balkans. First introduced in 1991, the EUMM was known for its passivity, primarily due to its limited and inadequate mandate. The EUMM (known ironically as 'ice cream men') continues to monitor the region and report to the High Representative on borders, inter-ethnic relations, political and security developments, and refugees.

In terms of a higher-level involvement, the instrument of the EU Special Representatives allows the EU to have a high-ranking political negotiator in particular countries and regions. In BiH, the High Representative, established in the Dayton Peace Accords, is also the EU

Special Representative. In the course of 2006–7, the EU Special Representative is expected to formally take over from the High Representative. In Macedonia, another Special Representative has been the key EU interlocutor for the implementation of the Ohrid Framework Agreement.

Finally, the EU has been taking over security related missions in the region from both the UN and NATO. These have included the 7,000-strong military operation EUFOR–Althea, the EU Police Mission in BiH, and the EU Police Advisory Team in Macedonia.

With a decreasing military presence in the Western Balkans and a greater role for the EU through enlargement, the security and conflict management presence of the EU in the region has grown considerably. It is important not to confuse the EU's conflict management approach with the enlargement approach. The former is largely conducted by the Council in the framework of the EU's CFSP, while the latter is organized within the framework of the EC's DG Enlargement. Most of the time both forms of EU engagement are mutually reinforcing, but tensions exist. For example, the negotiations between Serbia and Montenegro under the auspices of Javier Solana resulted in a state union which structurally and institutionally could not conduct the full necessary membership negotiations with the EU or even the Stabilization and Association process (SAP).

Reconstruction and development

The wars in former Yugoslavia resulted not only in an increased need for conflict management, but also for reconstruction and development. In addition to the support for the region at large, the EU has been specifically active in BiH and Kosovo as the areas most affected by war. In Kosovo, the EU pillar of UNMIK is responsible for economic reconstruction and fiscal reform. Instead of being a support to local authorities, in Kosovo, it has been the key authority in the field overseeing a process of privatization and other major changes in the region.¹¹ In BiH, the EU assistance to reconstruction is managed through the local EC delegation. As the largest donor to BiH's post-war reconstruction, ranging from humanitarian aid to support for civil society and infrastructure, the significance of the EU is determined by the size of the contribution rather than by having any particular institutional structure in the country, unlike in Kosovo.

The European Agency for Reconstruction

The European Agency for Reconstruction (EAR) was established by the EU in 2000 in the aftermath of the Kosovo war. It pooled different resources of the EU, at first in Serbia, Montenegro and Kosovo where conventional EU instruments, such as the EC delegations, were not available. In response to the 2001 conflict, the agency expanded to Macedonia in 2002. With its headquarters in Thessaloniki, it maintains offices in Belgrade, Pristina, Podgorica and Skopje. It manages a broad range of different funds, ranging from the Community Assistance for Reconstruction, Development and Stabilization (CARDS) funds, to the EU's humanitarian and accession-related funds in the region, as well as some bilateral aid. Overall, by late 2004, the EAR had managed 2.3 billion euro, of which 73 per cent had been disbursed at that point. Most of the funds went to Serbia and Kosovo (approx 1 billion euro each), and the remainder to Macedonia and Montenegro. The funded activities range from infrastructural reconstruction, to support for public administration reform and civil society. As a technical agency, it originally did not focus on minority rights, but has, following an evaluation in 2004, undertaken efforts to mainstream minority issues.

Bulgaria, Croatia and Romania receive technical support under the Poland, Hungary Assistance for the Reconstruction of the Economy (PHARE) programme, whereas all the countries of the Western Balkans are funded from the CARDS programme. Since early 2005, DG Enlargement has been responsible for the administration of the CARDS funds. For 2000–6, the CARDS programme has had a budget of 4.6 billion euro to support both general development and reconstruction efforts, and to help in the transformation of the countries wishing to join the EU. A key challenge of EU financial assistance is the slow disbursement process by EU institutions, in particular EC delegations. In addition, all countries struggle with their absorption capacity (ability to spend the money effectively) as public administrations often lack qualified staff to successfully apply, receive and use the funds offered.

Of the 2.453 billion euro made available between 2001 and 2003, 31 per cent supported social and economic development, 25 per cent infrastructure, 14 per cent justice and home affairs, 12 per cent democratic stabilization, 10 per cent administrative capacity building, and 5 per cent environmental initiatives. In addition to country-specific

funding, parts of the CARDS funds have also been made available at the regional level for border management, democratization, infrastructure and institution building. The national programmes are either made available through EC delegations or through the EAR in the case of Kosovo, Macedonia, Montenegro and Serbia. The regional programme is administered centrally by Europeaid, the EU development aid office. As a 2004 evaluation of CARDS funds points out, minority issues have been generally neglected in large parts of the region.

Various issues arise regarding the implementation of EU financial assistance in the region. The programmes and priorities are negotiated between national governments and the EC delegations as a solution to issues identified in EC reports and strategy papers. The programme terms of reference are designed in a top-down fashion, usually by external consultants. The EC believes that local capacity is inadequate and that external experts are needed to replicate best practices. In this process, governments are not communicating sufficiently or effectively with civil society and minority communities. Moreover, the EC has no explicit requirement that this communication takes place in a meaningful way. Civil society involvement in programme design is therefore not automatic, structured or transparent. Although all programmes funded by the EU are evaluated, the evaluations are not conducted in a participatory way and the results are often inaccessible. Ultimately, there is no mechanism to ensure that EU funds are spent properly so that beneficiaries can truly benefit from them. No data are available on how minority communities have benefited from EU-funded programmes. Further, no financial breakdowns are available to show how much money allocated to any country has reached the countries and beneficiaries, and not returned to EU-based service providers in the form of technical assistance fees etc.

A new funding instrument of the EU is the Instrument for Pre-accession Assistance (IPA), which will replace previous programmes such as PHARE and CARDS, in 2007. Unlike previous funds, the IPA is available both to EU candidates and to potential candidates. Of the five priority areas, transition assistance and institution building, regional and cross-border cooperation are available to all countries, whereas regional development, human resources development and rural development are only open to candidate countries. The planned IPA has been criticized for not decisively changing the funding gap between

candidates to membership and others, and essentially not promoting a rapid integration of the Western Balkans into the EU.

Enlargement

The most effective policy of the EU in the Western Balkans has arguably been the promise of EU membership. It is both a means of resolving conflict, and a mechanism through which to provide aid, development and reconstruction support in former Yugoslavia. In the absence of conflict, Bulgaria was not a recipient for such support during the 1990s, but has been increasingly able to benefit from the EU's substantial pre-accession funds in recent years.

With their geographic location firmly in Europe, the countries of the Balkans never had the formal challenges to the possibility of EU membership, as Turkey has. Yet, EU membership appeared a distant and abstract prospect due to the wars and authoritarian regimes during the 1990s, as countries of Central and Eastern Europe (CEE) entered their first contractual relations with the EU through the conclusion of the Europe Agreements. Even after the end of the war in BiH in 1995, no specific instruments were available for the integration of the region into the EU.

The first step was the establishment of the Stability Pact for South Eastern Europe, a direct response to the Kosovo war in 1999. The Pact aimed to provide a light framework for regional cooperation and assistance to the region. Its main activities focus on democratization and human rights, development and cooperation, economic reconstruction, and security. The founding document notes the goal of the EU to 'draw the region closer to the perspective of full integration of these countries into its structures'.¹²

The next step towards EU membership was the development of the SAP, a different type of contractual relationship for the Western Balkans than the Europe Agreements. Launched in 2000, the SAP recognized that the countries which had experienced war and conflict had a fundamentally different starting position than others. The EU committed itself firmly to inclusion of the countries of the Western Balkans into the EU at the Thessaloniki summit in June 2003:

'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.'

Key types of relationships between the EU and enlargement countries	
European Partnership	Agreement prior to signing of SAA, sets out reform priorities and provides financial assistance towards membership
Europe Agreement	Pre-accession Agreements signed with CEE countries (including Bulgaria). In the Western Balkans SAAs are the alternative agreement
Stabilization and Association Agreement (SAA)	Pre-accession Agreements offered to all countries of the Western Balkans, including financial assistance, partial trade liberalization, cooperation in justice and home affairs
Accession Partnership	Pre-accession framework for EU support to candidate countries
Accession Treaty	Treaty which regulates membership of the country in the EU, containing the outcomes of membership negotiations. Marks the transition from candidate to acceding country. Comes into effect only once ratified by all EU member state parliaments and the EP.

In 2004, the EU developed a new instrument, the European Partnership. The Partnerships, set up with all the countries in the Western Balkans, focus on their preparation for EU membership. This instrument marked the progressive recognition that at some point, providing the criteria were met, the Western Balkan countries would become EU members. At the same time, by introducing yet another initiative and form of cooperation, it complicated the structure of relations between the EU and the countries, since the latter directly aspire for candidate status.

This formal commitment found its institutional confirmation in 2005 when the Western Balkan region came under the administration of DG Enlargement, whereas the ties with the region were previously managed by DG External Relations. Nevertheless, as previously mentioned, the rejection of the Constitutional Treaty in France and the Netherlands might negatively impact on the Western Balkan countries'

membership prospects. The informal Salzburg summit of the EU and SEE countries in 2006 under the Austrian Presidency reaffirmed this perspective, but also reiterated that future enlargements would depend on the absorption capacity of the EU, a qualifier which makes EU membership no longer dependent on reform within the future member states, but also within the EU.

Steps in the EU accession process

The EU status of SEE countries varies greatly, ranging from members such as Slovenia and Greece to potential candidates such as Albania or BiH. The nature of relations with the EU determines the time required to achieve full membership, the EU support available, and the transition from a political to a more technical process in linking the respective country to the EU.¹³

Broadly, there are three types of ties that the countries under discussion here entertain with the EU. The first type is the status of acceding country, which Bulgaria shares with Romania, designating a stage where the negotiations over membership are concluded and full membership is essentially a matter of time. The second tier of countries includes Croatia, Macedonia and Turkey as candidate countries. This status means that negotiations are underway and are expected to lead to full membership. The third group includes Albania, BiH, Montenegro and Serbia, who are potential candidates. Here, the countries might have entered other types of agreements (or none at all) with the EU, but have not begun negotiating membership. Kosovo is in a particular situation, as it is unable to enter a formal agreement with the EU as long as its status is not clarified, while at the same time, the government of Serbia has no jurisdiction over the region and is unable to shape its policies.

Acceding countries	Bulgaria, Romania
Candidate countries	Croatia, Macedonia, Turkey
Potential candidates	Albania, BiH, Montenegro, Serbia
Special status	Kosovo

It is important to note that the status does not necessarily indicate the time left until EU membership. Bulgaria and Romania, for example, began membership negotiations at the same time as Latvia, Lithuania, Slovakia and Malta, but are only set to join in 2007–8. The speed of accession depends both on the successful and swift conclusion of membership negotiations, and on the political decision of the EU for the membership date itself. The degree of scrutiny by the EU of future members has varied considerably over the past decades. The monitoring mechanism is likely to be more comprehensive than in the past. This is due to internal EU reasons, such as the crisis over the EU Constitution and challenges stemming from the absorption of the 10 member states which joined in 2004; as well as the countries themselves, their legacy of the 1990s, the weakness of the rule of law, and the record of non-implementation of laws and regulations.

Unlike the Europe Agreements, the SAAs have a less explicit commitment to EU membership. They were originally conceived to be just an intermediary step towards the Europe Agreements. At the 2003

Steps in the EU accession

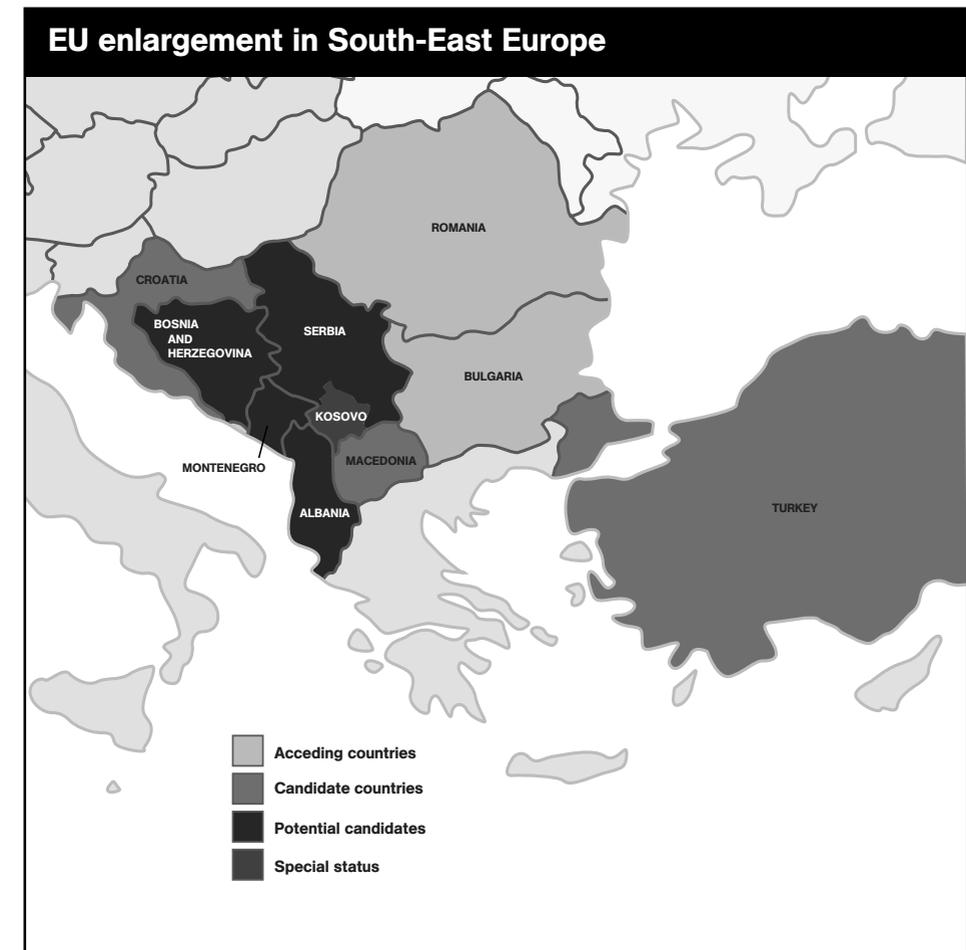
- Feasibility study on the potential candidate approved by the EC.
- SAA signed between potential candidate and the EU.
- Potential candidate submits application for full membership by filling out a detailed questionnaire.
- EC issues an opinion (also known as an *avis*) on potential candidate.
- Potential candidate becomes candidate country.
- Membership negotiations on 35 chapters begin between candidate country and the EU.
- Negotiations between candidate country and the EU are closed. Candidate country becomes acceding country.
- Accession Treaty signed between acceding country and the EU.
- Accession Treaty ratified by EP, all EU member states and acceding country.
- Acceding country becomes full member at the date set in the Accession Treaty.

Thessaloniki summit, however, the EU decided that the SAA would only serve as an agreement with the countries prior to full membership. This adjustment led to the creation of European Partnerships in 2004, which introduced support to the Western Balkans for reform and preparation for EU membership.¹⁴

The SAP has three phases. During the first phase, the readiness of the country for a SAA is determined. For this purpose, the EC issues annual progress reports. A feasibility study of the EC determines the readiness of the countries to begin negotiations and might set specific requirements for the countries, as has been the case in BiH. Subsequent negotiations then lead to the conclusion of a SAA, which needs to be ratified by the country in question, the EP and all the EU member state parliaments, which often results in considerable time passing before it comes into force. In the case of Croatia, four years passed between the signing of the SAA and its coming into force.

The SAAs include the asymmetric liberalization of trade between the signatory and the EU, with the EU market opening more rapidly, a number of obligations by the state, EU support towards fulfilling the Copenhagen Criteria, and specific post-conflict measures. A key difference between the SAAs and the Europe Agreements, including the one signed by Bulgaria, lies in the financial and institutional support. Unlike the earlier agreements, the SAAs do not provide for pre-accession aid, but only for CARDS support. This poses a problem. While the CARDS support has long been substantial, it is to decline in future, whereas pre-accession aid will not always be available. This type of support is only granted to official candidate countries, which includes Croatia and Macedonia at this point; whereas BiH, Montenegro, Serbia (and Kosovo), and Albania are unlikely to receive such support. The growing gap in terms of funding for candidates and countries further away from membership has been documented by the European Stability Initiative, an independent think tank: in 2003, Bulgaria received only slightly more support than Serbia, but by 2009, Serbia is expected to receive less than a tenth of the financial means available to Bulgaria through pre-accession aid.¹⁵

While application for full membership constitutes the next step after the coming into force of the SAA and theoretically the implementation of the agreement, the practice has been different. Both Croatia and Macedonia have applied for membership before or right at the time that



the SAA came into force. In response to a formal membership application, the applicant has to complete a detailed questionnaire (containing some 4,000 questions). The EC then issues an opinion whether to recommend the beginning of negotiations for membership on the basis of its analysis of the questionnaire and other information from other international organizations. If the EC issues a positive opinion, the country receives the status of candidate country, key for gaining access to pre-accession funds and the development of a pre-accession strategy. Candidate status does not necessarily unlock the pre-accession funds, as they depend on the EU strategy and the ability of the country to absorb the resources. The next step is the formal beginning of membership negotiations, which is taken by the Council and can require additional steps for the EC to reach a positive opinion. In the case of Croatia, for example, the Council made negotiations dependent on full cooperation with the International Criminal Tribunal for former Yugoslavia (ICTY), resulting in the postponement of the beginning of negotiations from March to October 2005.

Every step until the beginning of negotiations contains a technical and a political component, with the EC generally being in charge of ensuring that the country fulfils the technical requirements, and the Council taking the political decision to move on. These can be based on developments in the country itself and also on the readiness of the EU to enter the next phase.

Once membership negotiations begin, the process becomes more technical and requires agreement on 35 different chapters, i.e. policy areas and other issues arising from membership, ranging from the free movement of goods and agriculture, to external relations and the budget. Being essentially technical negotiations, they are conducted between the EC and the relevant ministries, and usually take several years to complete, in the case of Bulgaria four years. The negotiations involve ways in which the EU *acquis* is implemented in the country, and transition periods which might be requested either by the country wanting to join, by the EU or by some of its members.¹⁶ At this stage, the political criteria remain in place and continue to be monitored, but are not so much part of negotiations. Just like the SAA, the membership agreement needs to undergo ratification by the EP, EU member states and the country in question, which can be time consuming. The agreement will set a date for membership, but as for Bulgaria and

Romania, might have a mechanism to delay the membership date if the country does not fulfil certain criteria rapidly enough.

Joining the EU is a complex, intensive and lasting process. Bulgaria will only join 15–16 years after beginning negotiations on the Europe Agreement. Considering that it had an 8-year headstart over all the other countries in the region, this suggests that enlargement in the SEE is unlikely to be complete within the next decade. Again, there is no rigid timeline or sequence with all these steps and Croatia's efforts to join the EU shows that it is possible to effectively by-pass the completion of the full SAA process.

Milestones on the way to the EU							
	Albania	BiH	Bulgaria	Croatia	Macedonia	Montenegro	Serbia
Feasibility study completed	1999	2003	n/a	2000	2000	2005	2005
Negotiations for SAA	2003	2005	1992	2000	2000	2005	2005
SAA signed	2006		1993	2001	2001		
SAA enters into force			1995	2005	2004		
Membership application			1995	2003	2004		
Candidate status			1997	2004	2006		
Opening negotiations			2000	2005			
Closing negotiations			2004				
Accession Treaty signed			2005				
Full membership			2007–8				

The status of each SEE country in the accession process

The country surveys below will briefly examine the stage of EU integration the countries have reached, the main obstacles towards membership and the role of minority rights therein.

Albania

Unaffected by war, Albania was second to Bulgaria among the Balkan countries under discussion here to begin establishing formal ties with the EU. It began negotiating the SAA in 2003 and signed it in 2006. The weakness of the state and institutions, the pronounced political polarization and the legacy of violence from 1997 were among the reasons for the long negotiation process. The EC in its 2005 progress report pointed to the problems related to the respect of the political criteria. Minority and human rights largely suffer from the institutional weakness and lack of administrative capacity in terms of enforcement. More specifically, the EC mentions the lack of reliable minority-related statistics as no census since 1989 has determined the size of minorities, and the lack of effective educational policies for the Roma. Unlike the countries of former Yugoslavia, where minority issues are an integral part of questions of democratic stability, the EU perspective of Albania resembles that of Bulgaria, with the main difference being the weakness of institutions in Albania.

Bosnia and Herzegovina

BiH lacks any form of agreement with the EU. Following a feasibility study in 2003, BiH has been required to undertake reforms before negotiations on a SAA begin. The requirements were closely coordinated with the High Representative and form part of international pressure on the government, and in particular the entities, to engage in important reforms, such as the creation of an integrated police force. After this, and a series of other measures were passed, and after much pressure in late 2005, the EC recommended the beginning

of SAA negotiations. As sovereignty in BiH is constrained by the High Representative, the EU can be more effective than elsewhere in the use of conditionality as an instrument of reform. Conditionality has been used very broadly, explaining in part the great delay in BiH's steps towards EU membership. A key decision by the Venice Commission of the Council of Europe in 2005 noted the need to reduce the High Representative's powers to allow for further EU integration. In the 2005 progress report, the EC noted that in addition to the neglect towards minorities, in particular of the Roma by government institutions, a problem arises from the emphasis on ethnicity and the resulting discrimination for members of the 'constituent people' if in a numerically inferior position.¹⁷ Human and minority rights issues remain at the heart of EU monitoring. The EU has also supported the strengthening of the central authorities over the entities. As a result, the parliamentary rejection of the constitutional reforms, negotiated under US auspices, which would have led to a moderate strengthening of the state, was deemed a setback for EU accession.

Bulgaria

Bulgaria is expected to become a member in 2007–8 and is the furthest advanced towards EU membership. Bulgaria submitted its application in 1995 and began negotiations in 2000. It concluded its accession negotiations on 14 December 2004. The Accession Treaty was signed on 25 April 2005 and is currently being ratified in the EU member states. Bulgaria is expected to join the EU on 1 January 2007. The Council can postpone accession by a year to 1 January 2008, if:

'there is clear evidence that the state of preparations for adoption and implementation of the acquis in Bulgaria...is such that there is a serious risk of [Bulgaria]...being manifestly unprepared to meet the requirements of membership.'

Such a decision has to be made by the Council unanimously and upon the EC's recommendation. While the EC suggested that Bulgaria in principle was ready to join in 2007, a final decision was postponed for October 2006.

According to the EU, Bulgaria has fulfilled the political criteria for EU membership for several years. In the field of minority rights, the

only remark the most recent monitoring report of the EC made concerns more effective efforts to integrate the Roma into society. This observation is not only limited to the political criteria of membership, but also concerns the implementation of the *acquis* pertaining to non-discrimination, where the EC noted that the Roma continue to be discriminated against. Further, the law on non-discrimination and the institutional mechanisms to secure its implementation need further adjustments.¹⁸

Bulgarian EU membership hinges less on human rights considerations, but on issues pertaining to agriculture and the economy. Among the political criteria, further reform of the public administration and judiciary, as well as combating corruption, are important for Bulgaria's EU membership.

Croatia

Croatia is the only Western Balkan country to start negotiating EU accession, a process which began in October 2005 along with Turkey. After applying for membership in 2004, Croatia was recognized as a candidate the same year, but the opening of negotiations was postponed from March to October 2005 after the chief prosecutor of the ICTY reported insufficient cooperation with the tribunal over war crimes. Even after the beginning of negotiations, the process can be suspended if the ICTY reports a lack of cooperation. Having advanced rapidly, minority rights remain an obvious focus of international attention. While the EC mentions the Roma, the main focus lies on the return of Serb refugees and strengthening legal protection from discrimination. Although the accession negotiations are primarily of a technical nature, the EU clearly emphasizes its close scrutiny of political criteria, particularly regarding minorities. In the first phase of negotiations, Croatia and the EC undertook a screening of EU legislation and Croatian implementation plans, prior to the opening of chapter-by-chapter negotiations. The completion of the screening process is expected in autumn 2006.

Kosovo

Irrespective of its status, the relations between the EU and Kosovo are not determined through negotiations with Serbia. Not being able to enter a contractual relationship with Kosovo before its status is resolved,

the EU established the Stabilization and Association process Tracking Mechanism (STM), which is similar to the SAp, the key difference being that Kosovo cannot sign a separate SAA. The EC monitors Kosovo separately from Serbia and has adopted a separate European Partnership to assist Kosovo. The EC reports on Kosovo largely mirror the concerns for security and safety for minorities, particularly for the Serbs. The status negotiations, which began in early 2006 and whose positive conclusion is a prerequisite for any form of formal, contractual ties between the EU and Kosovo, have excluded the participation of other minorities in Kosovo – notably the Roma, Ashkaelia and Egyptians. This is a particularly worrying course of action since it is likely that their interests will not be protected, thereby exacerbating their marginalization.

Macedonia

Macedonia was the first country to sign the SAA amid the Macedonian 2001 crisis. Both stability within Macedonia, as well as its relations with the EU, hinge on the Ohrid Framework Agreement, which introduced a package of constitutional and legal reforms, which ended the conflict. Macedonia followed the example of Croatia in applying for EU membership a week before the SAA came into force. After completing the questionnaire, the EC issued a positive opinion in which it generally emphasized the reform of the institutional system from the point of view of stability, rather than rights. Minority rights do not figure prominently, with the main comment referring to implementation:

*'... [L]egislative changes have been made providing a high level of protection of the rights of minorities. It is important that these legislative provisions continue to be properly implemented.'*¹⁹

The EC suggests that Macedonia should receive the status of a candidate country, but does not support the immediate start of membership negotiations, suggesting that unlike Croatia, the country is not yet ready for rapid accession. Most of these concerns, however, have less to do with the 'political criteria', although the EC mentions the weakness of the rule of law and institutional effectiveness, but are linked to the implementation of the *acquis*.

Montenegro

Until independence in May 2006, Montenegro progressed towards the EU based on a twin-track approach, with Montenegro's negotiations conducted separately from those of Serbia, albeit under an overall common framework. The separate negotiations reflected different economic, political and legal systems in both states. While Serbia is the legal successor to the State Union, Montenegro is expected to continue negotiations with the EU where they left off in the State Union. Unlike Serbia, negotiations with Montenegro are not dependent on the extradition of indicted war criminals. One area of improvement requested by the EU was the adoption of a minority law in Montenegro, which parliament passed a few days prior to the referendum.

Serbia

Serbia (previously part of the Federal Republic of Yugoslavia [FRY]) is not only a latecomer to the process of EU integration, but its position is also marred by the unresolved status of Kosovo and, until May 2006, Montenegro. Only in 2003, after the transformation of FRY into Serbia and Montenegro, did the EC initiate a feasibility report assessing whether negotiations on a SAA could begin. Considering some major deficits, the EC postponed the feasibility study and only issued it in April 2005. Although recommending the beginning of negotiations on a SAA, the EC insisted the country undertake further preparations. Negotiations began in October 2005. Obstacles are not constrained to economic and *acquis*-related issues, but touch on the political criteria, such as cooperation with the ICTY, democratic institutions and a functioning public administration. The EC's hesitancy is visible because it has reserved the possibility of recommending the interruption of negotiations if Serbia breaks its commitments. In May 2006, the EU suspended negotiations after Serbia failed to extradite the indicted war criminal Ratko Mladić to the ICTY. Although minority rights are not the primary area of concern, the EC, in its proposal for the European Partnership with Serbia and Montenegro, notes specific areas where improvements are required, such as: improved cooperation with the different levels of government, implementation of action plans for Roma integration, strengthened minority councils in Serbia, promotion of inter-ethnic relations and education, and better representation of minorities in judiciary and police.²⁰

Chapter 3

EU standards on minority protection

EU standards on minority protection

The EU has developed an approach to review the protection of minorities in the process of enlargement. However, once a candidate becomes a member of the EU, a different set of rules apply. This chapter first addresses the approach and norms used prior to accession, and then highlights the standards applicable to member states. The dynamics between these different approaches are also discussed in terms of their impact on minority protection on enlargement countries and within the EU itself. While existing legal norms are the primary focus of this chapter, relevant policies are also addressed.

In Europe, two main approaches have evolved for the protection of minorities: anti-discrimination and minority rights. These approaches respond to the two major risks minority communities confront: exclusion and assimilation. In the face of exclusion, anti-discrimination measures are essential to ensure that members of minorities are not treated differently, or in some cases equally, with adverse consequences. On the other hand, under the pressure of assimilation, minority rights allow individuals as well as communities to preserve and nurture the differences that are core to their particular identities. Minority rights include measures for the protection and promotion of minority identity, including language, culture, education and religion; as well as participation in public, economic, social and cultural life.²¹ Given the distinct purposes of anti-discrimination and minority rights, namely

equal citizenship and the preservation and promotion of identity, a comprehensive approach²² to the protection of minorities embracing both anti-discrimination and minority rights is needed for full protection. In practice, these two approaches are not necessarily used to complement each other. For instance, most member states which acceded in 2004 had first developed minority rights regimes and only elaborated anti-discrimination legislation recently as part of the accession requirement. In EU-15 states, some countries only have anti-discrimination legislation, and in some cases its existence is used for the denial of minority rights.

At the level of the EU itself, the rights of minorities have not been codified, and do not form part of the *acquis*. Nevertheless, a strong anti-discrimination framework has evolved. The 2004 enlargement and the ongoing enlargement embracing the Western Balkans could change the dynamics between the two approaches, possibly giving more prominence to minority rights. Analysts have tabled three possible post-accession scenarios in this regard. According to the first, spillover scenario, the concerns of some of the newly acceded member states regarding minority rights could create a new impetus for the codification of minority rights at the EU level. The second scenario considers the possibility of the emergence of a tacit consensus on inaction on this issue. The last scenario envisages that the minority issues will probably be shaped incrementally within the available framework of anti-discrimination, and within the broader context of the EU's legal and policy framework for managing ethnic and cultural diversity.²³ The last scenario is looking increasingly likely.

Protection of minorities in the context of EU enlargement

The Copenhagen European Council of June 1993 decided upon a set of criteria that candidate countries of CEE must meet before they can join the EU. These accession criteria are generally known as the Copenhagen criteria.

The introduction of more detailed membership criteria, including insistence on the protection of minorities, reflected the EU's concerns

over stability in the face of the serious outbreak of violence in SEE. The EU was unable to bring the violence in former Yugoslavia to an end but it showed a determination to avoid similar conflicts, and to maintain political stability throughout its future territory. The EU's attention to the protection of minorities was also conditioned by concurrent standard-setting by inter-governmental organizations. In the first half of the 1990s, several important instruments on the protection of minorities were produced under the auspices of the UN, CSCE/OSCE and the Council of Europe. All EU member states contributed to the establishment of these standards as members of the relevant inter-governmental organizations.

The Copenhagen criteria²⁴ consist of four sets of criteria:

- Political, addressing 'the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'.
- Economic, requiring a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the EU.
- The transposition of the Community *acquis* and the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.
- The capacity of the EU to absorb new members without endangering the momentum of European integration, in the general interest of both the EU and the candidate countries.

In the case of the Western Balkan countries, the 1993 Copenhagen Criteria are complemented by an additional set of membership requirements based on a 'graduated approach'. This graduated approach is outlined in the European Council's conclusions on the application of conditionality in the Western Balkans of 29 April 1997,²⁵ and is based on three distinct stages in the EU's relationship with a third country from the Western Balkans: the granting of autonomous trade preferences, the implementation of PHARE, and the entry into contractual relations. Conditions to be fulfilled are set for each stage. The first stage does not include the protection of minorities. However, the second and the third stages require the country's 'credible commitment to democratic reforms and progress in compliance with

the generally recognised standards of human and minority rights'. Among others, the Annex of this document enlists 'elements for the examination of compliance' in the field of 'respect for and protection of minorities' related to cultural and language rights, as well as adequate protection of refugees and displaced persons belonging to minorities.

In the framework of the SAp, this graduated approach is complemented by a country-by-country perspective, which makes the definition of conditionality country-specific, adding, for instance, cooperation with the ICTY or the return of refugees. The condition of regional cooperation is generally applicable across all countries in question. This specific conditionality is often referred as '1997 conditionality' or 'SAp conditionality'.

Ever since the Copenhagen criteria and the 'SAp conditionality' were adopted, the EU has emphasized the role of minority protection in its political accession criteria, directly linking minority protection with EU membership, albeit to varying degrees.

Since 1997,²⁶ the EU's key instruments for monitoring and evaluating enlargement countries' progress towards accession have been the regular reports. Since 2005, the regular reports on candidate and potential candidate states have been called progress reports, while the regular reports on acceding countries are called monitoring reports. These regular reports, reviewing, among other issues, minority protection, are annually prepared by the EC. In addition, the main conclusions and messages of these reports are summarized in annual strategy papers.

The EC submits the regular reports to the Council, which, based on the shortcomings identified in the reports, sets priorities to be met by each candidate state, and provides guidance for EU financial assistance. In the case of candidate countries these priorities are set out in strategy papers known as Accession Partnerships. In the case of potential candidates of the Western Balkans the priorities to be met as they move towards the EU are set out in strategy papers called European Partnerships. On the basis of these priorities, specific programmes are negotiated between national governments and the EC and delegations. These programmes are then funded by EU funds.

Reference to the protection of minorities in the Copenhagen political criterion is kept at a very general level, with no mention of any specific standards to give guidance as to what exactly needs to be done to achieve compliance. The 'SAp conditionality' is more detailed in this regard and,

The regular reports are prepared within the DG Enlargement of the EC. The EC delegations in the enlargement countries provide the basic information for the reports. This is complemented by information from enlargement countries, relevant EU Special Representatives, member states and their embassies. In addition, the reports incorporate information from numerous sources including the Council of Europe, international financial institutions, the OSCE, Stability Pact, UNHCR, as well as international and local NGOs, and representatives of political parties and civil society. Based on this information, the relevant country desks in DG Enlargement write the drafts of the reports. The Horizontal Coordination Unit supervizes the drafting process of the reports. This Unit streamlines the reports' content and language to ensure that they are consistent and comparable within and across the reports.

The structure of the reports follows the first three dimensions of the Copenhagen criteria – the political, economic and the transposition of the *acquis*. Issues related to the protection of minorities including anti-discrimination and minority rights are discussed within the first chapter of the report assessing the political criteria under the section: 'Human rights and the protection of minorities'.

importantly, changes the extremely general language of 'respect for and protection of minorities' for terminology invoking 'the generally recognized standards of human and minority rights'. While this is definitely a step forward, it is still too vague to have any operational value. Therefore the regular reports rely on external sources for an authoritative frame of reference for measuring progress. These sources include:

- International standards: importantly, ratification of the FCNM is the main indicator of meeting the Copenhagen criteria in relation to minority rights. The ECRML is the other major instrument of reference.
- The monitoring undertaken by the Council of Europe and the OSCE in the field of minority protection in the relevant countries, plus the opinions of the Advisory Committee (the monitoring body of the FCNM), and the OSCE High Commissioner on National Minorities (HCNM) are often quoted in the reports. In addition, if relevant, reference is made to the reports of the Council of Europe's European Commission against Racism and Intolerance (ECRI).

- National legislation on the protection of minorities and related policies; these include minority laws and national programmes, for instance, those aiming at the integration of the Roma.
- Bilateral agreements on the protection of minorities.

No attempt was made to interpret and systematize the invoked international standards from an EU perspective. However, in its regular reports, the EC has developed a comprehensive approach to the assessment of minority situations, including both protection from discrimination; and traditional minority rights related to the protection of existence, promotion of identity and effective participation. This comprehensive approach to the protection of minorities in the enlargement process is explicitly articulated in the EC's June 2005 Communication entitled *Non-discrimination and equal opportunities for all – A framework strategy*.²⁷

In the context of EU enlargement, human rights principles, including respect for and protection of minorities, are an integral part of the so called "political criteria" for membership of the EU. These principles are central to the EU's pre-accession strategy with the acceding and candidate countries (Bulgaria, Romania, Turkey and Croatia) as well as to the stabilisation and association process with the other countries of the Western Balkans (Albania, Bosnia and Herzegovina, [Macedonia], Serbia and Montenegro). In addition, future Member States are required to comply with the EU legislative acquis in the field of anti-discrimination and equal opportunities.'

The review of state performance regarding minority protection in the regular reports has evolved as a pragmatic rather than legal assessment; it is guided by immediate and longer-term political considerations and stability concerns, rather than a formal review of state compliance with established minority rights. For instance, in the case of the 2004 enlargement, attention in the early reports was focused more on territorial national minorities because these were considered potential sources of instability in the region at that time. Later, as the first source of concern was thought to be sufficiently dealt with, the focus of scrutiny has shifted towards the Roma, partially due to the influx of Roma asylum-seekers to some countries of the EU-15. In the case of the reports on the Western Balkan countries, the Roma remain the central

focus. In addition, the situation of larger minorities, such as the Serbs in Croatia and Kosovo, is addressed. Smaller minorities, which are neither a source of instability or migration, are generally neglected in both the CEE and Western Balkan regular reports.

The impact of regular reporting on national reforms regarding minority protection was assessed in detailed case studies on the CEE candidate countries.²⁸ Results show that overall the EC reporting on minority issues induced change and served as a catalyst at a domestic level. Nonetheless, the evidence is not very clear. Regarding the regular reports' domestic impact, a number of strengths and weaknesses were identified.

Strengths and weaknesses of the reporting process

The strengths were:

- It developed a comprehensive approach to the protection of minorities, including anti-discrimination and special minority rights measures, demanding full and effective protection.
- It made use of international minority rights standards in general and the norms developed by the Council of Europe in particular, establishing a precedent for acceding countries and member states.
- It kept the protection of minorities on the political agenda of candidate states and shaped the rhetoric on this issue.
- It induced changes to specific laws and regulations directly affecting minorities.
- The vagueness of the political criteria probably pushed some countries much further in adopting legislative reforms and policy changes than a more detailed set of conditions would have done.
- The existence of a criterion, as vague as it was, served as a framework for independent monitoring by independent organizations of both candidate and member states.
- In its bilateral contacts, the EC has followed up the regular reports more concretely and decisively to push for meaningful changes.

The weaknesses were:

- Given the lack of EU minority rights standards, the EU could offer little substantive guidance.

- Accusations that the EU used double standards regarding minority protection weakened deeper level compliance in candidate states.
- The lack of EU *acquis* on minority rights and reference to the existing international standards for guidance 'allowed' some countries to treat minimum standards as ceilings, thereby marginalizing legitimate minority aims for territorial autonomy and power-sharing arrangements.
- The lack of precise benchmarks made the link between fulfilling particular tasks and receiving particular benefits uncertain, which diffused the EU's influence.
- The lack of precision, coupled with the use of a general and non-committal language, limited the demand for real improvements.
- The information provided by the in-country EC delegations and presented in the regular reports was inaccurate, which caused indignation locally and eroded the EU's influence.
- The lack of transparency in the EU's monitoring rendered some of the recommendations arbitrary.
- The focus on legislation rather than implementation and long-term impact, discouraged deeper level compliance.
- The limited input from the candidates in determining the priorities which prevented agreement on what changes were needed prevented the local 'ownership' of policies.
- The complete lack of, or only limited consultation of, minorities by the EC delegations in the minority data collection process reinforced minorities' marginalization in decision-making directly affecting them.

Overall, it was concluded that the impact of the EU monitoring in CEE regarding minority protection should not be overestimated. The direction and pace of the reforms, in terms of legislation as well as policy and institutional changes, were mostly guided by the domestic interests and policies of the CEE candidate states, rather than the EU's intervention.²⁹

However, these findings may not be entirely applicable for the Western Balkans, where the EU conditionality is more complex. Here, the EU conditionality is a multi-dimensional and multi-purpose instrument aimed at reconciliation, reconstruction, reform and European integration. It is also regional, sub-regional, bilateral and

project-specific, and relates to economic, political, social and security-related criteria. Therefore, the impact of the EU monitoring of minority situations is much more difficult to assess, especially if it stays as general, politically motivated and distant from local priorities as it currently is. The impact of a diffused and vague intervention in a complex setting is very difficult to assess, despite the fine tuning of the Copenhagen criteria over minority rights and other issues.

Minority protection in the EU: minority rights and anti-discrimination

The EU has not developed its own minority rights regime. There are several reasons for this. First, the protection of minorities was never a priority for the EU's internal agenda. It remained within the competence of individual member states and has not become part of the EU's enumerated powers.³⁰ As the effective implementation of minority rights can challenge established patterns of power-sharing and the traditional control of state identity, most member states guard this competence and resist its transposition to the supranational level. In addition, member states uphold that a number of international fora already exist for the protection of minority rights in Europe, including the Council of Europe and the OSCE. This framework, if coordinated and managed efficiently, should be sufficient for the effective management of minority issues from an international perspective. This is a position which advocates for an international approach to minority protection within a supranational context, essentially maintaining the management of traditional minority issues, primarily within the competence of national states, complemented with international law and cooperation.

According to this approach, the EU law, which has direct effect and supremacy over the national law and its implementation, is strictly supervised by a judicial system, and is rather unwelcome in this field. This is not the case with anti-discrimination legislation, which largely neglects issues related to the preservation and accommodation of

identity.³¹ Second, there are widely differing practices at state level. These range from constitutional guarantees for effective political participation, including territorial autonomy, to non-recognition and denial of existence. This makes the translation of domestic practices into agreed norms extremely difficult, if not impossible, at this stage. Third, as practice in other international contexts show, it has never been easy to agree on who are the long-established or new minorities, citizens or non-citizens, and who is eligible for minority rights. The many declarations added by EU member states to their ratification of the FCNM show the divergent views on the definition of the beneficiaries of minority rights.³²

The EU involvement in issues related to old minorities has mainly consisted of projects aiming to preserve minority and lesser-used languages.³³ Within the EU's anti-discrimination framework, priority is given to the equal citizenship aspirations of new minorities.

Foundations of a possible minority rights regime in the EU's primary law

From a strictly legalistic perspective, minority rights do not form part of the *acquis*, as they are not explicitly codified. However, as an integral part of human rights, they form part of the EU's fundamental principles.

Article 6(1) of the TEU states:

'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.'

That minority rights form an integral part of international human rights law is clearly enacted in Article 1 of the FCNM:

'The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.'

From this perspective, it can be argued that minority rights, albeit implicitly, form part of fundamental EU principles. This is also the EC's legal standpoint, which holds that:

*'the rights of minorities are part of the principles common to the Member States, listed in the first paragraph of Article 6 of the Treaty on the European Union.'*³⁴

Respect for these principles is presented as an essential admission requirement in Article 49 of the TEU.

The drafting of the EU Charter of Fundamental Rights and the Constitution could have provided for the elaboration of this implicit principle of minority rights through detailed codification. However, this opportunity was largely missed. None of these instruments contain any specific minority rights.

The 2000 Charter of Fundamental Rights of the Union elaborates upon the common constitutional and European Convention *acquis* with a view to making the respective rights, as stated in the Preamble, 'more visible in the Charter'. While it does not contain any minority rights as such, membership of a national minority is specifically listed as a prohibited ground for discrimination in Article 21, a general anti-discrimination clause:

'1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.'

This Article applies to any action by EU institutions and to action by member states when implementing EU law. Were the Charter to become fully binding it would become possible to challenge EU policies that discriminate, directly or indirectly, against members of national minorities. However, in practice, this will add little, if at all, to the protection offered by the existing anti-discrimination framework that can be used by new and long-established minorities.

Article 22 of the Charter provides for respect for 'cultural, religious and linguistic diversity' in the EU. As the Article does not make it clear whether it refers to inter-state or intra-state diversity, the EU Network of Independent Experts on Fundamental Rights³⁵ chose to interpret this diversity clause as referring to both the protection of national minorities in the member states and in the EU. Since its inception in 2002, the Network has consistently interpreted Article 22 as a minority protection clause and has reported on state practices in relation to discrimination

against members of national minorities. In addition, in April 2005, the Network prepared its Thematic Comment No. 3³⁶ on the protection of minorities in the EU, i.e. EU-25, which is the first review commissioned by the EC assessing state practices in member states regarding minority protection under the Charter. At this stage, it does not seem likely that this type of reporting will be turned into a regular monitoring exercise, as the future of the EU Network of Independent Experts is not secured and its political influence is very limited.

The initial draft of the EU Constitution did not contain any reference to minorities either. Finally, mainly due to pressure from the Hungarian government, Article I-2, which provides for the fundamental values of the EU, was amended to include the rights of persons belonging to minorities:

'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.'

Admittedly, this is a very narrow foundation for minority rights and it reflects the lack of political will to advance the issue at present.

It must be kept in mind that neither the Charter nor the Constitution is legally binding, and the future status of the Constitutional Treaty is highly uncertain. Nonetheless, the Charter, as it is, carries significant political weight. Even more so since it was incorporated into the Constitution as its second part, which means that it becomes legally binding should the Constitutional Treaty be ratified by all EU member states. Were the Charter to become part of the *acquis*, Article 21 and Article 22 could become a (thin) basis for the elaboration of minority rights applicable in the EU.

Further, the development of an EU competence in the field of minority protection involves a change in the primary law that has to be agreed by all member states and their parliaments. It is difficult to see that such a broad consensus can be established in the near future in this controversial field.

Therefore, the foundations of minority rights in the EU's primary law are modest. It remains to be seen what political significance this often

contested basis could have in the future. However, according to the latest EP resolution on the protection of minorities of June 2005,³⁷ there is no need for the EU to wait with legislative measures regarding minority protection until the entry into force of the Constitutional Treaty. Several Articles from existing EU treaties can be used to enhance the implementation of the FCNM in various fields within the EU. These include: Article 18 TEC on freedom of movement and the right to residence, Article 49 TEC on freedom to provide services, Article 151 TEC on cultural policies, Article 65 TEC on cooperation in civil matters, Article 31 TEU on judicial cooperation in criminal matters, Article 149 TEC on educational policies, Article 137 TEC on employment and social exclusion, and Article 163 TEC on research policy. Among others, these Articles present an important agenda for the legal advocacy of minority rights. In addition, the long-established and well-elaborated anti-discrimination framework, based on Article 13 TEU, should be used innovatively by all, new and long-established, minorities.

Provisions relevant to the protection of minorities in the EU's broader human rights context and related soft law

Article 6(2) TEU sets out the broader human rights context in which the EU operates:

'The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.'

The European Convention on Human Rights (ECHR) became the major guideline for the protection of human rights in the EU. Article 14 of the ECHR prohibits discrimination, among others, on the grounds of sex, race, colour, language, religion, national/social origin, and association with a national minority but only with regard to the 'enjoyment of the rights and freedoms' set forth in the Convention. However, Protocol 12 to the ECHR contains a general prohibition of discrimination, advancing the ECHR's protection of equality beyond the relatively limited guarantee in Article 14.

Protocol 12 to the ECHR entered into force in April 2005, following its ratification by 10 countries. As at June 2006, it has been ratified by 13 countries, including all countries of the Western Balkans, Albania, BiH, Croatia, Macedonia, Serbia and Montenegro, but not by Bulgaria.

Apart from Article 14, as the growing jurisprudence of the ECHR illustrates, issues related to minorities have also been raised under Article 8 ECHR (the right to family life), Article 9 ECHR (freedom of religion), Article 10 ECHR (freedom of expression), Article 11 ECHR (freedom of association), etc. It has to be noted that the ECHR and its Protocol 12 apply a strictly anti-discrimination approach. They do not cover special minority rights such as political participation.

In addition to the ECHR, the principles of the FCNM may also apply in the EU context. To date, with the exception of France, all member states have signed the ECHR and apart from Belgium, Greece and Luxembourg, all states have ratified it. The fact that not all EU member states have ratified the FCNM makes it questionable as to whether the FCNM can be formally invoked as a reference point for EU standards 'common to all Member States', as required by Article 6(1) TEU. Nevertheless, the relevant rulings of the ECJ indicate that the Court does not require full ratification of an international convention by all member states for it to serve as a frame of reference for EU standards. Indeed, the ECJ:

*'is bound to draw inspiration from constitutional traditions common to the Members States... [S]imilarly international treaties for the protection of human rights on which Members States have collaborated or of which they are signatories, can supply guidelines which should be followed within the framework of Community law.'*³⁸

As all EU member states are members of the Council of Europe and they collaborated in the elaboration of the FCNM, the FCNM can be legitimately invoked as a guideline in the EU context. Further, in the process of enlargement, the FCNM has served as a key instrument for assessing compliance with EU requirements in the potential candidate and candidate states.

Another important legal source of relevance is Article 27 of the 1966 UN International Covenant on Civil and Political Rights (ICCPR).

The ICCPR was ratified by all EU member states, with France making a reservation under Article 27, which does not essentially change the ECJ's position on this matter.

In addition to legally binding hard law texts, major relevant soft law texts should also serve as guidelines for minority protection. All EU member states are also members of the major inter-governmental organizations including the United Nations (UN), Council of Europe or the OSCE, which have produced relevant legally binding or politically obliging instruments. Hence, in line with the ECJ's reasoning, they have collaborated in standard setting exercises, and their votes and formal agreements actively contributed to the establishment of existing texts for minority protection. At a minimum, these texts should include the UN Declaration on Minorities (UNDM) and the relevant CSCE/OSCE instruments such as Chapter IV of the 1990 Document of the Copenhagen Meeting on Human Dimension; or the 1991 Report of the Geneva meeting of Experts on National Minorities; The Hague, Oslo and Lund Recommendations of the HCNM; etc.³⁹

The EU's broader framework of human rights means that the instruments and standards invoked are used as guidelines in EU law without having legal enforcement in the EU. They serve as important frames of reference, and the EU is obliged to observe them in its own legislation and policies.

The anti-discrimination framework

Since its inception the Community has shown a commitment to issues of equality. The Treaty of Rome of 1957 contained an Article on equality between women and men regarding equal pay. It also included provisions prohibiting discrimination on the grounds of nationality, which in EU terms means citizenship, and guaranteed the free movement of workers within the Community. Over the last 30 years, mainly as a result of sustained and strategic NGO advocacy regarding racial anti-discrimination and gender issues, legislation was put in place to further elaborate sex/gender as well as nationality/citizenship discrimination. Nevertheless, it was only in the mid-1990s that a consensus emerged for the need to expand the grounds of anti-discrimination, and to move towards a more comprehensive, rights-based ideal of equality. In addition, it was increasingly recognized that

the development of a coherent and integrated approach towards anti-discrimination was necessary.

As a result, Article 13 was introduced into the TEU by the 1997 Amsterdam Treaty, which entered into force in 1999. Paragraph 1 of Article 13 TEU states:

'1. Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred to by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.'

Article 13 enacts a general legislative power to address a broad range of types of discrimination. To put into effect the powers set out in Article 13, the Council acted swiftly, and adopted the Racial Equality Directive and the Employment Equality Directive in 2000.⁴⁰ Importantly, the two Directives are complemented by a Community Action Programme to combat discrimination. This Action Programme recognizes that legislation alone is insufficient to win the battle against discrimination, and that a range of practical measures are necessary to challenge discriminatory behaviour and change attitudes.

Apart from the Directives and Action Programmes, Article 13 served as a basis for various 'European years', such as the European Year of People with Disabilities in 2003. In addition, 2007 is designated to be the European Year of Equal Opportunities for All and the Council has recently decided that 2008 will be the Year of Intercultural Dialogue.⁴¹

The two Directives mark a significant step forward in EU equality law. First, they are based on the recognition that problems of discrimination need an all-European response. Second, through the expansion of the prohibited grounds of discrimination and their broad scope, the Directives significantly increase the reach of European equality law. They offer everyone in the EU, including citizens and third country nationals, a common minimum level of legal protection against discrimination.

Of the five listed grounds two, the racial or ethnic origin, religion and belief grounds cover traditional minority situations. Discrimination on these grounds is therefore directly relevant to members of ethnic and

The Community Action Programme runs from 2001 until 2006 and is managed by the DG Employment and Social Affairs' Anti-Discrimination Unit. It covers the five grounds of discrimination listed in the Racial, and Employment Equality Directives. Its major objectives are: to improve understanding of issues related to discrimination through analysis and evaluation; to develop capacity to prevent and combat discrimination through building inter-organizational dialogue; and to promote values underlying the fight against discrimination through awareness-raising activities. In its implementation, the Programme builds upon the involvement of a range of stakeholders, including groups suffering from discrimination, specialized NGOs, experts in the field and relevant national authorities.

religious minorities. However, it should be kept in mind that given its limited grounds and scope, as well as its individual approach, the EU anti-discrimination framework cannot be sufficient for the full protection of minorities.

It is significant that both Directives contain definitions of direct and indirect discrimination as well as harassment, and prohibit the instruction to discriminate and victimization. Both Directives apply across the public and private sectors.

The Directives prohibit discrimination on the following grounds and in the following areas:

Directives	Grounds	Areas/material scope
Racial Equality Directive	<ul style="list-style-type: none"> ■ racial or ethnic origin 	<ul style="list-style-type: none"> ■ employment ■ training ■ education ■ social protection ■ social advantages ■ access to goods and services
Employment Equality Directive	<ul style="list-style-type: none"> ■ religion or belief ■ age ■ disability ■ sexual orientation 	<ul style="list-style-type: none"> ■ employment ■ occupation ■ vocational training

Most importantly, the two Directives facilitate victims' access to justice. In countries that have had anti-discrimination legislation prohibiting discrimination on the grounds of race, very few cases were brought to court. This was mainly due to the financial and emotional costs to victims, and also because of the difficulties of proving the alleged discrimination. Therefore, through their relevant provisions the Directives attempt to remove some of these difficulties:

- Both Directives shift the burden of proof in civil and administrative cases to the respondent, so that once an alleged victim establishes facts from which it may be presumed that there has been discrimination, it is for the respondent to prove that there has been no breach of the equal treatment principle.
- Both Directives create a role for associations or NGOs to take action on behalf of, or in support of, a victim. This is the first time that a legal standing (*locus standi*) of relevant associations has been introduced at a Community level. This creates opportunities for related advocacy including strategic litigation.
- The Racial Equality Directive provides for the establishment of equality agencies in member states. The mandate of the equality agencies includes the provision of independent support to victims.

Both Directives focus on promoting equal treatment, which is defined as the absence of discrimination, including direct and indirect discrimination.

'Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin.'

(Article 2[2][a], Race Directive.) See also Article 2(2)(a), Employment Equality Directive.

'Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim as appropriate and necessary.'

(Article 2[2][b], Race Directive.) See also Article 2(2)(b) Employment Equality Directive.

These agencies may also engage in research and publication to develop understanding and raise awareness of discrimination issues, as well as to contribute to effective policies by issuing policy recommendations. The Employment Equality Directive does not provide for a similar agency.

Both Directives impose ‘effective, proportionate and dissuasive’ sanctions that may include ‘payment or compensation to the victim’. They also acknowledge ‘specific measures to prevent or compensate for disadvantages linked to any of the listed grounds.’

Importantly, both Directives ensure effective enforcement at the national level as they place a responsibility on all member states to ensure that their domestic legislation complies with the Directives. The old member states had to bring into full force the Racial Equality Directive by 19 July 2003 and the Equal Employment Directive had to be transposed into national law by 2 December 2003, except for age and disability issues for which the deadline is 2 December 2006. For both Directives, the deadline for the 10 new member states was 1 May 2004. To date, 17 of the 25 member states have generally, even if not fully, transposed the two Directives into their national law.⁴² The EC has initiated infringement procedures against those states which are late, to ensure that the Directives are brought into force. In the context of enlargement, the Directives must be transposed into domestic legislation as a requirement of accession. Nevertheless, as the experience of CEE countries shows, pressure from the EU is not sufficient for effective transposition, since the demands from above have to be reinforced by consistent pressure from below from civil society groups. This holds important advocacy opportunities for national NGOs working on non-discrimination issues.

The two Directives are groundbreaking in addressing individual cases of discrimination. However, they have been criticized by both practitioners and academics for several reasons. Some of the most important critiques are:

- The Directives are fragmented as there are separate directives for gender, race and ethnicity and for religion or belief, disability, age and sexual orientation. Addressing a case of multiple discrimination⁴³ can be difficult under the distinct legal instruments.

- Although they address the same general area, the Directives are not coherent in their approach to equality. There are differences in the level and scope of protection against discrimination on different grounds. For instance, the Racial Equality Directive requires that member states establish national equality agencies. The Employment Directive does not. The Employment Directive obliges employers to make reasonable accommodation for a person with a disability but it does not provide for similar accommodations for an older person or of a follower of a minority religion. The material scope of the Racial Equality Directive is much broader than that of the Employment Directive. These confusing differences in treatment can make the effective enforcement of the anti-discrimination law very difficult at the national level. On the basis of their material scope of application, the Directives also reinforce an unwelcome hierarchy among the various grounds of discrimination, with race being at the top of the list and age at the bottom.
- Under the Directives the only remedies which are available are individual. This individual enforcement model is inadequate in dealing with established patterns of discrimination, as its emphasis on individual action seriously limits the ability to respond effectively to and redress deeply-rooted exclusion and inequalities suffered by various groups. The Directives are inadequate for dealing with institutional racism.
- Overall, the two Directives focus more on freedom from discrimination, rather than the active promotion of equality, through a focus on the under-representation of a group and the establishment of a positive duty to redress this inequality.
- The Directives allow for positive action to be taken by member states, but this is optional, not mandatory.
- The material scope of the Racial Equality Directive is far too limited and does not prohibit, for instance, discrimination in the issuing of administrative documents. This omission has serious impacts on members of those marginalized minorities who lack identity cards, birth certificates and other official documents attesting their legal status. The lack of legal status makes access to certain social benefits and public services impossible.⁴⁴ In addition, discrimination on the basis of nationality/citizenship is excluded from the Directive, which makes it irrelevant for members of minorities who are non-nationals or stateless.

Some of this critique regarding the Directives is reflected in the EC's June 2005 Communication entitled *Non-discrimination and equal opportunities for all – A framework strategy*.⁴⁵ The framework strategy on non-discrimination was developed on the basis of a broad, all-European public consultation that was conducted in 2004.⁴⁶

In its framework strategy the EC acknowledges the limitations of the individualist approach to anti-discrimination, and states that: 'There is a need to go beyond anti-discrimination policies designed to prevent unequal treatment of individuals.' It is also undertaking a feasibility study on new measures to complement the current legal framework. The results will be available in the autumn of 2006.

The framework strategy reiterates the importance of the respect for and protection of minorities as part of the political criteria of enlargement, and makes it clear that: 'In addition, future Member States are required to comply with the EU legislative *acquis* in the field of anti-discrimination and equal opportunities.'⁴⁷

During the accession process, as noted before, the EC's regular reports monitor issues of anti-discrimination and the alignment of domestic legislation with the EU's anti-discrimination *acquis* under the political criteria for admission. The section of the EU's regular reports on 'Human rights and the protection of minorities' deals briefly with anti-discrimination issues in the following sections: civil and political rights; economic and social rights; minority rights, cultural rights and the protection of minorities. The 2005 regular reports assess the level of protection against discrimination in the enlargement countries of the Western Balkans as below the EU standards. The EC urges these states to align their legislation with the EU *acquis* through the adoption of comprehensive anti-discrimination legislation by transposing the two Directives into domestic law.

Acceding states of Bulgaria and Romania have put in place comprehensive anti-discrimination legislation to date. In the Western Balkans, only Kosovo has anti-discrimination legislation.

Within the EU, it is the European Monitoring Centre on Racism and Xenophobia (EUMC)⁴⁸ that reviews issues of anti-discrimination in the EU and its member states. It was established in 1998 in Vienna by the Council.

The primary role of the Centre is to collect and analyse information and data on racism, xenophobia, islamophobia and anti-semitism, and to study the cause of such behaviour, in order to assist the EU and the member states in policy formulation. The EUMC set up the European Information Network on Racism and Xenophobia (RAXEN). There are 27⁴⁹ national focal points, contracted by the EUMC to collect, coordinate and disseminate national and EU information, in close cooperation with the EUMC at both the European and member states levels. As part of their mandate, the national focal points established a network in their own countries uniting relevant state agencies, research institutions, NGOs and social partners at a national level to make sure that their reporting to the EUMC is accurate and comprehensive. The Network has already been extended to the two acceding countries and actions are being taken for its extension to Croatia and Turkey.

The EUMC is an advisory and research board. It has no independent powers. Given its mission, the EUMC has so far focused its work on anti-discrimination, with special attention on migrants and the situation of the Roma across the EU. The EUMC produces an annual report that is presented to the EP. Given that the EUMC's powers are limited to consultation without having the competence of proposing legislation, its influence is very limited.

In December 2003, the European Council took the decision to extend the mandate of the EUMC by converting it into a Fundamental Rights Agency. Following the Council's decision and upon the call of the EP that adopted a report in this matter, the EC elaborated two legislative proposals,⁵⁰ which propose the establishment of an EU Agency for Fundamental Rights.

In addition to the non-discrimination *acquis*, the EU's gender *acquis* offers minority women and men in SEE important opportunities for advocacy. Since the establishment of the European Community, legislation on equality for women and men has evolved considerably. Today the legislation extends to cover all forms of sexual discrimination in the workplace, as well as access to goods and services. Initially, the Treaty of Rome of 1957 contained an Article on equality between women and men regarding equal pay. This provision was then gradually incorporated into several Community instruments extending the principle of 'equal pay for equal work' to equal access to employment and vocational training, as well as promotion, and to working conditions. The

According to these legislative proposals, the EU Agency for Fundamental Rights will be an independent centre of expertise on fundamental rights issues through data collection, analysis and networking. It will advise the EU institutions and the member states on how best to prepare or implement EU legislation related to fundamental rights. It will be located in Vienna. The Austrian Presidency (which ended in June 2006) aimed to conclude the process of transforming the EUMC into the Agency for Fundamental Rights so that it could operate in its new form from January 2007. This, however, has proved difficult, as agreements have not been reached by the three main institutions of the EU on important issues such as the Agency's geographical remit, its structure and leading figure, its working methods, and its relationship with the Council of Europe. This has made its start date unclear.

The Agency will pursue its activities within the competencies of the Community and the point of reference for its mandate is the Charter of Fundamental Rights.

Importantly, the Agency's geographical scope expands beyond the EU and the member states. The EC may request information on the fundamental rights situation in candidate countries as well as the countries with which it has concluded an association agreement or intends to open negotiations over such agreement. This includes the countries of the Western Balkans.

At this stage of negotiations it is likely that minority rights protection will be included among the Agency's competencies.

1998 Treaty of Amsterdam introduced a number of important provisions including the promotion of 'equality between men and women' as a fundamental task of the Community (Article 2); and the elimination of gender inequalities in Community objectives, strategies and actions (Article 3[2]). In addition, it mandates action to combat discrimination based on sex or sexual orientation (Article 13), and calls for the Community to support states' actions to promote 'equality between men and women with regard to labour market opportunities and treatment at work' (Article 137[1]). Finally, it encourages:

'measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers' (Article 141).⁵¹

These and other legal initiatives have served as a basis for numerous Directives⁵² in this field. Since 1982 the Directives are complemented by action programmes to promote equality of opportunity, and to improve women's situation in the labour market. The enlargement countries of SEE are required to adopt and comply with the gender *acquis* before accession.

The EP's recent resolution of June 2006 on 'The situation of Roma women in the European Union'⁵³ summarizes some of the problems facing Roma women, including exclusion from health care and coercive sterilization. Some of the other major issues identified in this resolution are also faced by other minority and majority women in SEE, albeit to a lesser extent. These include trafficking, poor education and high rates of unemployment. The Open Society Institute's Network Women's Programme 'Bringing the EU Home' prepared a monitoring report⁵⁴ to evaluate the status of Western Balkans enlargement countries from the perspective of the EU's gender *acquis*. This report reveals that women in SEE are at a severe disadvantage compared to their counterparts in the EU, and tables issues and suggestions for advocacy in this field. Minority rights NGOs in SEE can greatly benefit from this analysis.

It can be concluded that the anti-discrimination framework of the EU offers significant opportunities for members of racial and ethnic, as well as religious minorities, women and men, to pursue their rights in the fields of employment, education, and access to goods and services. One of the most important ways of fighting discriminatory acts or behaviour is to take legal action. As the Directives provide for a *locus standi* for relevant NGOs, these can take legal action on behalf of victims of discrimination. This is important because it makes possible strategic litigation that aims to select cases for maximum impact on the domestic legal systems. Strategic litigation induces change by documenting abuses, empowering vulnerable groups and providing guidance on good practice. For instance, in Bulgaria, since the new anti-discrimination law came into force in January 2004, a number of civil actions alleging discrimination against the Roma were filed by the European Roma Rights Centre (ERRC) and partner organizations. As a result, the Bulgarian courts issued landmark judgements on the Roma's access to services and employment.

New modes of EU governance relevant to minorities

In addition to the relevant legal standards, there are some EU-specific forms of governance which can be useful for the advancement of minority issues. As noted in chapter 1, these policies include mainstreaming, impact assessment and the open method of coordination (OMC).⁵³ This section presents some brief points under each policy to be further explored by interested minority rights advocates.

Mainstreaming

So far, mainstreaming has been mainly used in the fields of gender equality and the fight against racism in the EU. In its 1998 Action Plan against Racism,⁵⁶ the EC decided to contribute to the fight against racism ‘by either promoting positive messages about diversity or by creating favourable conditions for tolerance and respect in a multicultural society’. It was planned that this approach would be applied to some crucial areas particularly important in the fight against racism, including: communication, culture, education, employment strategy, information society, justice and home affairs cooperation, research activities, public procurement, structural funds, and, importantly, EC staff policy. In its 2000 Report on the implementation of the Action Plan against Racism,⁵⁷ the EC defines the principle of mainstreaming:

‘The principle of “mainstreaming”, to which the Commission committed itself in its Action Plan in 1998, aims to integrate the fight against racism as an objective into all Community actions and policies, and at all levels. This means not only implementing specific measures, but deliberately using all general actions and policies to combat racism by actively and visibly considering their impact on the fight against racism when drawing them up.’

Mainstreaming is not clearly defined as a methodology in the EU. Further, the issue of minority protection is currently primarily focused on new minorities from an anti-discrimination perspective.

Nevertheless, mainstreaming from a minority rights perspective in line with the EU Network of Independent Experts’ interpretation of Article 22 of the Charter, as well as the FCNM, can become an important issue of advocacy for minority rights and other NGOs. This advocacy can be founded on the EC’s 2001 decision according to which:

‘any proposal for legislation and any draft instrument to be adopted by it would, as part of the normal decision-making procedures, first be scrutinised for compatibility with the Charter of Fundamental Rights of the European Union.’⁵⁶

Impact assessment

Impact assessment was first applied in the area of the environment in the late 1990s and it was progressively extended to the social and economic contexts. It is seen by the EC as an aid to political decision-making. It is a set of logical steps, which structure the preparation of policy proposals. These logical steps include: identifying the problem, defining the objectives, developing main policy options, analysing their impacts, comparing the options, and outlining policy monitoring and evaluation. Stakeholder consultation and collection of expertise can run throughout the process. The aim is to gather and present evidence that helps to determine possible policy options and their comparative (dis)advantages. It helps to explain why the proposed policy option is assessed as appropriate and necessary, or demonstrate why no action at EU level should be taken.⁵⁹

In 2001 the EC decided that human rights, as enshrined in the Charter, would be included in its integrated approach to impact assessment.⁶⁰ Human rights, including non-discrimination on the basis of membership of a national minority (Article 21) as well as the ‘minority clause’ (Article 22), was established as a cross-cutting issue to be examined across all the areas of the economy, environment and social inclusion, etc. In line with this decision, the new Impact Assessment Guidelines of June 2005 contain some relevant potential effects of any EU legislative proposal that an impact assessment has to check against. These are: ‘Social inclusion and protection of particular groups’ and ‘Equality of treatment and opportunities, and non-discrimination’. These groups of social effects comprise various questions to be answered by officials when drawing-up legislative proposals. These are very important for minorities, albeit from an anti-discrimination perspective

only. These questions can form the basis for NGOs' monitoring of EU legislation and policies against the EU's own minority protection norms. In addition, advocacy can be initiated for a more inclusive reading of the anti-discrimination framework, to expand to the establishment of substantial equality, and to questions of the protection and promotion of identity and culture, as no anti-discrimination legislation or policies are culturally neutral. In its present form, the promise of equal citizenship is only relevant for those members of new and old minorities who wish to assimilate into the culture of the majority.

Open method of coordination

The OMC was first introduced into the EU at the Lisbon Summit of March 2000. The achievement of the EU's goal of becoming 'the world's most competitive and dynamic knowledge-based economy, capable of sustainable economic growth with better jobs and greater social cohesion' made a new mode of governance necessary.

The OMC is a new form of policy intervention to support member states in moving towards agreed EU objectives, and to exchange best practice in various areas. It is a coordination framework within which the definition of the appropriate means and ways to achieve the agreed objectives is left to the member states, respecting their competences in these fields. It has been used increasingly in the EU's non-regulated context, where the EU does not have direct competence. It includes the design of guidelines and timetables for the achievement of goals; establishing, if relevant, indicators and benchmarks to compare best practice; and setting specific targets and adopting measures for the transposition of EU guidelines into national practice. The OMC is gaining ground in the EU. Today, the policy fields in which it is applied include: employment, the fight against poverty, immigration and social exclusion. These are all fields which are critical to the situation of both old and new minorities, even if presently they exclude issues related to the preservation of identity. However, awareness of these policies is crucial for advocacy; for instance, for the participation of directly affected minorities in the shaping of relevant national policies and practices, or the provision of relevant ethnically/gender-segregated data, and insistence and advice on the use of rights-based approaches, etc. Indeed, not having a minority rights instrument at the EU level, the OMC could be applied to minority protection. This way, the highly divergent approaches of member states

and their best practices could be assessed and shared.

Apart from offering important advocacy opportunities at both national and EU levels, these policies can also provide important lessons to human rights and development NGOs struggling to establish rights-based approaches to programming, and stringent monitoring, evaluation and impact assessment systems. The OMC could offer interesting insights into methods of programme coordination and exchange of best practices at a regional level, i.e. on the level of SEE and beyond.

The dilemma of double standards and the way forward

In its monitoring of the process of enlargement, the EU has developed a comprehensive approach for the protection of minorities, including both anti-discrimination and minority rights. However, internally, the EU has developed an anti-discrimination framework only, without codifying the rights of minorities. The foundations of a possible minority rights regime are slim in the EU law, and recent standard-setting exercises have shown a lack of consensus in carrying forward the codification of minority rights. Overall, two Articles make explicit reference to minorities in the EU instruments: a general anti-discrimination clause of the Charter (Article 21) and Article I-2 of the Constitutional Treaty, listing the fundamental values of the EU. For the time being none of these Articles are legally binding. Nonetheless, together with some other relevant articles of the EU primary law, they provide a legal policy agenda for minority rights advocates.

By requiring third states to comply with norms of minority protection that it does not impose on its own member states, the EU is open to the criticism that it is using double standards. This is unfortunate as double standards can significantly lessen the effect of the EU's membership conditionality, through the overall erosion of its credibility. But there are some other, related consequences. It encourages governments in enlargement countries to selectively comply with minimum standards on the protection of minorities, and to ignore

recommendations aimed at a higher level of protection. The lack of agreed EU norms can lead to the misperception, among governments and minorities, that the management of minority issues is a matter of domestic concern alone, and that no international standards or external interventions are needed. The fact that the EU refrains from the codification of minority rights at the supranational level encourages the neglect of the existing international standards in this field by both member states and enlargement countries. Cases in point are: important 'old' EU member states, which continue to deny the existence of minorities on their territories, since they are free to overlook the existing international norms and practice; and enlargement countries, which can lower the level of their commitments in this field pointing to the examples of 'old' member states. In addition, without internally applicable norms, no clear guidance can be offered for those wishing to improve their minority rights provisions. This, in turn, can be conducive to a merely formal observance of requirements rather than a deeper level compliance. All these possible consequences contribute to the persistence of problems related to minorities in future member states, which is exactly what the EU apparently intends to avoid.

At present, the protection of minorities is primarily focused on new minorities in the EU and has an anti-discrimination perspective. This is complemented by relevant international law. The EU perspective on minority protection is insufficient, as the promise of equal citizenship does not replace legal arrangements for the preservation of minority identity. Options for comprehensive legal protection should exist at the EU level for both new and old minorities: many new minorities have turned into old minorities over the decades, and many old minorities are dissatisfied with the accommodation of their interests at the national level. It is the regulation and pressure coming from the supranational level of government that are needed to unblock inertia at the national level.

However, the latest relevant EU level developments indicate that issues related to minority protection will continue to be regulated within the framework of anti-discrimination, possibly allowing for a more inclusive reading of the available standards to include minorities. At the same time, the EU continues to apply its comprehensive approach to the protection of minorities in its enlargement monitoring. The future Fundamental Rights Agency could decrease the gap between the internal and external policies of the EU in the field of minority protection.

Chapter 4

Minority rights advocacy in the EU setting

Minority rights advocacy in the EU setting

What is advocacy? A working definition of minority rights advocacy

Originally, the term advocate⁶¹ stood for a legal representative who spoke on behalf of a client in a court of law. Today, advocacy is understood in many different ways by organizations and individuals. In general, advocacy refers to systematic action for social change. It may include speaking, writing or acting in support of a cause, demanding a change to benefit the lives of many or simply focusing on legal and policy reform. A range of approaches to advocacy have been developed by NGOs. These approaches are informed by different values and ideas about how power and politics operate and how social change occurs, and they aim to achieve different goals.

There is no single definition of advocacy. Therefore, organizations carrying out advocacy find it useful to agree on their own definitions. This helps them to plan their advocacy activities, and enhance their transparency, public accountability and credibility.

Working definitions of advocacy can be generally, but not exclusively, centred on the following questions:

- What is advocacy for?
- Who does it?
- Where is it located?
- What major strategies are applied?

What is advocacy for?

Advocacy can aim to achieve changes in legislation, policy and practice of a wide range of organizations including governmental, supranational or inter-governmental and more. It can pursue changes in the social, political and legal environment to make it more transparent and participatory. It can also be focused on changes in the attitudes and behaviour of certain groups or the general public.

Minority rights advocacy aims at all of the above. Building on the legitimacy of human rights gained through the UN and regional conventions, it works to:

- Implement the existing minority rights, and expand them to respond to new forms of discrimination and indignity.
- Create institutional/formal channels of minority involvement in the process of changing legislation, policies and practices, making the process of decision-making and implementation more participatory.
- Change majority–minority relations through transforming public attitudes and behaviour.

Who does it?

This question is about participatory advocacy. It relates to the way advocates see the role of their ‘client group’, in this case minority communities, in the management of their own affairs in a given political context.

Depending on the level of participation of the ‘client group’ in the advocacy process, three types of advocacy can be distinguished, namely:

- advocacy done **for** the people;

- advocacy done **with** the people; and
- advocacy done **by** the people.

The choice of approach very much depends on the political circumstances. However, advocacy done **by** the people is generally considered to be the most empowering scenario, since those who participate make the decisions and choices. The proponents of participatory advocacy hold that stakeholders or relevant rights-holders need to be involved in the advocacy process through clear and transparent processes, whatever their level of participation.

By definition, minority rights advocacy has to be participatory, as participation is a minority right. Participation can be of different levels ranging from information, through consultation, collaboration, to empowerment. It has to be based on the maximum possible involvement of minorities given the political circumstances.

Where is it located?

This question is about the multiple levels of advocacy including local, national, regional and global. Today, most advocacy activities are carried out on more than one level of policy-making, as the various levels are closely interconnected. This multi-level advocacy entails multi-layered systems of communication and feedback, to make sure that input is included from all levels. For instance, global level advocacy has to comprise local input to maintain its credibility and relevance.

Effective minority rights advocacy is multi-level as it is about the national and local implementation of regional and global standards, as well as the local and national minority input into regional and global standard-setting.

What major strategies are applied?

NGOs use two major approaches to advocacy, namely: direct policy influence and capacity-building in advocacy. Within each approach, a mix of methods is used.

Direct policy influence aims at changes in policy, legislation, or procedures, as well as their implementation. It uses lobbying, campaigning, education and awareness raising, as well as consultancy. Capacity-building aims at developing the capacity of other groups and

organizations to influence policy themselves. This can include: supporting and strengthening grassroots NGOs, networks and movements, as well as facilitating debates between policy-makers and citizens or interest groups.

Minority rights advocacy embraces both direct policy influence and capacity-building, as non-dominant minorities are politically marginalized and economically deprived, and solidarity and assistance are needed to restore social justice.

A somewhat simplified working definition of minority rights advocacy for the purpose of this guide could be summarized as:

Minority rights advocacy acts for the implementation and expansion of minority rights through participatory lobbying and campaigning, as well as capacity-building for the benefit of non-dominant minority groups at all levels of governance including local, national and international.

The major stages of designing an advocacy plan are:

- Identify the issue by answering the question: what is the problem that needs to be addressed through advocacy?
- Understand and analyse the problem by looking at the root causes and effects of a problem.
- Draft the aims and objectives by answering the question: what needs to be changed?
- Understand the advocacy environment by identifying all the stakeholders who will be affected, including allies and opponents, and identifying the target audience who can make the changes laid out in the objectives.
- Identifying what capacity is available by answering the question what resources and skills does the NGO in question have and what are its limitations?
- In the light of the analysis: review and finalize the aims and objectives.
- Devise a plan: draft a written advocacy plan to set out the goal and objectives; activities, including monitoring and evaluation; the timeline; the budget; the risks and assumptions involved.
- Put the plan into practice and monitor, as well as adjusting the plan.
- Evaluate!

NGO advocacy in the EU: opportunities and distinctive features

The emergence of a civil society at the European level is connected to the development of the ‘political union’ initiated by the Maastricht Treaty in 1992, as more policy areas of great importance to citizens were transferred to the EU level.

The major institutional setting of advocacy

The unique system of EU multi-level governance presents NGOs with a range of advocacy opportunities. The table opposite lists the major relevant institutions in their multiple locations.

Distinctive features of advocacy in the EU and recommended strategies

Advocates need to develop an excellent understanding of the EU’s complex system of policy-making and legislative procedures to be able to identify the specific challenges it poses and address them in their strategies. Some of the recommended advocacy strategies emanating from the distinctive features of the EU system of governance can be seen in the table overleaf.

It is important to recall that advocacy at the supranational level cannot be divorced from national and local level advocacy. Brussels-based advocacy makes sense as an integral part of an intervention strategy that can link the local level with the national, supranational and international contexts, and ensures that all results achieved at various levels can lead to positive impacts for minorities.

The context of NGO participation in the EU decision-making process

Given the complex and pluralistic nature of the EU environment and the vast number of NGOs wishing to engage in European level policy-making, many NGOs have organized themselves in umbrella networks at a European level according to their sectoral interests. These networks

Institutions Locations	Brussels Strasbourg Luxembourg	Member states	Candidate and potential candidate states
EU institutions ⁶²	<ul style="list-style-type: none"> ■ European Parliament ■ Council ■ European Commission ■ European Court of Justice 	<ul style="list-style-type: none"> ■ EC delegations ■ European Agency for Reconstruction 	
National institutions of member states	<ul style="list-style-type: none"> ■ Permanent representations of member states to the EU 	<ul style="list-style-type: none"> ■ Relevant departments of foreign ministries or ministries dealing with European issues and human rights, as well as cultural ministries and justice and home affairs ■ Agencies or governmental departments dealing with minority issues and development 	<ul style="list-style-type: none"> ■ Embassies of EU member states
NGOs	<ul style="list-style-type: none"> ■ Minority rights European NGOs (ENGOS) ■ Human rights ENGOS ■ Development ENGOS 	<ul style="list-style-type: none"> ■ Minority rights international NGOs (INGOs) ■ Human rights INGOs ■ Development INGOs 	<ul style="list-style-type: none"> ■ Minority rights NGOs ■ Human rights NGOs ■ Development NGOs

Distinctive features of the EU system of governance	Recommended advocacy strategies ⁶³
<ul style="list-style-type: none"> ■ It is multi-level: national, supranational and sometimes sub-national, agencies share decision-making powers in one policy field. 	<ul style="list-style-type: none"> ■ Map out a decision-making process from the very beginning to its end. In this process, national and EU institutions have to be handled together, simultaneously and not separately or sequentially. Understand the relationship between process and policy outcome. Target the right people at the right time, and at the right segment of the decision-making process. ■ Third country nationals have to build up strong working relations with relevant EU member states' officials to effectively influence the decision-making process.
<ul style="list-style-type: none"> ■ High degree of functional segmentation that results in different policy-making patterns and styles across the various policy fields. 	<ul style="list-style-type: none"> ■ Study the decision-making process, style and culture of each segment (Directorate General or Parliamentary Committee, for instance). ■ Identify and make use of the imperfect communications characteristic within and between EU institutions. ■ Remember that there are important distinctions between the three categories of EU decision-makers, namely: the EC officials are bureaucrats representing EU interests; the Council is mainly populated by diplomats who promote national interests; MEPs are politicians who are accountable to their constituency. However, all three types of decision-makers tend to prefer face-to-face meetings, over lunch briefings or other forms of casual advocacy. They also value written briefings, conferences, seminars, workshops and site visits, albeit to different degrees.

<ul style="list-style-type: none"> ■ The political debate is essentially based on expert knowledge rather than political argument to try to persuade a broad European public. 	<ul style="list-style-type: none"> ■ NGOs should base their positions on facts rather than emotions. This requires well-crafted arguments, supported by robust data, along with an analysis of opposing views. Prepare well-focused and short briefing materials, and make sure that the data is related to the relevant social and political choices that decision-makers must make. Bear in mind that politicians and officials make their choices in different contexts (political and technical).
<ul style="list-style-type: none"> ■ Strong legal dimension that has a marked influence on the policy process. 	<ul style="list-style-type: none"> ■ NGOs should be familiar with the EU law and legislative procedures and look for legal rules to achieve their objectives.
<ul style="list-style-type: none"> ■ Constant and rather speedy decision-making. 	<ul style="list-style-type: none"> ■ If the NGO is not based in Brussels, staff can talk to those NGOs who are based there to represent their NGO's issues. Search for allies and become part of coalitions whenever possible.
<ul style="list-style-type: none"> ■ It is a fairly transparent system or, at least it is much more transparent than most national administrations. 	<ul style="list-style-type: none"> ■ Be clear about what the NGO does and whom it represents. The NGO must be able to prove that it is representative.
<ul style="list-style-type: none"> ■ It is a system that manages diversity in culture, language and thought. 	<ul style="list-style-type: none"> ■ NGOs should recognize this and use it to their advantage wherever possible.

enhance the NGOs' credibility as they represent their local and national members/constituencies. In addition, they help them to maximize their effectiveness when they influence the EU agenda, shape legislation and provide policy alternatives. In the process of enlargement, some CEE NGOs have joined existing Brussels-based development networks, or set up their own representations in Brussels, such as the European Roma Information Office or the European Roma Grass Roots Organizations. NGOs and regional networks from SEE could establish their own representations or join forces with existing alliances to carry out EU-level advocacy.

There is no ENGO network that works specifically on minority rights. However, there are several networks that address minority rights, which are open to SEE NGOs to join. A list of these networks is presented in chapter 5.

EU institutions have increasingly acknowledged the role of civil society in their work. NGO input has been valued by the EU for its expertise, as well as for linking the EU with its local constituency, thereby strengthening its poor democratic legitimacy. Some structured forms of civil dialogue between various institutions and NGOs have been developed and are discussed in the EC's *White Book on Governance*,⁶⁴ *Minimum Standards on Consultation*.⁶⁵ There is also a chapter on participatory democracy in the draft European Constitution. These include:

- The EC and the EP's committee on Employment, Social Affairs and Equal Opportunity has meetings every six months with the Social Platform which is the alliance of representative NGOs active in the social sector.
- The members of the human rights sector have developed a more informal but close working relationship with the EC and the EP. The Human Rights Contact Group holds regular open meetings at the EP to publicly discuss current issues with the MEPs.
- In the field of development, regular consultations between various European networks and responsible Directorate-Generals were established.

In March 2005, the EC called for the launch of a 'European Transparency Initiative'.⁶⁶ The purpose of this initiative is to 'produce

Some specific advocacy tools at the disposal of minority rights activists:

- face-to-face meetings with responsible officials and their staff;
- participation in expert and consultative groups, as well as relevant workshops and conferences organized in Brussels;
- initiating and attending hearings, or organizing exhibitions under the patronage of an MEP;
- inviting relevant EU officials to participate in national or regional workshops, conferences and training events;
- regular publication and dissemination of position papers to relevant national, international and supranational officials, as well as NGOs;
- editing and disseminating periodic English-language newsletters for EC Delegations and other relevant EU and national institutions, as well as NGOs and ENGOs;
- sending open letters or declarations to the relevant fora, such as the EU Presidency;
- actively participating in the EC's calls for consultation;
- initiating email campaigns on an issue of particular importance in the right stage of decision-making, and tailoring it to the particular features of the targeted audience/institution;
- joining NGO alliances and campaigns on an issue of importance;
- participation in relevant UN, OSCE and Council of Europe fora;
- submission of shadow reports and information to international treaty monitoring bodies and other relevant agencies, including the EU.

legitimacy' for EU decision-making. One of the objectives is to promote transparency and accountability in lobbying. In its campaign Act4Europe, the Civil Society Contact Group, which brings together six large EU NGO sectors including human rights and development, addresses issues of public participation in EU decision-making.

Advocacy opportunities in the institutional setting of EU policy-making

This section looks at the major EU, and related national, institutions. It looks at available advocacy opportunities, contacts, strategies and tools.

European Parliament

Through a series of treaties, the EP has acquired a growing influence: from a purely consultative body it has been turned into a body with legislative, budgetary and supervisory powers. As the single directly elected body of the EU, it is widely known to be the most accessible EU institution to the public.

Human rights are a priority for the EP. Each year, it issues a report on the human rights situation in countries outside the EU, and another on respect for human rights within the EU. Since the start of the 1980s, it has adopted several motions on the protection of minorities, especially on regional and minority languages. The first resolution calling for the adoption of a Bill of Rights for Minorities was passed in 1981; the latest EP report urging the EU to develop a common understanding of 'who can be considered a member of a minority' as well as standards for minority rights dates from May 2005.⁶⁷ However, the EP has not yet been successful in taking forward its resolutions regarding the codification of minority rights at an EU level, mainly due to the lack of political support. Nevertheless, the enlargement process has imported a significant minority rights dimension that new member states and candidate states have to address. A new parliamentary Intergroup for Traditional National Minorities, Constitutional Regions and Regional Languages was set up in 2004 to improve EU secondary legislation in this regard.⁶⁸ In addition, as the EP report shows, it is planned that minority rights will be included in the Agenda of the future EU Agency for Fundamental Rights. Another important way of taking forward minority issues in the EP are the EP resolutions, singling out specific minority situations that can have considerable impact through the pressure they may exert on the countries in question.

When formulating an advocacy strategy, NGOs could read some sections of the EP's bulky (195 pages) rules of procedure,⁶⁹ to become familiar with the technical language and some of the relevant procedures that could be used, as referred to below.

Minority rights advocates have several opportunities to advance their causes in the EP. For this, establishing contacts with relevant MEPs is essential. Advocates coming from the enlargement countries do not yet have their own MEPs to get in touch with. However, NGOs will find it relatively straightforward to establish contact with an MEP of

importance on their issues. To do this, NGOs should make use of both their E/NGO contacts as well as the EP website, to:

- Identify the MEPs who are involved in their issues. This can be done by checking the committees, joint-parliamentary committees or inter-parliamentary delegations the MEPs sit on. Out of the 20 existing committees, several consider issues of relevance to minorities. The Committee on Foreign Affairs and its Sub-committee on Human Rights as well as the Committee on Women's Rights and Gender Equality have the explicit responsibility to consider cases in third countries. However, the Committees on Civil Liberties; Culture and Education; Development, Employment and Social Affairs; Environment; Justice and Home Affairs; Public Health and Food Safety; and Regional Development can all take up issues concerning minorities in their own fields and within the realm of their own responsibilities. Besides the committees, NGOs can look up the members of the Delegation for relations with SEE countries and, if relevant, the members of the Joint Parliamentary Committees for Croatia and Macedonia. Archived minutes of their former meetings with the legislatures of these countries on the EP's website give an idea about their level of involvement and interests. In addition, NGOs, after doing their own research, can ask for the assistance of established ENGOs or other institutions in Brussels to give advice on whom to get in touch with.
- Contact the relevant MEPs to ask for an appointment. MEPs have their email addresses and telephone numbers on the EP's website but they rarely read their emails. It is best to ring their offices and arrange for an appointment with their personal assistants. The list of personal assistants can also be found on the EP's website. Alternatively, NGOs can ask for the assistance of an established ENGO to help them establish contacts. Offering the assistant help in collecting relevant information for their work can help to establish good contacts, and they are often able to provide NGOs with the information that they need. In addition, addressing the administration of the relevant EP committees is crucial in the assessment of details related to the timing and effectiveness of advocacy strategies.

- Another way to get in touch with an MEP is to use contacts in national parliaments of EU member states. The institutional relationship between national parliaments and the EP is traditionally loose and it varies across countries. However, many MEPs are members of their national parliaments too, and can be contacted in their own capitals.
- Once the contact is established and the appointment is arranged, NGOs have to consider what they want to achieve through this appointment and through the contact in general. NGOs should set realistic objectives, carefully considering the available institutional pathways. Depending on the nature of the issue, these range from possibilities for briefings and awareness-raising, to motions for resolution, which can have a much greater political impact. The major advocacy and lobbying possibilities within the institutional framework of the EP are:

Briefing an MEP

At a minimum, by briefing an MEP about an issue, NGOs can raise awareness of the specific problems faced by the community. This is a good way to lay the foundations of a longer-term working relationship. If the issue is sufficiently relevant, an MEP can raise it under a specific item of the agenda of the EP's debates. The presented information can also be raised in the deliberations of the MEP's committee. In addition, high level Council and EC officials, including for instance the Enlargement Commissioner, regularly take part in committee meetings.

Addressing MEP rapporteurs

The EP committees compile reports which are then adopted by the EP. These EP reports shape European policies. Each report is the responsibility of a rapporteur, who is one of the committee's MEPs. If an NGO sees a report which is particularly relevant to its work, it should table specific issues with the relevant MEP rapporteur at the right time. MEPs welcome the expertise NGOs can deliver, as this can improve their report's coverage and relevance.

Being invited to speak at a committee meeting

The MEP may invite an NGO to speak at a meeting of a relevant committee. For instance, the Executive Director of the European Roma

Information Office delivered a speech on the 'Double Discrimination faced by Romani Women in Europe' at the Committee on Women's Rights and Equal Opportunities, a committee that is known to be very open in taking up minority issues.

One-minute speeches at the EP part-sessions

Depending on the nature of the issue and the sense of urgency attached to it, NGOs can ask an MEP to raise it in the framework of a 'one-minute speech' in the monthly plenary, i.e. part-session. One-minute speeches are delivered at the beginning of each monthly EP meeting by those MEPs who wish to draw the EP's attention to a matter of political importance. Examples of one-minute speeches can be found on MEPs' websites.

Oral and written questions

MEPs have the right to put oral and written questions to the EC and the Council of Ministers. These can provide an important source of information on NGOs' questions, as well as being a way for MEPs to highlight the issues. For a record of questions and answers, visit the EP's parliamentary questions website.⁷⁰

Ask MEPs to write letters to a relevant national minister

These can be on issues which an NGO finds important to its work, and coincide with the major interest of the MEPs in question.

Ask MEPs to pressurize national MPs and ministers

MEPs who are members of relevant Joint Parliamentary Committees or the Delegation for relations with the countries of SEE can put pressure on national MPs and ministers. The EP gives its assent to the accession of new EU member states and is consulted on international agreements, such as association between the EU and non-member countries. Therefore, MEPs can exert considerable pressure on national politicians. In addition, MEPs can influence the contents of regular reports. NGOs should brief the relevant MEPs, together with national MPs, about their issues regularly.

Parliamentary intergroups

MEPs may also be involved in cross-party groups, known as 'intergroups'. These consist of members from different political

groups with a common interest in a particular issue. Their activities include hearings with civil society actors. Among others, the Anti-Racism and Diversity Intergroup; the Intergroup on Peace Initiatives; and the Intergroup for Traditional National Minorities, Constitutional Regions and Regional Languages are of relevance to minority rights advocates from enlargement countries. For instance, the latter intergroup issued a declaration of support for speaking Catalan in plenary interventions of the EP, and tabled a recommendation on the situation related to the status of the Russian-speaking minority in Latvia. Overall, the Intergroup on Traditional National Minorities is known to support national minority groups from candidate states and potential candidate states.

Motion for resolution

In cases of serious breaches of human rights, democracy and the rule of law, a debate on the issue can be held. On the basis of this debate a motion for resolution can be tabled. See, for instance, the Joint Motion for resolution on the harassment of minorities in Vojvodina of 15 September 2004.⁷¹

Organize and participate in public hearings

NGOs can organize a parliamentary hearing if an MEP sponsors them. It is important however, to make sure that the issue is topical. In addition, if an NGO has an established expertise in a relevant field, it may be invited by a committee to present its expert opinions in a public hearing in the EP building. A list and agenda of this year's public hearings on the EP's website shows the variety of issues discussed in these public hearings.⁷²

Contribute to the EP's annual human rights report

The MEP rapporteur of the annual human rights report requests information from NGOs to contribute to its report on the implementation of human rights in the EU's programmes (including good practices). This is a useful activity for NGOs, however, NGOs should remember that the deadlines are often extremely short.

Participate in roundtable meetings organized on specific issues by ENGOs or other institutions in the EP

These meetings are normally held with the support of several MEPs, and with the participation of relevant officials from the EC and the

Council. These meetings can be very useful for NGOs to table their concerns and expectations from the EP and the EC. For instance, a roundtable meeting on 'Minority Rights in South-East Europe' was held at the EP on the initiative of the King Baudouin Foundation. NGOs from BiH, Bulgaria, and Serbia presented the situation of minorities in their countries, and discussed their views about the EC's regular reports with EC officials and MEPs.

Petition

Anyone living in the EU, whether or not they are a citizen of a member state, has the right to petition the EP, to raise concerns regarding the activities and policies of the EU. These are considered by the Petitions Committee. Petitions can be submitted electronically⁷³ but must be confirmed in writing with a signed letter. This is a mechanism which is rarely used by minority rights advocates, as it is lengthy and cumbersome and not directly relevant to enlargement countries.

If an NGO needs its staff to visit the EP frequently, it is worth applying for a long-term visitor's pass. This will give access for 12 months, and means that the NGO will not need an EP employee to sign its staff into the EP buildings. Details of the application procedure are available from the EP's Office of the Quaestors. NGOs should be sure, however, to regularly verify the procedures as these may change due to security considerations.

Finally, NGOs that cannot go to Brussels, can always try to invite the relevant MEP to an event or activity which it organizes in its own country. Many MEPs are happy to take up invitations in their particular fields of interest.

Council

It is important to remember that the Council is the EU institution that belongs to member governments. The ministers and the officials who meet in the Council are servants to their governments, affiliated to national political parties, and accountable to national electorates. Generally, their priority is to pursue the national policy objectives.

On issues of accession conditionality and the protection of minorities, advocacy has to embrace both national institutions and the relevant EU bodies, which are mostly staffed by delegated national

officials. The EU bodies include the Council and the Presidency in question, and c. 300 technical or sectoral working groups to which the decision-making is increasingly being delegated from the 25 ministers.

The Council has been the least transparent EU institution, with limited accessibility. Its documents are not readily available. Although this is gradually changing, it is still very much the case. Therefore, it is easier to reach the Council through national ministers and other relevant national officials.

The national institutions include the Brussels-based Permanent Representations of member states staffing COREPER and the national civil servants with a Europe brief in the relevant national ministries, plus agencies established for the management of EU-related issues. These differ across member states but are often located within the Ministry of Foreign Affairs or an EU ministry in home capitals. Contacts in government institutions or departments dealing with minority issues are very important, as they can inform NGOs about national positions in this respect and might be more helpful in establishing high-level contacts.

The Presidency of the Council can also be an advocacy target for NGOs that can lobby for their issues to be included in the six-month agenda. The embassy of the country holding the Presidency in SEE countries can also serve as a contact point and channel for advocacy.

Overall, national ministries in the home capitals of member states, Brussels-based national institutions including the Permanent Representations, the national staff in the sectoral working groups, and the embassies of member states in enlargement countries can all be approached with NGOs' issues.

Minority rights advocates in enlargement countries wishing to do advocacy at the Council level should identify minority-friendly member states that hold similar principles, are sympathetic to the issues and have an interest in taking up the cause. It is relatively easy to identify minority-friendly member states, NGOs should consider their/others' experience of advocacy in other inter-governmental fora. Member states that are not normally supportive of minority rights in the international fora might be willing to take up issues for political reasons.

It is important to note that each Presidency is organized around a theme and new member states may be looking for themes around which to focus their Presidency. Such themes may be regional (e.g. Africa) or

concern particular items of policy for which they have responsibility (e.g. development). New member states' Presidencies may provide opportunities to get minority rights on the Presidency agenda. NGOs can find out about the Presidency themes one year to nine months in advance of the Presidency by checking the websites of the member states and their NGO platforms. The latter always receive funds for activities to promote civil society mobilization around the Presidency. It is also worth engaging with the national NGO platform to see whether there may be any interest in focusing civil society activity around minority issues. In addition to mobilizing civil society throughout the EU, the NGO platforms and NGOs can also engage in regular contact with the ministries working on the Presidency and therefore have opportunities to push political issues via this channel.

Even if it is not easy to establish contacts at this level, appropriate advocacy strategies can often make up for the scarcity of face-to-face lobbying opportunities. Some of these are:

- Create regional alliances with like-minded human and minority rights NGOs, and present the agreed issues in open letters that can be sent to the President of the EP, the President of the EC, President and Prime Minister of the host country and of the troika.
- Send letters to the Presidents and ministers of member states that are sympathetic to and supportive of the cause.
- Organize meetings with the President and relevant ministers of the member state that holds the Presidency. For instance, in March 2006, a delegation from the European Network Against Racism (ENAR) held meetings with Austrian President Heinz Fischer and Minister of Justice Karin Gastinger.

European Commission

The EC is the EU's civil service. The 25 Commissioners head the various departments or DGs, which have responsibility for a specific policy area. In addition, Commissioners have their own team of advisors or 'cabinets'. As the Commission is responsible for initiating and drafting EU policy, it is a key contact for advocates.

Traditionally, the EC works closely with NGOs. It can launch public debates on new policy initiatives through publishing Green Papers and White Papers, and invite comments and inputs on them.

The instances of anti-discrimination and equal opportunity policy, or the future EU Agency for Fundamental Rights, are examples of initiatives into which NGOs have inputted. It can maintain regular contacts with NGOs or platforms in certain fields through hearings as with the platform of European social NGOs twice a year; or, it can have formal consultations, as in the field of agriculture. Currently, cooperation with NGOs differs across policy fields.

For effective lobbying in the Commission, NGOs should:

- Identify the DG or DGs, dealing with the relevant policy area.
- Establish contact with the relevant officials within the DG(s) as well as the Commissioner and their cabinet. Recommended strategies⁷⁴ for approaching the EC include cultivating a mix of low and high-level contacts, and an increased focus on the cabinets and the directors-general.
- Keep in mind that presenting a coherent policy position is not sufficient to influence the EC. It is important to back up views with robust data. In addition, spelling out the opposite case on a given issue is a highly valued practice. NGOs should produce written briefings that focus on the relevant issues.

Relevant DGs

As there is no department dealing specifically with minorities, issues of minority rights cut across the work of several DGs, including: DG Development; DG Education and Culture; DG Employment, Social Affairs and Equal Opportunities; DG External Relations, EuropeAid Co-operation Office; DG Humanitarian Aid; DG Justice, Freedom and Security; DG Regional Policy; DG Social Affairs and Equal Opportunities; etc., depending on the issue to be addressed. Visiting the websites of the relevant DGs gives a good idea about the issues they deal with, the processes they are involved in and who does what within that department.

For minority rights advocates from SEE, DG Enlargement⁷⁵ is the most relevant. It is this DG that prepares the regular reports assessing the enlargement countries' compliance with EU requirements, including the protection of minorities. The regular reports allow the EC to influence the pace of the accession process. Although the EC does not play a formal role in the accession negotiations, it plays a crucial

role as a facilitator. Therefore, DG Enlargement is a key department to make an effective use of the incentive of accession to consolidate the reform of the minority protection regime in a potential candidate or candidate country.

As NGO involvement into the policy-making process differs across policy-areas, NGOs should make sure that they know the possibilities for advocacy around their issues in the relevant policy-field. An NGO may decide it wants to advocate around a set of policies relevant for minorities beyond enlargement. For this, networking with human rights, development or other specialized NGOs is essential.

This section focuses on advocacy opportunities within DG Enlargement. Some of these are:

- Meet with the relevant heads of unit or country desk officers and brief them about the issues. NGOs should have written materials summarizing and analysing reliable data. The NGO's position and recommendations on policy issues are also important.
- NGOs should share their relevant publications or shadow reports about minority situations that they have submitted to other inter-governmental fora with EC officials.
- The Enlargement Commissioner is often invited to deliver presentations at prestigious organizations or parliaments. If an NGO has good contacts with a prestigious university or research institute, or can organize an authoritative regional conference, it can invite the Commissioner or staff from his cabinet to deliver a speech and participate.
- NGOs should find out when the Commissioner visits its country and try to organize a meeting with him. National contacts could help to make an appointment or, if this is not possible, ask the local EC delegation or any Brussels-based contacts, including EC officials or MEPs, to help with this.
- Participation in the various consultations launched by the EC is very important, as was the case with the Agency for Fundamental Rights.
- Providing expertise and input for the different European Networks of Experts can be a way into high-level meetings within the EC.
- Although personal contact and face-to-face advocacy is important, effective advocacy does not necessarily require a permanent presence in Brussels. NGOs can send their position papers, comments or

recommendations to the relevant EC officials via email or post. NGOs should be sure to submit this information to the EC Delegation and relevant government officials in-country as well.

EC delegations in potential candidate and candidate countries

The EC has delegations in the capitals of all the Western Balkan countries, apart from Montenegro where the establishment of the office is expected to take place by the end of 2006. In BiH there is one regional office. There has been a European Commission Liaison Office to Kosovo since 2004.

Based on the delegations' roles and objectives, which are always displayed on their websites,⁷⁶ advocacy opportunities with EC delegations are numerous. These can be grouped around the relevant roles of the delegations, as follows:

- analysing and reporting on the policies and developments of the countries they are accredited to;
- informing the public about the process of European integration and related activities;
- informing the public about EU institutions and its policies;
- implementing external assistance, i.e. EC-financed development cooperation including European Initiative for Democracy and Human Rights (EIDHR).

The structure and staff of the various Delegations can be found on their websites, so NGOs can locate the staff relevant to their advocacy. For minority rights advocacy, officials dealing with political and economic issues, human rights and minority rights, or issues of external aid, can be appropriate to contact. Most delegations have the telephone numbers or email addresses displayed on their websites, (also see chapter 5 of this guide).

Analysing and reporting on the policies and developments of the countries they are accredited to

- EC delegations provide the bulk of information in regular reports to DG Enlargement, which then compiles the reports. It is therefore essential that NGOs are involved in the consultations prior to the release of country reports. The major issues falling under the Copenhagen criteria should be professionally compiled and

presented to the relevant official, most probably the Political Advisor or Sector Managers. Note that it is important to have previously presented the same information to the relevant national institutions and to have possibly had some of it published in the national press, to give more weight and credibility to an NGO's advocacy.

- NGOs should forward their feedback on the regular report to the relevant EC staff, together with recommendations for its improvement, if this is the case.
- NGOs should send shadow reports, position papers and written interventions prepared for inter-governmental organizations, e.g. UN treaty bodies or the FCNM Advisory Committee, to their contacts.
- NGOs should invite the relevant officials to their activities, especially if they are funded by the EC. They often deliver presentations, participate in debates or training events.
- If the relevant EC official is not familiar with minority rights and the situation of minorities in a specific country, NGOs could invite them to training events that they are running, to deliver a presentation and get acquainted with minority representatives.

Informing the public about the process of European integration and related activities

- The delegation's websites and press releases, offer details about the visits of high-level EC officials and delegations, EP committees and delegations to countries. NGOs should try to find out about these visits and related activities well in advance so that they can make an appointment or participate in the activities in question, if possible. Bear in mind that EC officials and MEPs are often open to meeting with the representatives of minority groups, especially because minorities are seldom involved in national level negotiations and international decisions which affect them.

Informing the public about EU institutions and its policies

- Ask the relevant delegation staff about the decision-making process concerning the regular reports, and about the concrete criteria on the basis of which the fulfilment of the Copenhagen criteria is decided. If there is room for improvement, prepare and submit a set of clear recommendations to enhance the effectiveness of the reports.

- Ask the delegation about what common agendas the delegation and NGOs may have in promoting human rights, including minority rights, with the government.
- Organize activities on relevant EU institutions and their functioning, and invite officials to give presentations and explanations.
- When preparing a trip to Brussels ask for assistance in establishing contacts and understanding the policy-making processes of the relevant institutions.
- Often, NGOs and the public see the EU almost exclusively as a donor with little or no understanding of the values it holds and promotes through its projects. NGOs should ask the relevant staff of the delegation and the EU officials visiting their country to articulate the EU position more fully, using the publicity of summits and other high-level meetings supported by the local delegations.
- NGOs should ask the EU delegation to voice, as often as possible, a clear position of support for the democratic movement in their country, including the protection of minorities.

Implementing external assistance

Valuable recommendations on the improvement of NGOs and EU communications, and funding partnerships are included in a 2005 evaluation commissioned by EIDHR of its programmes against racism, xenophobia and discrimination.⁷⁷ It is worth taking some of these recommendations forward in advocacy:

- Major themes for the call for proposals are decided in Brussels and participation of EC delegations in EIDHR and other programming is limited. Therefore, the EC should enhance the role of delegations in selecting priorities, based on the delegation's specific consultations with national NGOs and other relevant national stakeholders.
- The delegations should consider ways of involving MEPs, particularly committee chairs and those with specific competences in an EC-funded programme, in regional conferences, and in visiting projects in the field. They should be kept informed about the progress of human rights and minority rights in focus countries, and help monitor the safety of project holders.

- The EC delegations should bring EU-funded project holders with similar initiatives together to share experience and network in the region.
- The EC delegation should give concrete advice on how to strengthen EU-funded programmes. In this context, it should make public its relevant programme evaluations, and share and discuss lessons with the relevant stakeholders. Further, a participatory methodology of monitoring, evaluation and impact assessment should be introduced to improve accountability and learning from EU-funded programmes.
- The EC delegation should encourage a rights-based approach to programming to make sure that the root causes of discrimination are addressed in programmes. The delegation could organize training courses on these issues for interested NGOs.
- The EC delegations should publicize lessons learned from pioneering projects locally and regionally.
- The EC should clarify the nature of the EU's relationship with its grantees. If it is decided that the relationship goes beyond a simple contractor fulfilling terms of reference and should be a partnership, then a dialogue should be established with project holders to find ways of being responsive and learning from each other. For instance, the EC delegation in BiH has engaged in a programme called 'Mapping of Non State Actors (NSAs) in BiH – Recommendation of the mechanisms to involve NSAs in the programming, reviewing and evaluation of EC-financed development cooperation'. This is an initiative which should be taken up by other EC delegations in the Western Balkans as it is crucial to make development cooperation relevant and participatory in the region.
- The EC delegations should make financial breakdowns available to show how much of the money allocated to a specific country was used for financing minority programmes, and how much money of the allocated sum actually reached the beneficiaries.

European Court of Justice

So far, members of minorities or NGOs have not used the ECJ for strategic litigation under the existing anti-discrimination legislation or the diversity *acquis*. However, when this happens, the rulings of the Court will be authoritative and exemplary for future member states too.

Candidate and potential candidate states cannot access the ECJ, but

the EU directives related to the anti-discrimination framework can and should be invoked in the national courts. NGOs should, moreover, advocate for swift and meaningful transposition of the directives into the national legislation.

European Agency for Reconstruction

The EAR's major task is to manage the EU's main assistance programmes in Kosovo, Macedonia, Montenegro and Serbia. Therefore, advocacy issues to be raised with the EAR are similar to the ones discussed under the implementation of external assistance of the EC delegations.

However, another important issue is that minorities should benefit equitably from EU assistance. Therefore, key information on access to funds should be translated into minority languages, and the documentation made accessible for minorities, publishing it in the minority-language media.

In addition, in the *Evaluation of the Assistance to Balkan Countries under CARDS Regulation 2666/2000*, of June 2004, it is recommended that gender and ethnicity mainstreaming needs to be improved in the Action Programmes.⁷⁸ NGOs could monitor the implementation of this recommendation and contribute to its implementation by formulating specific recommendations based on ethnically/gender disaggregated data.

Contacts of relevant officials are available on the EAR's website and in chapter 5 of this guide.

Embassies of EU member states in the potential candidate or candidate states

The embassies of EU member states coordinate their work closely with the EC delegation in EU matters, including enlargement and its political criteria comprising the protection of minorities. However, as minority rights do not form part of the *acquis* and the member states' positions on and support for this issue can differ significantly, NGOs should carry out advocacy with embassies strategically relevant to their issue. These can include issue-friendly or politically supportive embassies, and those who are neutral but can be convinced. However, information should be submitted to all embassies, including the non-minority friendly ones, to keep them informed and up-to-date about the issues. Periodic English-language newsletters can be published for this purpose.

The embassies can be useful in advocacy in various ways. They can provide contacts, including the details of an MEP in the home capital, or they can provide a list of organizations which deal with minority issues, and minority organizations.

Embassies can provide documents and information on the existing minority rights protection regime in their countries, including legislation. This is essential for NGOs lobbying in their own country or elsewhere, NGOs can better present their aims if they highlight similarities and differences between their and other experiences. They can provide other relevant legislation and materials, depending on the NGOs' issues of interest.

- Invite relevant staff from embassies to NGO events. This can raise the NGOs' profile and the invitees can be asked to deliver presentations on their country's minority-related experiences. It is important to create close professional relations with embassy staff and get them interested in minority issues. The cultural attaché and the first secretary are always good targets for lobbying. But good relationships with the ambassador can be crucial in enhancing NGOs' advocacy impact.
- Keep in touch with the embassy of the member states holding the ongoing and forthcoming EU Presidencies to get information about the agenda on time. Organize events, regional or in-country conferences, or meetings bringing together an authoritative NGO and expert network on key issues, and write declarations or open letters which can be forwarded to the relevant meeting of the Presidency. NGOs can ask the embassy to forward their letter to the Presidency.

Advocacy in the wider institutional setting of EU policy-making

EU policy-making is carried out in a wider context where there are multiple locations for addressing policy issues, ranging from the local to the global. Advocates have to manage the connections between these locations, and make choices as to which is their preferred forum for addressing a particular issue. As minority rights do not form part of the EU's competence, organizations should become involved in the minority rights processes in other relevant European and international fora, which monitor the EU's and the member states' positions, from an advocacy perspective. The EU has five delegations (in Geneva,

New York, Paris, Rome and Vienna) at centres of international organizations and it often develops a collective position on certain issues.

This table summarizes the pertinent fora and instruments on which minority rights advocacy can be focused:

Regional and international bodies, agencies and instruments relevant to minority rights advocacy		
Council of Europe	OSCE	United Nations
<ul style="list-style-type: none"> ■ Framework Convention for the Protection of National Minorities (FCNM) and the Advisory Committee ■ The European Commission against Racism and Intolerance (ECRI) ■ The European Charter for Regional and Minority Languages ■ European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Court of Human Rights 	<ul style="list-style-type: none"> ■ High Commissioner on National Minorities ■ Human Dimension Implementation Meeting of the Office for Democratic Institutions and Human Rights ■ The OSCE Missions in candidate and potential candidate countries ■ Special Advisor on Roma and Sinti Issues 	<ul style="list-style-type: none"> ■ UN Working Group on Minorities reviewing the implementation of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities ■ The Committee on the Elimination of Racial Discrimination (CERD) monitoring the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) ■ The Committee on Economic, Social and Cultural Rights (CESCR) monitoring the International

		<ul style="list-style-type: none"> Covenant on Economic, Social and Cultural Rights (ICESCR) ■ The Human Rights Committee (HRC) monitoring the International Covenant on Civil and Political Rights (ICCPR) ■ The Committee on the Elimination of Discrimination against Women, monitoring the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ■ The Committee against Torture monitoring the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) ■ The Committee on the Rights of the Child monitoring the Convention on the Rights of the Child (CRC)
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In the 1995 EC communication *The external dimension of the EU's human rights policy: from Rome to Maastricht and beyond*,⁷⁹ the EU reasserts its interest in the issue of national minorities and claims an active contribution to the establishment of some of the related international instruments and institutions, such as the OSCE High Commissioner on National Minorities. In the section on national minorities it claims that the FCNM can be seen as a 'compromise solution' to the controversy among member states on individual versus minority group rights, 'creating a minimum platform of commitments shared by all the organisation's members'.

In the wider institutional framework of EU policy-making, the FCNM is the most important minority rights instrument. It is accepted by the EU as the major frame of reference on the basis of which minority situations in the enlargement countries are assessed. Indeed, within the framework of the 'minority protection criteria' of enlargement there is a continuous exchange of standards and of information regarding compliance with standards, mainly between the Council of Europe and the EU. At times, the opinions of the Advisory Committee, made up of independent experts and reviewing the implementation of the FCNM, are quoted verbatim in the regular reports. Therefore, submitting shadow reports to the Advisory Committee and meeting with the independent experts is an important way to ensure that NGOs' issues are considered by the Council, and the regular reports compiled by the EC's DG Enlargement.

Advocacy carried out in the Council of Europe, UN or OSCE gives advocates a chance to indirectly influence EU standards and policies, and to meet with representatives of EC delegations. Preparing shadow reports complementing a state's report under the FCNM, or submitting information to the relevant EU treaty bodies is no easy exercise. But after being submitted to the body in question, good quality, authoritative documents can be circulated across the major relevant inter-governmental organizations, including the OSCE High Commissioner on National Minorities and the relevant in-country OSCE Missions.

A number of guides published by MRG and other NGOs discuss the advocacy opportunities and strategies within the related international fora. Also, see the list in this guide's bibliography.

Possible advocacy issues – a non-exhaustive list

- Establishment of structured channels of communication between minority civil society, national authorities and the EU in the accession process.
- Joint definition of political Copenhagen criteria/SAP conditionality on minority rights and the anti-discrimination framework, with indicators, by minority communities, national governments and EU for the countries which have not started membership negotiations.
- Codification of minority rights at the EU level.
- Expansion of the interpretation of the existing anti-discrimination legislation to include old minorities.
- Joint definition of national development priorities so that minorities can benefit from EU aid.
- Participatory design, planning, implementation and evaluation of EU-funded programmes with the publication of results.
- Disaggregated data on funds designated for minority-related projects in the Western Balkans, as well as details of what proportion of these funds stays in the region and reaches beneficiaries.
- Establishment of a (SEE) network on minority issues.

Chapter 5

Resources for advocacy activists

Resources for advocacy activists

Getting funds from the EU: what NGOs need to know

Although most EU funding to SEE is channelled through national governments, various programmes provide direct financial support to NGOs. Getting funds from the EU is a difficult and lengthy process. Here is some advice to help NGOs succeed.

Have regular contacts with the EU delegation in-country

The success of an application often depends on the personal relationship between the project manager and the person in charge of selecting projects within the EU delegation. It is advisable to build a relationship over time rather than trying to meet EU officials to discuss just the grant. EC rules do not allow EU officials to discuss projects or proposals in any way, as European competition law applies to the funding activities of the EU.

NGOs should however keep EU officials informed about their projects carried out in collaboration with member states governments and/or international organizations (World Bank, OSCE, Council of Europe, etc). NGOs can also raise their profile by mentioning their participation in projects funded by the EU, but led by an international NGO such as MRG.

Keep information up to date

Be sure to follow the publications of the *Official Journal of the European Communities* and the relevant websites for calls for proposals. Calls for proposal are often published only a few months before the deadline.

Before applying, NGOs should be sure they have looked at all the possible EC programmes and that they have chosen the best funding opportunity, as they can only apply to one programme per project.

Be realistic

The EU will not take any risks in providing funds. NGOs should be consistent with regards to the amount of the grant they are applying for. Indeed, the EU is unlikely to provide an NGO with a grant that greatly exceeds the last grant awarded. In short, NGOs should not apply for a 500,000 euros grant, if their last project cost 50,000 euro.

Stick to proposal and eligibility requirements

A third of proposals are rejected because they do not follow the EU's written guidelines. It is therefore essential to submit a proposal that meets these requirements.

Similarly, a significant number of projects are not selected because applicants do not conform to the eligibility rules. NGOs and all of their partners must meet the eligibility requirements mentioned in the proposal call.

Assess the application

A successful application is an application which will get high scores in the evaluation grid attached to the call for proposals. It is good to assess the application and make sure that it covers all the areas that will be evaluated.

Also bear in mind that EU officials will look at cost effectiveness when selecting projects, i.e. the number of beneficiaries (as indicated in the proposal) divided by the total amount of the grant will give them a 'per capita price' for the project.

Make sure there is sufficient time and money

NGOs are usually required to provide between 10 and 25 per cent of the total fund. Such a condition is to be taken seriously; if it is not respected, the EU can ask for the whole amount of the grant back.

Applying for EU funds, even a small grant, involves a lot of administration before and after receiving the grant. Filling in all of the forms, and providing all of the necessary documents and information, is time (and money) consuming. Moreover, the EU usually takes a year to process applications, and if an NGO is successful, several more months to deliver the funds.

Application checklist

Before submitting an application for EU funding, NGOs might want to consider the following questions:

- Have all the possible EC programmes been studied to ensure that the best opportunity for funding has been chosen? NGOs cannot apply to more than one programme for the same project.
- Has the NGO checked the relevant website to ensure that it has the latest information and application forms?
- Does the project meet the eligibility requirements? Is the NGO financially eligible?
- Does the project meet some or all of the priorities and selection criteria mentioned in the call for proposals?
- If the programme that an NGO is applying under requires partners, has the NGO found them?
- Does the NGO have the capacity to manage the funds, in terms of staff, equipment and experience?
- Have all the required documents been attached to the application? For instance, CVs of relevant staff, officially translated and certified statutes and/or articles of association, and a project summary?
- Have the questions on the application form been completed? The EC will reject an incomplete application.
- Does the application specify how the project falls within the priorities of the particular EU programme? Does the project meet the needs of the country concerned and the target beneficiaries?
- Does the application specify how the project complements or differs from similar projects done by other organizations?

- Is there a description of how the project will be implemented?
- Is the budget calculated in euros?
- Is the manner in which the results of the project will be communicated specified?
- Does the NGO have sufficient capacity to implement the project?
- Has the NGO specified how it will evaluate the project?

EIDHR

The European Initiative for Democracy and Human Rights (EIDHR) is an EU programme aiming to promote and support human rights and democracy in third countries, and is intended for NGOs.

Approximately 100 million euro was available annually to support human rights, democratization and conflict prevention activities to be carried out by NGOs and international organizations. Funding can be given without the host government's consent, or where other EU programmes are not available for other reasons, such as when they have been suspended.

A new EIDHR will be put in place for the 2007–13 financial perspective. It is likely to be similar to the current EIDHR.

The Europe Aid Cooperation Office, also called AIDCO, is responsible for the selection and implementation of projects receiving assistance under the EIDHR. In practice however, most projects are managed by the EU delegations in the relevant countries.

To date, the activities of the EIDHR have covered three types of projects:

- Projects identified through calls for proposals, with a contribution of not less than 150,000 euro, which are implemented by civil society operators including local authorities (but excluding official state, national and international governmental organizations or institutions). For calls for proposals, see: http://europa.eu.int/comm/europeaid/projects/eidhr/cfp_en.htm.
- Micro projects are small projects under 100,000 euro administered directly by the EU delegations in the countries concerned. They are designed to support small-scale human rights and democratization activities carried out by grassroots' NGOs. Note: only certain

countries at a time are eligible for the micro projects programme. For calls for proposals, see: http://europa.eu.int/comm/europeaid/projects/eidhr/cfp-micro_en.htm and contact the in-country EU delegation.

- Targeted projects are directly identified by the EC. It allows the EC to seek out and plan new initiatives corresponding to identified needs, with the partners of its choice – generally international and regional organizations.

International NGOs and donors supporting minority activities

European Centre for Minority Issues (ECMI) – www.ecmi.de
 European Roma Information Office (ERIO) – www.erionet.org
 King Baudouin Foundation (KBF) – www.kbs-frb.be/code/home.cfm
 Minority Rights Group International (MRG) – www.minorityrights.org
 Open Society Institute – www.soros.org

European NGO (ENGO) networks

CONCORD, a European NGO confederation for relief and development consisting of up to 18 international networks and 21 national associations from the EU member states and the candidate countries representing c.1,600 NGOs, www.concordeurope.org.

ERGO (European Roma Grass Roots Organizations) that unites Roma NGOs from Albania, Bulgaria, Moldova, Romania and Slovakia, http://www.spolu.nl/index.html?http://www.spolu.nl/m3a_ergo.html.

ENAR (European Network against Racism), a coalition of c. 600 European NGOs working to combat racism in all the EU member

states, www.enar-eu.org.

HRDN (Human Rights Democracy Network), an informal grouping of a large number of human rights NGOs working at the European level including Amnesty International and Human Rights Watch, www.act4europe.org/code/en/sect.asp?Page=41.

Relevant contacts within the EU

The Electronic Directory of the European Institutions (EU who's who) <http://europa.eu.int/idea/en/>

European Parliament

European Parliament
 The Secretariat, Rue Wiertz, B.P. 1047, B-1047 Brussels, Belgium
Tel: +32 2 284 21 11
Fax: +32 2 284 90 75

Website: www.europarl.europa.eu/

See: www.europarl.europa.eu/activities/expert/committees.do?language=EN for a list of committees and their members. To send an email to an MEP, use the following email address format: `firstinitiallastname@europarl.eu.int`.

European Commission

Directorate General for Enlargement

European Commission, DG Enlargement, Rue de la Loi 200, B-1049 Brussels, Belgium

Tel: +800 6 789 10 11 (from any country within the EU)

Tel: +32 2 299 96 96 (from any country)

Website: www.ec.europa.eu/comm/enlargement/index_en.htm

See: www.ec.europa.eu/dgs_en.htm for a list of DGs and their members. To send an email to a specific person in the EC, use the following email address format: `lastname@cec.eu.int`.

For the organization chart of the DG Enlargement, go to: www.ec.europa.eu/comm/enlargement/whoswho/dg_elarg_en.htm

EU delegations in SEE

Delegation of the European Commission in Albania

Rr. 'Donika Kastrioti' Villa 42, Tirana, Albania

Tel: +355 (0)4 228320/+355 (0)4 228479

Fax: +355 (0)4 230752

Email: delegation-albania@cec.eu.int

Website: <http://www.delalb.cec.eu.int/>

Delegation of the European Commission in Bosnia and Herzegovina

Dubrovacka 6, 71000 Sarajevo, Bosnia and Herzegovina

Tel: +387 33 254 700

Fax: +387 33 666 037

Email: delegation-bih@cec.eu.int

Website: <http://www.delbih.ec.europa.eu/>

Representation Office in Banja Luka

Milana Stevilovica 46, 78000 Banja Luka, Bosnia and Herzegovina

Tel: +387 51 318 702

Fax: +387 51 310 029

Email: delegation-bih-bl@cec.eu.int

Delegation of the European Commission in Bulgaria

9, Moskovska St., 1000 Sofia, Bulgaria

Tel: +359 2 933 52 52

Fax: +359 2 933 52 33

Email: delegation-bulgaria@cec.eu.int

Website: <http://www.evropa.bg/en/del/>

Delegation of the European Commission in the Republic of Croatia

Masarykova 1, 10000 Zagreb, Croatia

Tel: +385 (0)1 4896 500

Fax: +385 (0)1 4896 555

Email: delegation-croatia@cec.eu.int

Website: <http://www.delhrv.ec.europa.eu/>

European Commission Liaison Office to Kosovo

Kosovo Street 1 (P.O. Box 331) Pristina, Kosovo

Tel: +381 38 51 31 323

Fax: +381 38 51 31 305

Email: ec-liaison-office-kosovo@ec.europa.eu

Website: www.delprn.cec.eu.int

Delegation of the European Commission in Macedonia

Marsal Tito 12, 1000 Skopje, Macedonia

Tel: +389 2 3122 032

Fax: +389 2 3126 213

Email: delegation-FYRMacedonia@cec.eu.int

Website: <http://www.delmkd.cec.eu.int/>

Delegation of the European Commission in Serbia

Krunska 73, 11 000 Belgrade, Serbia

Tel: +381 11 30 83 200

Fax: +381 11 30 83 201

Email: delegation-serbia@ec.europa.eu

Website: <http://www.delscg.cec.eu.int/>

For details on the delegation of the European Commission in Montenegro, check the EC Enlargement website which was under revision at the time of publication.

European Agency for Reconstruction

Headquarters

Egnatia 4, Thessaloniki 54626, Greece

Tel: +30 2310 505 100

Fax: +30 2310 505 172

Email: info@ear.eu.int

Website: www.ear.eu.int/home/default.htm

Operational centres

Kosovo

P.O. Box 200 Pristina, Kosovo UNMIK

Tel: +381 38 513 1 200

Fax: +381 38 249 963

Macedonia

Makedonia 11, Skopje 1000, Macedonia

Tel: +389 2 3286 700

Fax: +389 2 3124 760

Montenegro

Urb. Parcel 137, Gorica C, Podgorica 81000, Montenegro

Tel: +381 81 406 600

Fax: +381 81 231 742

Serbia

Vasina 2–4, Belgrade 11000, Serbia

Tel: +381 11 30 234 00

Fax: +381 11 30 234 55

**European Bureau for Lesser-Used
Languages (EBLUL)**

Sr. Chill Dara, Kildare St. 46, Baile Átha Cliath, Dublin 2, Ireland

Tel: 00 353 1 679 4764

Website: <http://www.eblul.org>

**European Monitoring Centre on Racism and
Xenophobia (EUMC)**

Rahlgasse 3, A–1060 Vienna, Austria

Tel: +43 (1)580 30 0

Fax: +43 (1)580 30 99

Email: information@eumc.europa.eu

Website: www.eumc.eu.int/eumc/index.php

Note: The EUMC will be converted to the European Union Agency for Fundamental Rights.

Minority friendly governments

Governments actively promoting minority protection internationally can be of assistance to minority NGOs. In addition to these

governments' embassies in-country, NGOs can get in contact with the following institutions:

Austria

Department for National Minority Affairs, Federal Chancellery,
Ballhausplatz 2, A–1010 Vienna

Tel: +43 1 53115 0

Email: vpost@bka.gv.at

Website: <http://www.austria.gv.at/DesktopDefault.aspx?alias=english&init>

Austrian Development Agency GmbH, Zelinkagasse 2, A–1010
Vienna

Tel: +43 1 90 3 99 0

Fax: +43 1 50115 9 277

Email: programme@ada.gv.at

Website: www.ada.gv.at

Finland

Ministry of Foreign Affairs, Department for Europe, Unit West
Balkans, Merikasarmi, Laivastokatu 22 G, P.O. Box 176, 00161
Helsinki

Tel: +358 9 1605 5784 or 1605 5096

Email: eur-15@formin.fi

Website: <http://formin.finland.fi/Public/Default.aspx>

Hungary

Ministry of Foreign Affairs, Department of Human Rights and
European Organizations, Nagy Imre tér 4., 1027 Budapest

Tel: +361 201 7723

Fax: +361 201 7893

Email: titkarsag.ekjf@kum.hu

Website: <http://www.mfa.gov.hu/kum/en/bal/Ministry/departments>

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Key EU documents

EU Treaties

Treaty Establishing the European Community (TEC)

http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002E/pdf/12002E_EN.pdf

Treaty on European Union (TEU)

http://europa.eu.int/eur-lex/lex/en/treaties/dat/12002M/pdf/12002M_EN.pdf

Treaty of Nice

http://europa.eu.int/eur-lex/lex/en/treaties/dat/12001C/pdf/12001C_EN.pdf

Treaty Establishing a Constitution for Europe

<http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML>

Charter

Charter of Fundamental Rights of the European Union

http://europa.eu.int/eur-lex/pri/en/oj/dat/2000/c_364/c_36420001218en00010022.pdf

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Directives

Race Directive

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/legisln/2000_43_en.pdf

Employment Directive

Council Directive 2000/78/EC of 27 November 2000 establishing the general framework for equal treatment in employment and occupation. http://europa.eu.int/comm/employment_social/fundamental_rights/pdf/legisln/2000_78_en.pdf

Gender Directives

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services http://www.ei-ie.org/payequity/EN/docs/EU%20Documents/2004_113.pdf

Council Directive 2002/73/EC of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_269/l_26920021005en00150020.pdf

Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC – Annex : Framework agreement on part-time work http://europa.eu.int/eur-lex/pri/en/oj/dat/1998/l_014/l_01419980120en00060008.pdf

Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex http://europa.eu.int/eur-lex/pri/en/oj/dat/1998/l_014/l_01419980120en00060008.pdf

Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICEF, CEEP and the ETUC <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0034:EN:HTML>

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31993L0104:EN:HTML>

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31992L0085:EN:HTML>

Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31986L0613:EN:HTML>

Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31986L0378:EN:HTML>

Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31979L0007:EN:HTML>

Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions http://europa.eu.int/eur-lex/en/consleg/pdf/1976/en_1976L0207_do_001.pdf

Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31975L0117:EN:HTML>

Stabilization and Association process in SEE

Albania

<http://ec.europa.eu/comm/enlargement/albania/>

Stabilisation and Association Agreement

<http://ec.europa.eu/comm/enlargement/albania/pdf/st08164.en06.pdf>

Country Strategy Paper 2002-2006

http://www.europa.eu.int/comm/enlargement/albania/pdf/02_06_en.pdf

First Annual Stabilisation and Association Report (2002)

http://www.europa.eu.int/comm/enlargement/albania/pdf/com02_339.pdf

Second Annual Stabilisation and Association Report (2003)

http://www.europa.eu.int/comm/enlargement/albania/pdf/com03_339_en.pdf

Third Annual Stabilisation and Association Report (2004)

http://www.europa.eu.int/comm/enlargement/albania/pdf/cr_alb.pdf

Council Decision on the principles, priorities and conditions contained in the European Partnership with Albania (June 2004)

http://www.europa.eu.int/comm/enlargement/albania/pdf/European_Partnership_Albania_en.pdf

Progress Report on Albania (2005)

http://ec.europa.eu/comm/enlargement/report_2005/pdf/package/sec_1421_fin_al_en_progress_report_al.pdf

Bosnia and Herzegovina

http://ec.europa.eu/comm/enlargement/bosnia_herzegovina/index.htm

Country Strategy Paper 2002–2006

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http://www.europa.eu.int/comm/enlargement/bosnia_herzegovina/pdf/02_06_en.pdf

First Annual Stabilisation and Association Report (2002)

http://www.europa.eu.int/comm/enlargement/bosnia_herzegovina/pdf/com02_340.pdf

Second Annual Stabilisation and Association Report (2003)

http://www.europa.eu.int/comm/enlargement/bosnia_herzegovina/pdf/com03_340_en.pdf

Third Annual Stabilisation and Association Report (2004)

http://www.europa.eu.int/comm/enlargement/bosnia_herzegovina/pdf/cr_bih.pdf

Council Decision on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina (June 2004)

http://www.europa.eu.int/comm/enlargement/bosnia_herzegovina/pdf/European_Partnership_Bosnia_Herzegovina_en.pdf

Progress Report on Bosnia and Herzegovina (2005)

http://ec.europa.eu/comm/enlargement/report_2005/pdf/package/sec_1422_final_en_progress_report_ba.pdf

Bulgaria

<http://ec.europa.eu/comm/enlargement/bulgaria/index.htm>

Treaty of Accession for Bulgaria and Romania

http://ec.europa.eu/comm/enlargement/negotiations_eu10_bg_ro/treaty_of_accession_2005/pdf/Treaty_of_Accession_Bulgaria_Romania.pdf

Comprehensive Monitoring Report on Bulgaria (2005)

http://ec.europa.eu/comm/enlargement/report_2005/pdf/SEC1352_CMR_MAST_ER_BG%20COLLEGE.pdf

Monitoring Report on Bulgaria (2006)

http://ec.europa.eu/comm/enlargement/report_2006/pdf/monitoring_report_bg_en.pdf

Accession Partnership (2003)

http://ec.europa.eu/comm/enlargement/bulgaria/pdf/apbg_0303_en.pdf

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Croatia

<http://ec.europa.eu/comm/enlargement/croatia/index.htm>

Country Strategy Paper 2002–2006

http://ec.europa.eu/comm/enlargement/croatia/pdf/02_06.pdf

CARDS Regional Strategy Paper 2002–2006

http://ec.europa.eu/comm/enlargement/croatia/pdf/sp02_06.pdf

Stabilisation and Association Agreement

http://ec.europa.eu/comm/enlargement/docs/pdf/western_balkans/SAA_Croatia.pdf

First Annual Stabilisation and Association Report (2002)

http://ec.europa.eu/comm/enlargement/croatia/pdf/com02_163.pdf

Second Annual Stabilisation and Association Report (2003)

http://ec.europa.eu/comm/enlargement/croatia/pdf/com03_139_en.pdf

Commission Opinion on Croatia's Application for Membership of the European Union (2004)

http://ec.europa.eu/comm/enlargement/croatia/pdf/cr_croat.pdf

Progress Report on Croatia (2005)

http://ec.europa.eu/comm/enlargement/report_2005/pdf/package/sec_1424_final_en_progress_report_hr.pdf

Kosovo

http://ec.europa.eu/enlargement/serbia/kosovo/index_en.htm

Progress Report on Kosovo (2005)

http://ec.europa.eu/comm/enlargement/report_2005/pdf/package/sec_1423_final_en_progress_report_ks.pdf

A European Future for Kosovo (2005)

http://ec.europa.eu/comm/enlargement/docs/pdf/COMM_PDF_COM_2005_0156_F_EN_ACTE.pdf

Macedonia

http://ec.europa.eu/comm/enlargement/fyrom/key_documents.htm

Country Strategy Paper 2002–2006

http://ec.europa.eu/comm/enlargement/fyrom/pdf/02_06_en.pdf

Commission Opinion on Macedonia's Application for Membership of the European Union (2005)

http://ec.europa.eu/comm/enlargement/report_2005/pdf/package_v/com_562_final_en_opinion_fyrom.pdf

Stabilisation and Association Agreement

http://ec.europa.eu/comm/enlargement/fyrom/pdf/saa03_01.pdf

First Annual Stabilisation and Association Report (2002)

http://ec.europa.eu/comm/enlargement/fyrom/pdf/com02_342.pdf

Second Annual Stabilisation and Association Report (2003)

http://ec.europa.eu/comm/enlargement/fyrom/pdf/com03_342_en.pdf

Third Annual Stabilisation and Association Report (2004)

http://ec.europa.eu/comm/enlargement/fyrom/pdf/cr_fyrom.pdf

Council Decision on the principles, priorities and conditions contained in the European Partnership with the Former Yugoslav Republic of Macedonia (June 2004)

http://ec.europa.eu/comm/enlargement/fyrom/pdf/European_Partnership_fYROM_en.pdf

Montenegro

** The EU website is currently under revision

http://ec.europa.eu/enlargement/montenegro/index_en.htm

Serbia

http://ec.europa.eu/enlargement/serbia/index_en.htm

First Annual Stabilisation and Association Report (2002)

http://ec.europa.eu/comm/enlargement/serbia_montenegro/pdf/com02_343.pdf

Second Annual Stabilisation and Association Report (2003)

http://ec.europa.eu/comm/enlargement/serbia_montenegro/pdf/com03_343_en.pdf

Third Annual Stabilisation and Association Report (2004)

http://ec.europa.eu/comm/enlargement/serbia_montenegro/pdf/cr_s-m.pdf

Council Decision on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro (June 2004)

http://ec.europa.eu/comm/enlargement/serbia_montenegro/pdf/European_Partnership_Serbia_Montenegro_en.pdf

Serbia and Montenegro Feasibility Report (2005)

http://ec.europa.eu/comm/enlargement/docs/pdf/sam_feasibility_report_staff_working_paper_en.pdf

International legal instruments for minority protection

Council of Europe

European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=005&CM=7&DF=5/11/2006&CL=ENG

Framework Convention for the Protection of National Minorities (FCNM)

www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=157&CM=7&DF=5/11/2006&CL=ENG

European Charter for Minority and Regional Languages (ECMRL)

www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=148&CM=7&DF=5/11/2006&CL=ENG

United Nations

Universal Declaration of Human Rights <http://www.un.org/Overview/rights.html>

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) www.ohchr.org/english/law/minorities.htm

International Convention on the Elimination of All Forms of Racial Discrimination (CERD) www.ohchr.org/english/law/cerd.htm

Convention on Economic, Social and Cultural Rights (ICESCR) www.ohchr.org/english/law/cescr.htm

International Covenant on Civil and Political Rights (ICCPR) www.ohchr.org/english/law/ccpr.htm

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) www.ohchr.org/english/law/cedaw.htm

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) www.ohchr.org/english/law/cat.htm

Convention on the Rights of the Child (CRC) www.ohchr.org/english/law/crc.htm

OSCE

Document of the Copenhagen Conference on the Human Dimension of the CSCE www.osce.org/documents/odhr/1990/06/13992_en.pdf

Document of the Helsinki Conference on the Challenges of Change www.osce.org/documents/mcs/1992/07/4046_en.pdf

HCNM Hague Recommendations Regarding the Education Rights of National Minorities www.osce.org/documents/hcnm/1996/10/2700_en.pdf

HCNM Oslo Recommendations Regarding the Linguistic Rights of National Minorities www.osce.org/documents/hcnm/1998/02/2699_en.pdf

HCNM Lund Recommendations on the Effective Participation of National Minorities in Public Life www.osce.org/documents/hcnm/1999/09/2698_en.pdf
Report and recommendations on the Situation of Roma and Sinti in the OSCE Area www.osce.org/documents/hcnm/2000/03/241_en.pdf

Guidelines on the use of Minority Languages in the Broadcast Media www.osce.org/documents/hcnm/2003/10/2242_en.pdf

Ratifications of the main international documents of minority protection Signatures and ratifications of treaties of the Council of Europe relating to minorities (as at 30 June 2006)

	ECHR		Protocol 12 (ECHR)		FCNM		ECMRL		Ratification/ Accession																		
	Signature	13/07/1995	24/04/2002	07/05/1992	06/11/1996	05/11/1997	10/04/1997	03/03/2004		03/04/2003	03/03/2004	03/04/2003	04/11/2000	06/03/2002	06/11/1996	09/10/1997	24/02/2000	29/06/1995	07/05/1999	11/10/1997	07/05/1999	05/11/1997	25/07/1996	22/03/2005	15/02/2006		
Albania																											
Bosnia and Herzegovina																											
Bulgaria																											
Croatia																											
Kosovo																											
Macedonia																											
Montenegro**																											
Serbia**																											

*Technical Agreement signed between UNMIK and the Council of Europe

** Following the dissolution of the State Union of Serbia and Montenegro, Serbia has become the legal successor taking on all the international obligations and commitments. Montenegro became a candidate for membership of the Council of Europe on 6 June 2006, it has yet to become member a full member and accede to the international human rights conventions.

Ratifications of UN treaties relevant for minorities (as at 30 June 2006)

	CERD	ICESCR	ICCPR	CEDAW	CAT	CRC
Albania	11/05/1994	04/10/1991	04/10/1991	11/05/1994	11/05/1994	27/02/1992
Bosnia and Herzegovina	16/07/1993	01/09/1993	01/09/1993	01/09/1993	01/09/1993	01/09/1993
Bulgaria	08/08/66	21/09/1970	21/09/1970	08/02/1982	16/12/86	03/06/1991
Croatia	12/10/1992	12/10/1992	12/10/1992	09/09/1992	12/10/1992	12/10/1992
Kosovo	-	-	-	-	-	-
Macedonia	18/01/1994	18/01/1994	18/01/94	18/01/1994	12/12/1994	02/12/1993
Montenegro*	-	-	-	-	-	-
Serbia*	12/03/2001	12/03/2001	12/03/2001	12/03/2001	12/03/2001	12/03/2001

*Following the dissolution of the State Union of Serbia and Montenegro, Serbia has become the legal successor taking on all the international obligations and commitments. Montenegro became a member state of the UN on 28 June 2006 and has yet to accede to the international human rights conventions.

Main minority and anti-discrimination national legislations	
Albania	Albania Constitution of the Republic of Albania, 1998 Decision on Elementary Education in the Native Language of National Minority People, 1994
Bosnia and Herzegovina	Constitution of Bosnia and Herzegovina, 1995 Law on the Freedom of Religion and the Legal Position of Churches and Religious Communities in Bosnia and Herzegovina, 2004 Law on Protection of Members of National Minorities, 2003; amended 2005
Bulgaria	Constitution of the Republic of Bulgaria, 1991 Anti-discrimination Act, 2003
Croatia	Constitution of the Republic of Croatia, 2001 Constitutional Law on the Rights of National Minorities, 2002 Law on Education in Languages of National Minorities, 2000
Kosovo	Constitutional Framework for Kosovo, 2000 Anti-discrimination Law, 2004
Macedonia	Constitution of the Republic of Macedonia, amendments of 2001 Framework Agreement for Macedonia, 2001 Law on Religious Communities and Religious Groups, 1997
Montenegro	Law on Minority Rights and Freedoms, 2006
Serbia	Since the dissolution of the State Union of Serbia and Montenegro, Serbia lacks the legal framework for the protection of minorities since the latter was part of the federal domain until May 2006 and was not taken over. At present, it is not clear which legal framework for minority protection Serbia will put in place.

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Recommendations on Policing in Multi-Ethnic Societies
www.osce.org/documents/hcnm/2006/02/17982_en.pdf

Glossary

Glossary

Adapted from:

http://www.europa.eu.int/abc/eurojargon/index_en.htm

http://www.europa.eu.int/scadplus/glossary/index_en.htm

<http://www.unep.org/padeli/publications/handbook7.htm>

<http://europa.eu.int/comm/enlargement/pas/phare/glossary.htm>

Absorption capacity refers to the ability of a country or organization to receive aid and use it effectively. For example, a country may receive enough money to enable all of its children to attend primary school, but owing to a lack of teachers, lack of schools or a poor administrative system, it is impossible to spend this money in the short term. Work must first be done to train teachers, build schools and improve the efficiency of the system, thus raising the country's 'absorptive capacity'.

Acceding country is a candidate country that has met the Copenhagen criteria and completed negotiations for joining the EU.

Accession Partnership is a document agreed by the Council setting out the EU's view of priorities in accession preparations in the short and medium term for candidate countries.

Acquis communautaire is a French term meaning, essentially, 'Community patronage/heritage' – in other words, the rights and obligations that EU countries share. The *acquis* includes all the EU's treaties and laws, declarations and

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resolutions, international agreements on EU affairs and the judgements given by the ECJ. It also includes action that EU governments take together in the area of 'justice and home affairs' and on the CFSP. Candidate countries have to accept the *acquis* before they can join the EU, and make EU law part of their national legislation.

Applicant country is a country that has applied to join the EU. Once its application has been officially accepted, it becomes a candidate country.

'**Brussels**' is often used to refer to the EU institutions, most of which are located in the Belgian capital of Brussels.

Candidate country is an applicant country whose application has been officially accepted.

CARDS (Community Assistance for Reconstruction, Development and Stabilization) is a financial assistance programme of the EU aiming to support the participation of the countries of the Western Balkans in the Stabilization and Association process.

Civil dialogue refers to consultations with civil society when the EC is drawing up its policies and proposals for legislation. It is a broader concept than 'social dialogue'.

Civil society is the collective name for all kinds of organizations and associations that are not part of government but that represent professions, interest groups or sections of society. It includes trade unions, employers' associations, environmental lobbies and groups representing women, farmers, people with disabilities, etc.

Cohesion literally means 'sticking together'. The jargon term 'promoting social cohesion' means the EU tries to make sure that everyone has a place in society, for example by tackling poverty, unemployment and discrimination. The EU budget includes money known as the 'Cohesion Fund' which is used to finance projects that help the EU 'stick together'. For example, it finances new road and rail links that help disadvantaged regions take a full part in the EU economy.

Common Agricultural Policy (CAP) is the EU policy aiming to ensure reasonable prices for Europe's consumers, and fair incomes for farmers, in particular by establishing common organizations for agricultural markets and by applying the

principles of single prices, financial solidarity and Community preference. EU subsidies under the CAP account for 45 per cent of the EU budget.

Common market entails the free movement of people, goods and services between the member states with no checks carried out at the borders and no customs duties paid.

Communitization means transferring a matter from the second or third 'pillar' of the EU to the first 'pillar' so that it can be dealt with using the 'Community method'.

Community bridge is a procedure for transferring certain matters from the third 'pillar' of the EU to the first 'pillar' so that they can be dealt with using the Community method. Any decision to use the bridge has to be taken by the Council, unanimously, and then ratified by each member state.

Community method is the EU's usual method of decision-making, in which the Commission makes a proposal to the Council and EP, which then debate it, propose amendments and eventually adopt it as EU law. In the process, they will often consult other bodies such as the European Economic and Social Committee and the Committee of the Regions.

Conditionality is a policy of setting particular conditions for moving towards full membership. These conditions are broad and fundamentally transform the political and economic system of the countries in question.

Constitution of the EU is a single, short and simple document spelling out the EU's purposes and aims intended to replace the founding treaties of the EU. It is rather similar to the Constitution of a country, even though the EU is not, and does not aim to be, a single country. The text must be ratified by all the national parliaments and, in some countries, be approved by referendum, but ultimately will probably not be ratified.

Convention on the Future of Europe, also known as the European Convention, was tasked in 2001 to draw up a new treaty that would set out clear rules for running the EU after the 2004 enlargement. It had 105 members, representing the Presidents or Prime Ministers of the EU member states and candidate countries, their national parliaments, the EP and the EC.

Copenhagen criteria are the criteria that any candidate country must meet before it can join the EU. First, it must have stable institutions, guaranteeing democracy, the rule of law, human rights and respect for minorities. Second, it must have a functioning market economy. Third, it must adopt the *acquis* and support the EU's aims. In addition, it must have a public administration capable of applying and managing EU laws in practice. The EU reserves the right to decide when a candidate country has met these criteria and when the EU is ready to accept the new member. The fourth criterion relates to the EU and whether it is structurally and organizationally able to absorb an additional member state.

Council can refer to **European Council**, **Council of the European Union** and **Council of Europe**. **European Council** is the meeting of heads of state and government (i.e. Presidents and/or Prime Ministers) of all the EU countries, plus the President of the EC to agree overall EU policy and to review progress. It is the highest-level policy-making body in the EU, which is why its meetings are often called 'summits'.

Council of the European Union, formerly known as the **Council of Ministers**, consists of government ministers from all the EU countries. The Council meets regularly to take detailed decisions and to pass European laws.

Council of Europe is not an EU institution. It is an inter-governmental organization established in 1949 and based in Strasbourg, aiming to protect human rights, to promote Europe's cultural diversity and to combat social problems such as xenophobia and intolerance.

Decision is a European legal act which is fully binding on those to whom it is addressed.

Democratic deficit refers to the remoteness of the EU's decision-making system from ordinary people, who cannot understand its complexities and its difficult legal texts. The EU is trying to overcome this through simpler legislation and better public information, and by giving civil society a greater say in EU policy-making.

Discrimination can be direct or indirect. **Direct discrimination** occurs where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin, religion, age, gender, disability, sexual orientation. **Indirect discrimination** occurs where an

apparently neutral provision, criterion or practice would put persons of a certain group at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate or necessary.

Directive is European legislation which is legally binding and must be transposed into domestic law by all member states, although the form, procedure and instrument of implementation are left to the discretion of national governments.

Directorates General are distinct departments constituting the EC 'ministries'.

Enhanced cooperation is an arrangement whereby a group of EU countries (there must be at least eight) can work together in a particular field even if the other EU countries are unable or unwilling to join in at this stage. The outsiders must, however, be free to join in later if they wish.

Enlargement countries for the purpose of this guide is the umbrella designation for acceding, candidate and potential candidate countries.

EU-15 comprises Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom

EU-25 comprises the EU-15 plus Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Slovakia, Slovenia, Poland

Eurocrat refers to the many thousands of EU citizens who work for the European institutions.

Euroland is an unofficial nickname for what is officially called 'the euro area', also often referred to as 'the euro zone'. This area consists of the EU member states that have adopted the euro as their currency. So far these countries are: Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal and Spain. Slovenia is expected to join in 2007.

EUROPA is the Latin name for Europe, and it is also the name of the EU's official website.

Europe Agreement is a specific type of association agreement concluded between the EU and certain CEE states with the aim to prepare the associated state for accession to the EU based on respect for human rights, democracy, the rule of law and the market economy. Since the accession of the 10 new member states on 1 May 2004, the Europe and association agreements with those countries are no longer in force. They were replaced by accession treaties. Only the agreements with the countries that have not yet joined the EU (Bulgaria, Romania and Turkey) are still in force.

Europe day is celebrated on 9 May to mark the day in 1950 when Robert Schuman, then French Foreign Minister, made his famous speech proposing European integration as the way to secure peace and build prosperity in post-war Europe. His proposals laid the foundations for what is now the EU.

European Communities refers to the three organizations established in the 1950s by six European countries. They are the European Coal and Steel Community (ECSC), the European Atomic Energy Community (Euratom) and the European Economic Community (EEC). These three communities – collectively known as the 'European Communities' – formed the basis of what is today the EU. The EEC soon became by far the most important of the three and was eventually renamed simply 'the European Community'. They constitute the first 'pillar' of the EU.

European Economic Area (EEA) consists of the EU and all the EFTA countries except Switzerland. The EEA Agreement, which entered into force on 1 January 1994, enables Iceland, Liechtenstein and Norway to enjoy the benefits of the EU's single market without the full privileges and responsibilities of EU membership.

European Economic Community (EEC) one of three European Communities set up in 1957 to bring about economic integration in Europe.

European Free Trade Association (EFTA) was founded in 1960 to promote free trade in goods among its member states. A number of member states eventually left EFTA to join the EEC. Today the EFTA members are Iceland, Liechtenstein, Norway and Switzerland.

European integration means building unity between European countries and

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peoples. Within the EU it means that countries pool their resources and take many decisions jointly.

European Partnerships are established between the EU and Albania, Bosnia and Herzegovina, Croatia, Macedonia and Serbia and Montenegro including Kosovo. They provide a framework covering the priorities resulting from the analysis of the partners' different situations, on which preparations for further integration into the EU must concentrate in the light of the criteria defined by the European Council, and, where appropriate, the progress made in implementing the SAP including SAAs, and in particular regional cooperation.

Europeanization is broader than conditionality in that it designates the development of a process in which political elites and institutions are transformed through the accession to share the values of the EU.

Eurosceptic refers to a person who is opposed to European integration, or who is 'sceptical' of the EU and its aims.

'Fathers' of the European Union In the years following the Second World War, people like Jean Monnet and Robert Schuman dreamed of uniting the peoples of Europe in lasting peace and friendship. Over the following 50 years, as the EU was built, their dream became a reality. That is why they are called the 'founding fathers' of the EU.

Financial perspective really means 'financial plan'. The EU has to plan its work well in advance and ensure that it has enough money to pay for what it wants to do. So its main institutions have to agree in advance on the priorities for the next few years and come up with a spending plan, which is called a 'financial perspective'. This states the maximum amount the EU can spend, and what it can spend it on. The purpose of the financial perspective is to keep EU expenditure under control.

'Fortress Europe' refers to the attitude that wants to defend the EU from outside influences, especially cultural influences. The term often appears in discussions about asylum and immigration regulations.

Four freedoms refer to the people, goods, services and money which are all meant to be able to move around freely within the EU.

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Green paper is a document prepared by the EC to stimulate debate and launch a process of consultation at European level on a particular topic.

Hard law is law duly created through the recognized procedure of law-making in international law, such as a treaty which was adopted, ratified and has entered into force. Such law carries binding obligations for the signatories and is recognized as such before international tribunals.

Harmonization is the process whereby national laws and regulations are brought into line with one another, so that the rules laid down by the different EU countries impose similar obligations on citizens of all those countries.

Inter-governmental literally means 'between governments'. In the EU, some matters – such as security and defence issues – are decided purely by agreement between the governments of the EU countries, and not by the 'Community method'. These inter-governmental decisions are taken by ministers meeting in the Council of the European Union, or at the highest level by the Prime Ministers and/or Presidents of the EU countries, meeting as the European Council.

Inter-governmental conference is a conference at which the EU member states' governments come together to amend the EU treaties.

Instrument of Pre-accession Assistance (IPA) reflects the rationalization of the pre-accession aid provided by the EU to potential members. The pre-accession assistance is streamlined through the creation of a single framework for assistance: the IPA. This framework incorporates the PHARE, ISPA and SAPARD system along with structural funds' and rural development funds' components. The objective is to better prepare the candidate countries for the implementation of structural and rural development funds after accession.

Maastricht criteria are the five criteria that determine whether an EU country is ready to adopt the euro. They relate to price stability, budget deficit, debt, interest rates and exchange rate stability.

Opinion is a non-binding EU document setting out the position taken by the issuer.

Pillars of the EU these are three separate 'domains' (policy areas), in which the EU takes decisions. The first pillar is the 'Community domain', covering most of the common policies, where decisions are taken by the 'Community method' and involve the EP, Council and the EC. The second pillar is the CFSP, where decisions are taken by the Council alone. The third pillar is 'police and judicial cooperation in criminal matters', where – once again – the Council takes the decisions. Within the first pillar, the Council normally takes decisions by 'qualified majority' vote. In the other pillars, the Council decision has to be unanimous: it can therefore be blocked by the veto of any one country. If the Council so decides, it can use the 'Community bridge' to transfer certain matters from the third to the first pillar.

Qualified majority voting on most issues, the Council takes its decisions by voting. Each country can cast a certain number of votes, roughly in proportion to the size of its population. For a proposal to be adopted by the Council, there must be a 'qualified majority' in favour. This means at least 232 votes out of the total of 321. A majority of the countries (in some cases a two-thirds majority) must also be in favour. In addition, any country can ask the Council to check that the countries in favour account for at least 62 per cent of the total EU population.

Recommendation is a non-binding EU legal act stating what action or approach is expected from the addressee.

Regulation is binding European legislation directly applicable in all member states.

Stabilization and Association process (SAP) is the EU policy towards the Western Balkans, seeking to promote stability within the region while facilitating closer association with the EU. A key element of the SAP, for countries that have made sufficient progress in terms of political and economic reform and administrative capacity, is a formal contractual relationship with the EU in the form of a Stabilization and Association Agreement (SAA). The SAP is designed to help each country to progress at its own pace towards greater European integration.

Social dialogue implies discussion, negotiation and joint action between the European social partners and discussions between these social partners and the EU institutions.

Social partners is jargon for the two sides of industry – employers and workers. At EU level they are represented by their respective umbrella organizations. The EC consults them when drawing up proposals for social and employment legislation.

Soft law refers to the more informal stages in the conception of rules of international law, when these have not yet crystallized; or to emerging bilateral or multilateral understanding or common positions between or among states, that have not yet become mandatory even though they point towards more or less accepted usages. Typically, soft law takes the form of declarations, resolutions, guidelines, action plans, etc., and, where it fills an important gap in international practice, it later crystallizes into a treaty, i.e. hard law.

Stability Pact for South Eastern Europe, launched in 1999, it is the first comprehensive conflict prevention strategy of the international community, aimed at strengthening the efforts of SEE countries in fostering peace, democracy, respect for human rights and economic prosperity.

'**Strasbourg**' is sometimes used to mean the EP because plenary sessions are held in this French city or, more frequently the European Court of Human Rights and the Council of Europe – which are not EU institutions but are also based there.

Structural funds are the financial instruments of EU regional policy, which is intended to narrow the development disparities among regions and member states.

Subsidiarity principle requires that EU decisions be taken as closely as possible to the citizen. The EU does not take action, except on matters for which it alone is responsible, unless EU action is more effective than action taken at national, regional or local level.

Summits refer to the meetings of the European Council because they bring together the EU's heads of state or government.

Supranational literally means 'at a level above national governments'. Many EU decisions are taken at 'supranational' level in the sense that they involve the EU institutions, to which EU countries have delegated some decision-making powers.

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Third country is a country outside the EU.

Transnational describes the cooperation between businesses or organizations based in more than one EU country.

Transparency is often used to mean openness in the way the EU institutions work. This includes improved public access to information, and clearer and more readable documents.

Transposition is the process of turning European directives into national law.

Twinning is an agreement between a candidate country and one or more member state administrations to transfer *acquis*-related skills and knowledge.

Two-speed Europe refers to the theoretical possibility that, in future, a particular core group of EU member states may decide to move faster towards European integration.

Unanimity is a decision-making procedure whereby all countries at the Council have to agree on a given issue. The unanimity rule now applies only in particularly sensitive areas such as asylum, taxation and the common foreign and security policy. In most fields, decisions are now taken by qualified majority voting.

Western Balkans include Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia.

White paper is a document prepared by the EC containing proposals for Community action in a specific area. When a white paper has been favourably received by the Council, it can become the action programme for the EU in the area concerned.

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Notes

Notes

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- 4 EU-15 comprises Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Ireland, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom.
- 5 http://europa.eu/abc/panorama/index_en.htm
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- 2004, available at: <http://igi.osi.hu/publications/2004/261/Minority-Protection-and-the-Enlarged-EU.pdf>. In addition, for an outline of the EU's legal framework for the management of ethnic and cultural diversity including mobile EU citizens, migrants as well as new and old minorities, see: Toggenburg, G.N., *Who is Managing Ethnic and Cultural Diversity in the European Condominium? The Moments of Entry, Integration and Preservation*, JCMS 2005, vol. 43, no. 4. pp. 717–38.
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**Minority Rights Advocacy
in the European Union:
A Guide for NGOs in
South-East Europe**

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**minority
rights
group
international**

In recent years, the European Union (EU) has become the most prominent political and development actor in South-East Europe (SEE). The prospect of EU membership and the EU accession conditionality provide the much-needed leverage for the states to deliver on their international commitments. This guide aims to empower minority and human rights activists from SEE to advocate successfully for the inclusion of minority issues in their country's EU accession process and improved protection of minority rights.

The publication provides an overview of the EU, its structure and processes. It describes the EU policy in the region and the nature of its engagement in SEE, as well as details the EU standards and mechanisms for minority protection. The guide also presents the advocacy opportunities available for minority rights advocates and offers practical advocacy tools.

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