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6. European Union - Syrian Development Cooperation and the Role of Civil Society

As indicated in Chapter 5, in the 10th Five Year Plan the Syrian government underlines that political and administrative reforms are prerequisites for successful economic reforms. CSOs are seen as important agents of change. In the Five Year Plan, significant attention is given to the role and the development of CSOs, in particular the NGO sector, as a means to achieving increased citizen's participation in socio-economic development, localising development efforts, empowering communities and enhancing social responsibility.¹ The good governance paragraph forms part and parcel of the Syrian reform agenda, which in the period 2006-2010 has been embraced by international donors and aid organisations. From the start, political reform was postponed indefinitely by the regime, referring to external developments. Reform in the governance sector should be seen as administrative reform necessary for or supportive to the socio-economic reform. CSOs could be supportive to the project of socio-economic reform. Participation of citizens in the development and implementation of activities through CSOs is primarily seen as a precondition for development. The Syrian government considers civil society a third sector, but includes in its definition organisations which in many cases are under the direct control of the leading Ba'ath party. According to the Syrian government, civil society

¹ SPC, 2006: Chapter One. The Five Year Plan Approach: 18 and 19. The following tasks are defined for the non-governmental and CSOs:

- (i) Assist in achieving the overall goals and objectives related to poverty alleviation and contributing to implementation of those projects which have been selected on the basis of sectoral priorities, as determined by the FYP's criteria;
- (ii) Assist in implementing social reform programmes, training and capacity building programmes, as well as in facilitated microcredits, in addition to advocacy and support programmes targeting women and child rights and special groups, and other social programmes;
- (iii) Implement social mobilisation programmes aimed to ameliorate the conditions of impoverished regions and uplift their living standards;
- (iv) Co-work for implementing good governance programmes, institutional reform, accountability of state establishments to ensure transparency, facilitate public spending, and prevent administrative and financial corruption;
- (v) Implement market monitoring programmes to ensure consumers' rights, prevent corruption and exploitation, in addition to monitoring state apparatuses of direct concern to people's day to day living, and which offer social services to them;
- (vi) Interfere in areas concerned with providing services to the remote regions, that are deprived of concrete government or private sector contributions, through setting up professional societies assigned to carry out such tasks;
- (vii) Contribute to implementation of the regional development plans, and participate in local planning council meetings for implementing the projects provided for at the 10th FYP, particularly in regard to development of the impoverished regions;
- (viii) Commit to transparency in carrying out their tasks, and subject themselves to enforced laws regarding their dealings and accounts statements.

includes NGOs (cooperatives and associations), the unions, charities, professional associations and business associations, as well as people's organisations.² Advocacy organisations remain banned and recognised CSOs remain strictly controlled by the security services. In practice, there is no indication that the Syrian government considers having an independent civil society.

This chapter will focus on the international response, notably the EU's, to the Syrian governments' aim to improve its governance. The EU was the main aid donor to Syria for the period of 2006-2010.³ The relations between the EU and the countries in the Mediterranean, including Syria, are governed by the ENP. It is a cornerstone of the EU's aim to "[...] promote a ring of well-governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations."⁴ The EU encourages liberal economic development combined with a parliamentary democracy and respect for civil and political rights of citizens. Well-governed countries around Europe are also important to the EU for security reasons, since 2003 a top priority on the EU's external agenda.⁵ Promoting good governance and thus political reform in neighbouring, authoritarian Mediterranean countries is one of the pillars of the ENP. A core role in this domain of political reform is attributed to civil society, which in the view of the EU is not only important as a provider of goods and services, but also as a promoter of efficiency and accountability of government agencies. Enhancement of the role of civil society and its capacity building (as a partner and an actor) is a key issue in the EU's cooperation and development policy. How can civil society perform the aforementioned role in the authoritarian Syrian context when it remains heavily controlled by the state, in a setting where there is no freedom of expression? How can a qualitative change be brought about in the Syrian political system through cooperation when an authoritarian government decides which kinds of reforms will have priority, including with regard to the role of civil society? In this light, the EU faced a dilemma in its democracy promotion. Is the EU supporting a real reform process in Syria, or does it help the authoritarian regime to upgrade its position? The

² SPC, 2006: Chapter 6, part 4. Without a page number.

³ EC Delegation Damascus, 2006a: 19. "A total of € 97,5 million was committed to bilateral co-operation with Syria under MEDA I (1995-1999) and € 189 million under MEDA II (2000-2006). In addition, since 2000, a total of € 925 million in loans of the European Investment Bank (EIB) has been committed for Syria." See also page 60. Major bilateral donors are Germany (main sectors: water and urban development); Japan (rural development and water); France (water, education and environment); Spain (health, environment and water); and Italy (rural development, health and industry).

⁴ EC, 2003: 8.

⁵ Budde and Groosklaus, 2010: 16. In practice the security policy for the Mediterranean region dated back to the 1990s, when Islamist terror organisations started to be perceived of as threats to regional stability.

author will argue the latter is the case by showing the limitations of the EU's policies of promoting social change through using soft power.⁶

The international community has responded to the Syrian government policy by means of the United Nations Development Framework covering the period 2007-2011. Most of the activities in the domain of good governance are implemented by the UNDP. This is the subject of the second subchapter. As a principal donor, the EU responded through its development support and is a major contributor to UNDP's governance programme. EU support for good governance and specifically civil society is the subject of subchapter 1. In the third subchapter, the basis for EU and UN assumptions about cooperation with Syria in the field of good governance is examined. The fourth subchapter deals with dilemmas in democratisation, which the EU confronts in the context of development cooperation with authoritarian regimes. Here the central question of the research is discussed: how well did the EU's good governance policy address the challenges posed by an authoritarian state like Syria? The focus is on civil society, given its central position in the implementation of the good governance policy.

6.1 The European Union response

The cooperation between the EU, through the EC and the Syrian government takes place in the framework of the ENP and is funded out of the European Neighbourhood Policy Instrument (ENPI). The bilateral EU-Syria relations are based on the 1977 Cooperation Agreement as long as the signature of the Association Agreement remains pending. This agreement mainly covers trade issues; in particular it provides duty free access to the EU market for most Syrian industrial goods and assistance to Syria's production and economic infrastructure. It also encourages economic dialogue between the parties. Until the launch in November 1995, of the European Mediterranean Partnership (EMP), also known as the Barcelona Process, the Cooperation Agreement was the sole basis for funding of the EU's development cooperation with Syria. Syria is a full participant in the EMP. It approved the Euro-med five year work programme for 2006-2010. The EMP follows a multilateral track.⁷ The establishment of the EMP was an important step because democracy, human rights and the rule of law gained a more prominent place in the EU's Mediterranean policy. With the EMP, a political dimension was

⁶ Ibid., 8. Reference is made to the use of soft modes of power namely "a combination of formal rules with other non-binding tools such as recommendations, guidelines, or even self-regulation within a commonly agreed framework."

⁷ EC Damascus, 2007: 5-7.

introduced into traditional economic cooperation. Another important aspect of the EMP was the idea of co-ownership, which is reflected in the partnership-based instruments and a joint commitment to shared values. The EU approach to promote good governance relies on persuasion, socialisation and capacity building instead of coercion or negative incentives. Van Hüllen notes that there is a strong focus on those instruments (political dialogue, democracy assistance) that rely on partnership consent or active cooperation in implementation. The EU policy is characterised by reinforcement by reward. Positive conditionality is seen as a means to initiate political reforms.⁸ The partner countries formally committed themselves to develop democracy, rule of law and respect for human rights.⁹ Under the EMP, MEDA¹⁰ was the funding programme with the aim to achieve the objectives of the Barcelona Process. One of the key objectives of MEDA was the development of a pluralist, democratic society based on human rights and the rule of law.¹¹ Moreover, the EU Communication of May 2003 on Reinvigorating European Actions on Human Rights and Democratisation with Mediterranean Partners calls for practical measures which can contribute to a more operational human rights and democracy dialogue with MEDA partners. These include action plans, at the national and regional level, with those MEDA partners willing to engage in such an exercise. The Communication builds on the UNDP Arab Human Development Report of 2002, in which freedom deficits were identified, from which the Arab world suffers more than any other region.¹² With many goals in common, the ENP builds on and complements the EMP. The ENP aims at strengthening partnerships “[i]n return for concrete progress reflecting the shared values, and effective implementation of political, economic and institutional reforms all neighbouring countries can be offered the prospect of a stake in the EU’s internal market. This could pave the way for further integration and liberalisation to promote the free movement of persons, goods, services and capital (four freedoms).”¹³

In 2006, a new financial instrument was created by the EC: the ENPI. By 2007, this instrument replaced the MEDA funding instrument. “Whereas the partnership pursues a multilateral track,

⁸ Hüllen, 2009: 6.

⁹ Skov Madsen, 2009: 2.

¹⁰ EU programme for the cooperation with third countries in the Mediterranean basin.

¹¹ EC Delegation Damascus, 2006: 3. Other key objectives are: Implementation of the Association Agreements with the aim of creating a Euro-Mediterranean free trade zone; economic and social reform; Sub-regional co-operation, through the fostering of South-South development and economic integration initiatives that will help the Partners move towards free trade amongst each other.

¹² EU, 2003: 5.

¹³ EC Delegation Damascus, 2005: 4.

the ENP provides additional focus and impact through a more bilateral approach.”¹⁴ Since 2007, all EU funding to Syria comes through the ENP’s financial instrument, the ENPI. Under the ENPI the Country Strategy Papers (CSPs) form the strategic framework for cooperation with the individual partner countries. The framework for the cooperation itself between the EC and a partner country are the National Indicative Plans (NIPs). In the NIPs, the priority areas for cooperation are mentioned, with a justification, objectives, expected results as well as an indication of the activities.

CSPs “[a]re intended as instruments for guiding, managing and reviewing EU assistance programmes. They are essential management tools to ensure that external assistance reflects EU’s policy objectives and priorities.”¹⁵ On 7 March 2007, the EC approved the CSP for Syria.¹⁶ The CSP has identified for the period 2007-2013 three priority areas for action: a) support for political and administrative reform, including modernisation of the administration, decentralisation, rule of law and respect for fundamental human rights; b) support for economic reform, including implementation of the Five Year Plan, preparation for the association agreement and preparation for the accession to the World Trade Organisation as well as c) support for social reform, including human resources development and measures to accompany the economic transition process.¹⁷ The framework of co-operation itself between the EC and the Syrian government is the NIP. The NIP is the EU’s response to the Syria’s 10th Five Year Plan in which it gives a blue print for a comprehensive economic and social reform and transition from a centrally planned to a social market economy. “The NIP puts emphasis on the implementation of the economic reform agenda. It also includes a substantial social package as well as measures to improve institutional governance and the defense of human rights.”¹⁸ A total of € 130 million has been allocated by the EU for the implementation of the NIP covering the period 2007-2010 and € 129 million from 2011 to 2013. The latter is a 32.3% increase compared to the previous period. This increase is also a clear indication of the improved relations between the EU and Syria at that moment. Since 2005, the relations between the EU and Syria had become tenser over regional issues, especially the sovereignty of Lebanon. In the second half of 2008, a political opening was created between Syria and the EU, providing perspective for more cooperation. The support given by the Syrian regime in 2008 to the Qatar

¹⁴ Ibid., 2007: 7.

¹⁵ Ibid., 2005: 3.

¹⁶ http://ec.europa.eu/world/enp/documents_en.htm#4.

¹⁷ EC Delegation Damascus, 2006a: Executive Summary.

¹⁸ Ibid., 2.

initiative created a political opening for the EU to improve its relations with Syria. The Qatar Initiative was designed to bring opposing political groups around the table in Lebanon (Doha Conference) in order to find a solution for the presidential vacuum in Lebanon and the subsequent willingness to exchange ambassadors with Lebanon. A tangible result has been the signing by the EU of the association agreement in October 2010. The association agreement would constitute the framework for a much broader bilateral cooperation than the 1977 Cooperation agreement. It would cover three areas: political relations; economic and trade relations as well as cooperation. Moreover, as mentioned in the envisaged Article 2, the parties should base their domestic and external policies on respect for democratic principles and fundamental human rights and this would constitute an essential element of the agreement. The signing of the association agreement had been previously frozen by the EU during five years due to Syria's interference in Lebanon, the accusations by the West and some Arab states of Syria's involvement in the murder of the Lebanese Prime Minister Hariri, as well as Syria's bad human rights record. Parallel to the change of the US policy towards Syria, from isolation under former President Bush to constructive engagement under President Obama, the EU also renewed its political engagement with Syria. The National Indicative Programme 2011-2013 mentions: "Syria's relations with EU Member States have gained momentum since 2008. A general consensus in favour of EU engagement with Syria emerged in 2009, recognizing Syria's key role in a number of critical issues in the region. The increasing number of high-level visits between Syria and the EU evidences rapprochement and renewed engagement. This has been prompted by a number of positive developments in Syria's regional policies, such as the establishment of diplomatic relations with Lebanon, Syria's engagement in indirect peace talks with Israel during the second half of 2008. Member States agreed to proceed with its signature in October 2009; Syria is expected to indicate when the Agreement can be signed jointly so that it can enter into force. Pending this decision, technical and financial cooperation remains the main channel for bilateral relations."¹⁹

This renewed engagement became very visible when in July 2008 President Bashar al-Assad attended the launch of the Union for the Mediterranean. In 2007, Nicolas Sarkozy was running for the French Presidency when he presented the idea of Union for the Mediterranean. The idea went ahead as a reformulation of the EMP with an extended membership. In practice, as Hollis concludes, it narrowed down partnership as state-to-state diplomacy rather than business or

¹⁹ EC Delegation Damascus, 2009b: 3.

civil society engagement.²⁰ While the EU was willing to start the ratification procedure for the Association Agreement, the Syrian government seemed not to be in a hurry. An EC delegation official made the following observation with regard to the Syrian attitude; “[i]n 2004 Syria needed the Association Agreement. In 2010 Syria has many more partners. The opening up of the Syrian market for Turkey has led to a strong pressure on Syrian companies. Local entrepreneurs went broke. Thus Syria is more cautious about the outcome of a trade agreement with the EU. Moreover it has many bilateral preferential agreements with especially Southern European Countries. Thus what is the value added of the Association Agreement.”²¹ From March 2011 and onwards, due to the harsh repression by the regime of anti-government protests, the EU froze the Association Agreement draft and suspended bilateral cooperation programmes under MEDA’s ENPI. Moreover, the EC suspended the participation of Syrian authorities in its regional programmes. The European Investment Bank also suspended its loan operations and technical assistance to Syria.²²

European Union Support to Good Governance and Civil Society in Syria

Support to strengthening the capacity of civil society is part and parcel of the goal of the EU to build a partnership for peace and prosperity by focusing on five major areas: social and cultural, economic cooperation, political, human rights and trade issues.²³ Cooperation on civil society is part of this sought partnership as the EU indicates; “[b]y strengthening the role of CSOs, the EU increases beneficiaries’ ownership of development strategies. It assists CSOs to improve the quality of their work to help their beneficiaries. Encouraging dialogue, the EU facilitates the establishment of joint development strategies between civil society organisations, governmental authorities at all levels (national, regional and local) and private partners. More specifically, the partnership between the EU and CSOs helps to better reach people living in poverty, and enhance respect and observance of human rights and fundamental freedoms.”²⁴ The EU has

²⁰ Hollis, 2012: 88 and 89.

²¹ Interview 17: EC Damascus delegation official. 2 May 2010.

²² EU, 2012: 1 of 3.

²³ EC Delegation Damascus, 2006: 6.

²⁴ Ibid., 2012: 1 of 2.

included support to good governance and civil society in two instruments: a) bilateral cooperation programmes and b) thematic programmes:

Bilateral Cooperation Programmes

EU support for political and administrative reform encompasses modernising the administration, pursuing the decentralisation process, strengthening the rule of law and increasing respect for human rights.²⁵ Support to civil society and human rights are provided as a priority by the EU-Syria National Indicative Programmes for Syria under assistance to political and administrative reform. The activities are financed by the ENPI, previously MEDA. As justification for the financing of these activities, the EU refers to the 10th Five Year Plan as an indication of Syrian ownership. The EC considers promotion of a partnership between government, the private sector and civil society as one of the innovative principles in its development cooperation with Syria. More specifically, the EC indicates that: “NGOs and civil society have an important role to play in the implementation of social reform and training programmes. To prevent corruption and exploitation they must also monitor market conditions and government officials who provide direct services to the people.”²⁶

The EC is of the opinion that for a successful implementation of the Five Year Plan, “[a] true national commitment of both the authorities and civil society is indispensable.”²⁷ The EU considers in its response strategy for 2007-2013, promotion of the development of partnerships between public institutions at central and local level, the private sector and civil society a cross-cutting issue for the three priority areas for action. Civil society includes professional organisations, trade unions, research, academic institutions, local organisations and NGOs, consumer organisations, women’s and youth organisations, charities and the media.²⁸

As tables 4 and 5 indicate, the Syrian government did not give priority or did not agree with EU support to civil society initiatives, especially those aimed at promoting democratic governance. In the NIP for 2005-2006, after approval from the EU, the EC had proposed to the Syrian government a civil society development programme of € 2 million out of a total cooperation programme of € 80 million under MEDA for 2005-2006. The financial agreement should have been signed by the Syrian government before the end of 2006 but the Syrian government

²⁵ Ibid., 2009b: 5.

²⁶ Ibid., 2006a: 17 and 18.

²⁷ Ibid., 19.

²⁸ EC Delegation Damascus, 2006a: 23.

informed the EC by letter in November 2006 that the programme had no priority.²⁹ In preparation for this programme, the EC performed an expert study to map Syrian civil society. This study concluded that although CSOs in Syria are confronted with many bottlenecks, there is nevertheless potential for development of the sector.³⁰ The political context is however very restrictive, a major obstacle for the development of the civil society sector is the lack of freedom of association. Moreover, as indicated, the EC assisted in 2005 the Syrian authorities with a study on a new law on associations. On request of the Syrian authorities, the EC in cooperation with the MOSAL organised a workshop to discuss the law on associations. However, since 2005 the project of a new law seems to have been put on hold by the authorities, although announced on several occasions by the regime, including the President and the First Lady.³¹ Under the NIP of 2007-2010 the EC has proposed to the Syrian government a human rights capacity building programme. The EC considers, as mentioned previously, human rights to be an integral part of the cooperation between the EU and Syria. The EC has informed the Syrian government of its willingness to give support to the creation of a national commission for human rights, which should act as a mediator between the government and human rights defenders.³² The government had started developing ideas with UNDP about the creation of such an institution in 2005-2006. However, this activity did not materialise until today. In the revised NIP for 2008-2010, the EC indicates “[f]or the time being, the government has put this plan on hold, because it is judged less of a priority than security matters and other aspects of the reform agenda. [...] The EC has therefore indicated that support for the future national institution will be available, when this institution is created. [...] Assistance in this area will only be provided upon explicit request from the Government of Syria. No budget has been earmarked for this activity. Additional resources will be mobilised if/when the project materialises.”³³ In assessing the validity of its response strategy with regard to human rights, the EU noted in 2010 that “Syria has shown openness to promoting women’s and children’s rights. Advancing on human rights and democratization remains a priority. The Association Agreement provides a framework to advance bilateral dialogue and cooperation in this respect.”³⁴ In the period 2011-2013, the EC intended to support strengthening of civil society as a sub-priority under support to political and

²⁹ Interview 06: EC- Damascus Delegation official. 4 July 2007.

³⁰ EC Delegation, 2007b. European Commission.

³¹ In January 2010, by the First Lady at an international conference in Damascus on civil society’s role in development. The President made a similar announcement in an interview in 2011.

³² EC Delegation Damascus, 2006a: 25.

³³ EC Delegation Damascus, 2008: 3.

³⁴ Ibid., 2009b: 5.

administrative reform, through an NGO platform to be established by the Syrian Trust for Development, a Government Operated NGO supported by UNDP (see Annex 7). The envisaged activity is described as “[t]he Syrian Trust for Development, a Syrian NGO umbrella, has developed with the UNDP a project to create, as from 2009, an independent and registered NGO platform, open to Syrian CSOs working in the field of socio-economic development. The platform will mainly seek to: 1) build and strengthen CSO capacities; 2) create a network of CSOs to communicate and share experience; 3) support CSOs in stronger cooperation with the government. With the proposed programme, EU support will strengthen civil society and other key actors in their active participation in Syria’s development process. This will complement and widen the scope of current EU support for CSOs and local authorities under the thematic programme Non State Actors. The programme will come under the supervision of the MOSAL, which has responsibility for these matters.”³⁵

As specific objectives and expected results, the following is mentioned:

The expected long-term impact is the creation of more independent, strategy-oriented and needs-oriented CSOs with the vision and skills needed to participate in the socio-economic development of the country. The specific objectives of this action will include:

- The strengthening of key factors involved in social/human development;
- The development of the organisational and operational capacity of CSOs.

Expected results:

- Organisational and operational capacity of CSOs is improved;
- CSO interaction with national authorities is increased;
- Improved coordination and cooperation among Syrian CSOs.³⁶

Key assumption on which this National Indicative Programme was based is that the Association Agreement would provisionally enter into force in early 2010. Moreover, it is assumed that: “[v]arious beneficiaries will remain committed to the reform process and that sufficient

³⁵ Ibid., 8 and 9.

³⁶ EC Delegation Damascus, 2008: 9.

managerial, human and physical resources will be made available to ensure smooth implementation of the NIP.”³⁷

Table 4: EC-Democratic Governance Assistance under MEDA/ENPI (in million euros)

Programme	Priority	Activities	Amount	Position Syrian Government
MEDA I: 1995-1999	----	----	----	----
MEDA II: 2000-2006	Programme to promote civil society	Reform NGO-law Capacity building CSOs Project support for CSOs	€ 2 million	Refused
ENPI I: 2007-2010	Support for political and administrative reform	Establish national commission for human rights (UNDP) Decentralisation and local development (MAM) Modernisation of the judiciary (UNDP)	€ 30 million	No priority Agreed Agreed
ENPI II: 2011-2013	Support for political and administrative reform	NGO platform (UNDP) Support for the implementation of Association Agreement	€ 5 million To be decided	Under discussion, frozen since 2011 Not yet ratified. Frozen since 2011

Source: Based on ENPI. National Indicative Plans. Syria

There are a few other bilateral programmes established under the MEDA programmes, which involve non-state actors such as Chambers of Commerce and Industry, for private sector development as well as local authorities and local NGOs for local socio-economic development.³⁸

³⁷ Ibid., 2009b: 17.

³⁸ EC Delegation Damascus, 2007: 10 and 11.

Through Thematic Programmes and Related Budget Lines

The latter are not part of the programming negotiated with the Syrian government. Those budget lines cover all the Third Countries and are managed through calls for proposals mainly launched by the EC Headquarters in Brussels. In the domain of promoting good governance, the EIDHR, is the most important. While MEDA and its successor instrument ENPI have a more state-centered perspective, the EIDHR is an initiative from the European Parliament characterised by a more grassroots approach to democracy assistance. It funds small-scale civil society projects.³⁹

Under the EIDHR, in 2004 the EC granted Syria a budget for micro-projects (€ 500,000) for the first time. A call for proposals was launched in June 2005. A copy of the call was sent to the Syrian government for information; the Delegation received no reaction. According to the EIDHR guidelines, this programme was not negotiated with the Syrian government. In December 2005, after evaluation of the received proposals of NGOs, six contracts were signed. Two projects could be implemented without problems on the side of the Syrian authorities.

- (i) Palestinian Civil Society: Working Together for Human Rights: The grant holder was the Belgian-based INGO, Service Civil International. The project was implemented with the local partner Jafra. Although security services inquired about the project, it could be implemented without further interference from the authorities;
- (i) Out of Home Children Care Professional Development project: The grant holder was SOS Village Syria.

Four projects encountered difficulties⁴⁰:

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- The Chambers of Commerce and Industry are involved in programmes aimed at private sector development (SEBC) and the improvement of vocational education and training (VET). The Syrian Enterprise and Business Centre (SEBC), which was created as a national Syrian institution out of the former European Commission funded Syrian European Business Centre (1996-2000) implements the Small and Medium Enterprises Support Programme (SSP). The SSP has been created as an incubator to support the start up of businesses. In addition it supported the establishment of private sector NGOs such as the Syrian Management Consultant Association (SMCA).
 - Local authorities and local non-governmental organisations are involved in programmes aimed at the modernisation of municipalities and local development (MAM). Under the MAM-programme local NGOs can submit proposals after a call for proposals. Some environmental NGOs have obtained grants (up to € 50,000 per proposal). MOSAL observed the assessment of the proposals and the attribution of grants.

³⁹ Hüllen, 2009: 7.

⁴⁰ Interview 08: EC delegation official. 4 July 2007.

1. Civil Society Training Centre in Damascus: The grant holder was the IFIAS, a Belgium-based INGO. The Syrian authorities closed down the centre a few days after its inauguration by the EC and the EU presidency. Anwar Bunni, a well-known and outspoken human rights lawyer and director of the centre was arrested in May 2006. He was sentenced in April 2007 to 5 years detention on the charge of spreading false information harmful to the state⁴¹, allegedly for signing the Beirut-Damascus declaration, a petition calling for the normalisation of relations between Syria and Lebanon but also for establishing of an illegal organisation⁴²;
2. “A Day Care Centre for Street Children in Quamishli”: The grant holder for this initiative was the “Berliner Gesellschaft zur Forderung der Kurdologie” (BGFK). The local partner could not register and BGFK never received authorisation to start activities;
3. The project Strengthening a Sustainable Human Rights Movement could also not start because the German-based INGO Friedrich Naumann Foundation, the grant holder, did not get authorisation to start the planned activities;
4. The project Training on Human Rights for People with Disabilities was confronted with a last minute cancellation by MOSAL. The grant holder National Association for the Rights of the Disabled People in Lebanon implemented its activities in Lebanon with Syrian civil society participants. The component aiming at training of officials has been cancelled.

Table 5: EC-Democratic Governance Assistance under EIDHR (in million euros)

Programme	Amount	Position Syrian Government
MDP 1996-1998	0.23	Position unknown
EIDHR 2000-2006	1.24	Blocked most of the projects

Source: Based on Van Hüllen, 2009: 11.

Due to the difficulties encountered in the implementation of the programme, the 2005 and 2006 EIDHR budget calls were not launched and the EC transferred the budget to other MEDA-countries. Besides these governance-focussed projects, the EC also supported a few

⁴¹ Amnesty International, Australia, 2007: 1 of 2.

⁴² Anwar Bunni has been released in 2011 after completing the full five-year prison sentence.

development initiatives of CSOs active in the field of socio-economic development, as well as youth exchange and initiatives in the field of environmental protection. Under the European NGO Co-financing Budget Line, two projects of the Italian NGO Italian Association for Women in Development (AIDOS) have been co-financed by the EC, which are implemented by Syrian Government-Operated NGOs called FIRDOS⁴³ for rural development and the Syrian Family Planning Association (SFPA) for health counseling.⁴⁴ FIRDOS, with the technical assistance of AIDOS, established a Village Business Incubator (VBI) in the governorate of Lattakia. The VBI will act as a service centre for the development of female entrepreneurship in nine rural villages, promoting the creation of small/micro scale, viable and self-sustainable value added enterprises led by women. It targets both potential and existing entrepreneurs. In 2005 the project was launched for duration of four years. The EU's contribution accounts for 74% of the total budget of € 552,000. The aim of the health project was to strengthen the capacity of the SFPA clinics in the Damascus area to serve as health counselling centres for women, adolescents and men. The total budget is € 972,000, with a contribution of 75% from the EC.

The Euro Med Youth Programme, a regional programme under the Barcelona Process, provides opportunities for social, cultural and human affairs partnerships. It was signed in December 2006 by the EU and the SCFA, a government agency falling under the office of the prime minister. The SCFA is responsible for the implementation of the programme in Syria.⁴⁵ Under the EU, Life Budget Line financial support can be provided to environmental and nature conservation projects in EU countries, as well as in some candidate, acceding and neighbouring countries. Syria is one of the countries for which funding is available. Some projects of Syrian CSOs have been funded. The government initiated FIRDOS received an EC grant of € 358,820 for its project Promotion of concerted sustainable development planning in Syria. The total budget for this project, implemented in the period 2004-2007, was € 512,600. The Syrian Environment Protection Society (SEPS) received an EC grant of € 246,552 (the total budget for this project was € 353,718) for its project called Building sustainable municipal waste management in Syria. The project was planned to last from 2006-2008. However, the MOSAL, responsible for the supervision of the NGOs issued a decree in 2007 dissolving SEPS without

⁴³ EC Delegation Damascus, 2007: 14.

⁴⁴ Ibid., 24 and 25.

⁴⁵ Ibid., 42 and 68. The budget for this programme to be implemented between end 2006 and end 2008 is € 200,000. Youth exchange, voluntary service programme and other support measures proposed by youth leaders and NGOs dealing with youth issues are eligible for a non-profit grant of minimum € 5,000 and maximum € 40,000 to finance between 50 and 80% of the proposed activities.

explanation. Given the fact that SEPS was no longer a legal entity, the EC had to terminate the project.⁴⁶

Under the EU thematic programme 'Non-state Actors (NSA) and Local Authorities in Development' support is given since 2007 to civil society and EU-Syrian NGO partnerships. The EU has co-financed two projects in the first two years: 1) a one-year project to foster social and economic empowerment among women in the Hajar al Aswad area of the Palestinian refugee camp, 2) a regional project together with Jordan, to strengthen the capacities of two village business incubators (VBIs).⁴⁷

In March 2009, the EU Delegation to Syria launched the Call for Proposals for NSAs in Development. Under the thematic programme NSA in Development Actions in Partner Countries, Syrian NSA active in poverty reduction and sustainable development could apply since 2009 for grants up to a maximum of € 80,000. As specific objectives the program has: 1) to strengthen the managerial capacity of Syrian NSA in advancing social and economic development at local level; 2) to enhance the level of participation of Syrian beneficiaries to socio-economic development and raise awareness on sustainable development.⁴⁸ The EU is co-financing two projects which enhance the participation of Syrian NGOs: 1) to support women's participation in the socio-economic development and capacity building of NGOs in the rural areas of the Governorate of Idleb; 2) to build and develop capacities and to support young people's participation in the touristic sector in the area of Maalula.

The first project, implemented by the Syria Trust for Development Organisation is called Entrepreneurship and Community development in rural Idlib. The project provides start-up assistance to micro entrepreneurs in rural high poverty areas. The EU contribution is € 79,000, which is 69% of the total budget. This three-year project started in December 2009 but suspended in 2011. The second project is implemented by an international organisation, the

⁴⁶ Information provided by EC- Damascus Delegation official about European activities in the field of society development in Syria 4 July 2007. According to another EU diplomatic source present at the 4 July 2007 meeting the reason for the closure was the publication by SEPS of a map in which Iskandria, since 1920 a part of Turkey, had not been marked as Syrian territory.

⁴⁷ http://eeas.eu/delegations/Syria/eu_syria/tech_financi... European Union and Syria: Cooperation on civil society. Downloaded 30 November 2012: 1 of 2.

⁴⁸ <http://www.devex.com/en/projects/243554/print>. Downloaded 30 November 2012.

Institut Européen de Coopération et Développement and aims at strengthening tourism by making use of cultural heritage in the village of Maaloula en in the Qalamoun region.⁴⁹

Since the EU, especially through the Commission, intended to fund good governance related activities agreed between the UN and the Syrian government, the next paragraph will look into the assumptions on which that cooperation is based.

6.2 The United Nations response

The Syrian government sought international technical and financial assistance in order to facilitate the socio-economic reform process. The kind of reform envisaged in its 10th Five Year Plan corresponded with the reform agenda promoted by multilateral development agencies. The UN and the Syrian government signed jointly the UNDAF (2007-2011) on 14 September 2006.⁵⁰ The EU is a major donor of UN activities in Syria. This cooperation agreement aims to assist Syria in achieving its development goals. Five key areas have been identified: economic growth and sustainable livelihoods, governance, basic social services, environment and disaster management. Regarding the area of governance the following joint intentions are of clear importance. “A comprehensive approach is needed, which includes measures to greatly improve the efficiency of public services and the professionalism of civil servants, not least through the adoption of result based management and modern ICT methods. Equally important will be measures, following a rights-based approach, that enable civil society to make meaningful contributions to policy formulation and implementation, as well as in monitoring the performance of public officials and politicians, complementary to reforms in the areas of transparency and accountability. In short, by 2020, it is envisioned that Syria will have become a country where freedom of expression, democracy, pluralism and the rule of law prevail.”⁵¹

Under the concept of comprehensive approach fall both measures to improve administrative accountability or governance and political accountability or governance. The latter should be

⁴⁹ http://eeas.eu/delegations/Syria/eu_syria/tech_financi... European Union and Syria: Cooperation on civil society. Downloaded 30 November 2012: 1 and 2.

⁵⁰ Reliefweb. The UNDAF is the planning framework for the development operations of the UN system at country level. It consists of common objectives and strategies of cooperation, a programme-resources framework and proposals for follow-up, monitoring and evaluation. The UNDAF lays the foundation for cooperation among the UN system, government and other development partners through the preparation of a complementary set of programmes and projects. The UNDAF requires full Government participation [...] and its full ownership through the agreement of the recipient Governments concerned to the finalized Framework.

⁵¹ UNDAF, 2007: 5 and 6.

achieved by a rights-based approach, which refers to respecting the principles of the major UN human rights conventions. Syria is party to all main human rights conventions. The Human Rights Based Approach (HRBA) is a UN tool for development programming; “[a] HRBA leads to better and more outcomes by analyzing and addressing the inequalities, discriminatory practices and unjust power relations, which are often at the heart of development problems. It puts the international human rights entitlements and claims of the people (the right-holders) and the corresponding obligations of the State (the duty-bearer) in the centre of the developmental debate and it clarifies the purpose of capacity development.”⁵²

The governance goals in the UNDAF are considered important in support of prioritising faster economic growth, with social protection and sustainable livelihoods but also in order to achieve the broader goal of a democratic pluralist rule-of-law-based political system. In the context of the comprehensive approach, with respect to civil society and the private sector the UNDAF indicates the “[...] government recognizes that an active and articulate civil society and private sector can play a vital role in helping it to become more efficient and accountable, and more respectful of civil rights. There are already numerous state or Party-sanctioned charitable organizations, but by definition they cannot be expected to offer objective, independent advice to the government. Clear definitions, guidelines and protections for NGOs are needed, and a new law is being drawn up in response to this need.”⁵³

At least on paper, the Five Year Plan as well the UNDAF provided a perspective for international, mainly Western, donors that socio-economic reform would be accompanied by political reform. As shown in the previous chapters, this expectation did not materialise in the case of Syria. This becomes evident when looking into specific intended outcomes in the field of governance, the related outputs to be achieved as well as the risks and assumptions mentioned regarding the possibilities to achieve the outputs. Outputs are considered to be direct results of implemented activities. Outcomes refer to the impact of these results on the achievement of the wider policy aim.

The focus of this study is on the presumed role of civil society in promoting good governance as part of donor support schemes: in this case Syria and the EU good governance policies. Two

⁵² United Nations Development Group. Human rights-based approach to development programming (HRBA). <http://www.undg.org/index.cfm?P=221>. Downloaded 21 June 2011: 1 of 3.

⁵³ UNDAF, 2007: 10.

related UNDAF sub-outcomes in the field of good governance are of importance.⁵⁴ The related outputs, if achieved, form an indication whether or not the position of civil society is strengthened. The intended sub-outcomes are: a) enhancement of accountability of executive bodies and commitment with respect to UN conventions and treaties; and b) empowerment of civil society.

In the UNDAF the importance of the first outcome an accountability of executive bodies reinforced toward the general public and in regard to committed UN conventions and treaties is explained as follows: the Syrian government is in the process of instituting a social market economy. This implies a transformation of the role of the state. The development of a market economy requires less direct involvement of the state in the economy and in society. Moreover, the state should perform its tasks more efficiently and transparently. A key step in promoting greater efficiency would be the creation of mechanisms for holding public bodies accountable for their actions. The UNDAF indicates that specific initiatives to be undertaken by the UN in cooperation with the government “may include building the capacity of legislative bodies to oversee executive bodies, support for anti- corruption legislation, and strengthening the Government’s internal checks and balances. Another key element will be building the capacity of civil society to monitor the work of both legislative and executive bodies, so that civil society and the media can, for example, monitor and raise awareness on human rights issues.”⁵⁵

Annex 5 summarises the outputs to be achieved under the above-mentioned sub-outcomes. The outputs mentioned show that the aims regarding improving the accountability of executive bodies are on the one hand very broad and ambitious (Output 1): checks and balances mechanisms reinforced through increased oversight capacity of legislative bodies and elected representatives and civil society and media capacities to monitor the performance of public institutions and service delivery. On the other hand, the aims are rather specific and limited, namely the creation of monitoring mechanism for the CRC and the CEDAW convention (Output 3 in Annex 5). The UN and the Syrian government base their intended cooperation in the area of good governance on assumptions, which implies a shift in power relations if achieved. Specifically, the mentioning of an effective separation of powers is far-reaching.

⁵⁴ Ibid., 31. The main outcome to be achieved in the field of governance is: efficiency and accountability of governance structures at central and local levels strengthened by government, civil society and the private sector, towards sustainable development. Outcome 2.

⁵⁵ UNDAF Outcome 2.2., 2007: 15 and 16.

The second intended sub-outcome of importance in the domain of good governance is an empowered civil society involved in the development and implementation of public policies, planning and programmes. In the UNDAF, the Syrian government and UNDP indicate that an active civil society can have a constructive effect on all aspects of development, in addition to promoting transparency and accountability. Civil society could play a role in discussions with authorities at the national and local level on development issues. However, there is a need to strengthen the capacity of communities, NGOs, private sector associations and specific groups, such as women and children in order to make effective contributions to local and national dialogues on the development issues. The UNDAF indicates that: “[c]apacities will be built in terms of how to make effective use of information and communications technology (ICT), and engage in dialogues on topics such as human development deficits and local development planning. A prerequisite will be an enhanced legal framework that enables NGOs and similar organisations to flourish.”⁵⁶ The outputs mentioned in Annex 6 refer to both strengthening the legal position of CSOs as well as to increase practical capacities of CSOs. The main assumption is development and implementation by the Syrian government of a new NGO law.

The overview of the two sub-outcomes and related outputs clarifies strengthening civil society is not a goal in itself. It is always in function of its role in promoting socio-economic development. In terms of Börzel’s analytical framework, the goal of UN’s governance support is mainly to increase effective governance. The aim is to strengthen the government and the administration, as could be concluded based on concrete activities supported by UNDP (see Annex 7). Supporting CSO’s is to increase efficiency of the state apparatus and accept its policies. While some of the intended outputs are far-reaching, their attainability can be doubtful since they are based on questionable assumptions. The assumptions of both sub-outcomes refer to a more general assumption of political will of the Syrian government to take political and legal steps, which change state-society relations. These assumptions and risks are mentioned in the cooperation agreement between the Syrian government and the UN, without any comments or assessment. An overview and assessment of activities implemented by the UNDP under the UNDAF can be found in Annex 7. The EU in the context of the ENP showed interest in financing a part of the proposed activities by UNDP in the domain of democratic governance, notably the establishment of a national commission for human rights, the modernization of the justice sector and the establishment of an NGO platform.

⁵⁶ UNDAF Outcome 2.2., 2007: 16.

Subchapter 6.3 will discuss the extent to which the output⁵⁷, as contribution to the intended outcome, has been attained as well as the extent to which the risks and assumptions have been realistic.

6.3 Unrealistic Assumptions

Chapter 1 argued that the assumptions, on which EU's as well as the UN's good governance strategy is based on, are unrealistic regarding civil society and civil society, state relations, notably in the case of authoritarian ruled countries. The EU argument is that successful development needs ownership of its strategy. Ownership requires a broad involvement of all sectors of society. As assumed by the EU, civil society is important in this context because civil society can mobilise people and support for development and it can increase the accountability of the state. The EU considers with regard to development cooperation, a broad range of NSA part of civil society including NGOs/CBOs, workers and employers associations, religion based organisations, academics and the media. The relationship between the state and civil society is described in functionalist terms suggesting both are willing to work for a common long term goal namely to establish a system of democratic governance. The functionalist approach ignores contradictory interests between the state and civil society. Moreover it treats civil society as a homogenous entity. We noted in Chapter 2, that the idea of civil society, as citizens acting collectively in a public sphere, expressing interests, exchanging ideas and information, as well as making demands on the state and holding state official accountable, originates from a specific development model. It is based on experiences of Western, especially European countries, where as part of an often lengthy process of changing socio-economic relations and emerging nation states, consensus emerged about state–society relations. A specific kind of state developed: one that respects individual rights based on a type of social contract in which the state is also subject to law. The state, in the context of a parliamentary democracy, is regarded as a set of neutral institutions working for the public interest. However, others have questioned this liberal view especially in the Marxist tradition, by focusing on unequal power relations between different interest groups in society and their ability to get access to and or control the state. Gramsci as well indicates that civil society can be instrumental in legitimising the hegemony of the ruling elite. As a dominant paradigm in development thinking, the liberal

⁵⁷ UNDAF, 2007: 43. The sub outputs 2.4.4. until 2.4.6. focus on the participation of children and women in the formulation of policies and programmes, on policy dialogue as well as on strengthening the capacity of civil society active in the area of rights of women and children.

view on state-society relations obscures the fact that dominant groups or classes may shape states into instruments of dominance, even where the institutional set-up seems democratic. States may deeply penetrate into society and control social groups, for instance through state corporatism. Relations between the state and society may also be shaped by clientelism and patrimonialism. In practice, civil society might consist of many groups with contradictory interests and different relations with the state. Moreover, different civil society groups might be more inclined to work for community interests than for the public interest. The activities of these groups might also have political relevance and are not necessary in support of democratic political ideals. In many developing countries, to a large extent, primordial relations still determine loyalties. Despite nationalist ideologies imposed by dominant groups on the rest of society, many of these states still struggle with the consequences of the colonial legacy and are still in need of a national identity acceptable for the different communities living within its borders. It is these questions about the nature of civil society and state-society relations, which are of importance when discussing the assumptions behind EU good governance support in the context of a specific, authoritarian ruled, developing country.

As indicated, the cooperation between Syria and the EU, as well as between the UN-system and Syria are based on cooperation agreements. Reference is made in these cooperation agreements to assumed shared values and democratic principles, which nowadays are integral part of the good governance discourse. However, as will be argued, these assumptions underlying the cooperation in the field of good governance and especially with respect to civil society have proven to be non-realistic. These assumptions, mentioned in the UNDAF can be regarded as concretising one of the more general assumptions on which the EU cooperation with partner countries is based, as mentioned in Chapter 1, namely the partner state has the political will to promote good governance, including the strengthening of the role of civil society in this domain. The following observations can be made with respect to the specific assumptions mentioned in the UNDAF (see Annexes 5 and 6) namely the establishment of a conducive social and political environment; the establishment of an effective separation of powers; the development and implementation of a new law on associations; government support for civil society organisation participation in policy-making and implementation.

The Establishment of a Conducive Social and Political Environment

At the start of his second presidential term in 2007, President Bashar al-Assad indicated in his oath that: “[d]emocracy is not an objective in itself; it is rather an instrument for development

and prosperity. This instrument needs careful preparation and needs the appropriate circumstances that could realise this objective. Without these requirements it loses its substance as building instrument. This is what we have been trying to achieve.”⁵⁸ According to Bashar al-Assad, the lack or slow pace of democratisation of Syria since the 10th regional conference of the Ba’ath party in 2005, during which hopes were raised for increased political liberalisation and participation, was because of two threats: one was extremism nurtured by the war in Iraq and the other, attempts to destabilise the country after the murder of Rafiq Hariri in 2005. As a consequence, the work on a new law on political parties has been postponed.⁵⁹ The supreme objective, in the words of the President “[w]as to preserve the safety and security of our citizens and maintain the stability our people enjoy. These are not only vital requirements for any society, but the main pillars of national sovereignty, dignity, prosperity and development. [...] We are influenced by whatever is happening around us. We are influenced by Iraq, by Lebanon, by Palestine and by other things which might be farther. The impact of these things also determines the direction we move in. So to the political reform we do not make leaps. We will carry out gradual steps, and we will examine every experience at the right time. [...] As to our political priorities [...] the priority is the economy because of the needs of our Syrian people, but what is the value of the economy if there was no stability? [...] Without meeting the people’s basic needs: health, food and security what is the significance of political development? [...] So we are not going to stop the process of political reform, but it will not be our priority under the circumstances we have gone through.”⁶⁰ According to the President, there are ongoing discussions within his administration on the expansion of the participation of different currents in Syria (by having an upper house of parliament) and on the introduction of a local administration law as well as a new party law. The latter was also discussed at the Ba’ath party congress in 2005. Bashar al-Assad, in an interview in June 2008, suggests that although new laws and institutions have not been created yet, there is nevertheless political liberalisation; “[w]e said that we have opposition but is not legal because we do not have these laws, but it exists in Syria wherever you go, you can sit with them, you can criticize the government and the state in general, the officials. So we are dealing positively with opposition, but it does not exist as a legal

⁵⁸ SANA 18 July 2007. President Bashar al-Assad’s speech at the People’s Assembly.

⁵⁹ Gresh, 2008: Without a page number. Rencontre avec Bashar Al-Assad. See also SANA 18 July 2007. President Bashar al-Assad’s speech at the Peoples Assembly.

⁶⁰ SANA 18 July 2007. President Bashar al-Assad’s speech at the Peoples Assembly.

entity yet, because we need these laws for the opposition to be legitimate by law, but it is there and we deal with it as reality.”⁶¹

While the brutality of political repressions might be slowly diminishing, compared to that during the reign of the President's father, Hafez Al Assad, at least until the ongoing upheaval which started in 2011, there is no freedom of expression in Syria and there are still many examples of arrested people, kept in incommunicado detention; sentenced to years of imprisonment for expressing in a peaceful manner their views on the political system and requesting restoration of civil and political rights. While referring especially to external threats, which are presented as risks undermining the safety and security of people, the regime links the future of the Syrian people to the continuation of the regime. At the same time, it uses these threats to legitimise the repression. As indicated in the third and fourth chapter, the whole system of repression based on the Emergency Law, the impunity of secret services and the state security court is still intact and the Ba'ath party is still the leading party, as is stipulated by the 1973 constitution. Any attempt of people to organise themselves politically outside the framework of the Ba'ath party and its allies, is presented by the regime as a support to external enemies and can face repression. All political liberalisation until the present time is marginal, such as the creation of the NPF, a coalition of left and nationalist parties under the wings of the Ba'ath party and the opening up of the parliament to independent candidates: it does not affect substantially the existing state-society power relations.

The analysis of the nature of the regime, with its specific sectarian characteristics, does not provide arguments why it would be willing to dismantle the structures created to maintain its grip over society. Moreover, there are strong forces in society, which out of self-interest have allied themselves to the regime. Reference has already been made to the primordial identities, which prevail among a large part of the population, the patriarchal relations in the different communities as well as the co-optation of traditional leaders by the regime. The political system of Syria can be considered a form of neo-patrimonial ruling. It can thus be argued that no substantial achievements have been reached during the 10th Five Year Plan period with respect to the reinforcement of checks and balances mechanisms through increased oversight capacity of legislative bodies and elected representatives, and civil society and media capacities to monitor the performance of public institutions and service delivery. Therefore, it can be

⁶¹ The Assad interview transcript. Interview with Siddharth Varadrajan, Strategic Affairs Editor of the Hindu. Damascus 8 June 2008. Published on 12 June 2008. The Hindu online edition.

concluded that there is no progress in creating a conducive social and political environment. A reflection of this lack of progress in the field of democratisation and human rights is Syria's position as 157th out of 167 countries in the Economist Intelligence Unit's 2008 democracy ranking because of lack of elections, restrictions to civil liberties and limited options for political participation. Syria is classified as governed by an authoritarian regime.⁶²

The Establishment of an Effective Separation of Powers

The strength of the regime, more specifically of the President, is based on the concentration of the executive, legislative and judicial powers in one hand. There are no indications in the period 2006-2010 of the 10th Five Year Plan that the regime would be willing to unravel the powers based on independent institutions, for example institutions which are not dependent on the executive, in order to create a system of checks and balances. The People's Assembly remains in control of the Ba'ath party. The Judiciary is not independent of the Ba'ath party. The Emergency Law and the presidential decrees provide the executive with the legal instruments used by the regime through its security services, the military apparatus, as well as special courts to control the society. The only tangible measure has been the abolishment of the Economic Security Court. While decree 50 of 22 September 2001 allowed the establishment of private media – since the Ba'ath party came to power in 1963 the press had been nationalised – it also provided the state with far-stretching powers to block any form of independent journalism which it considered a threat. Article 129, clause 9 of the law gives the prime Minister the authority to accept or reject applications for print media permits, for reasons linked to the public interest. The prime minister has the sole authority to interpret the law while those requesting a permit do not have the right to appeal to a decision of the prime minister, nor the possibility to apply once again within one year. The Syrian press foresees hard punishments on vague grounds, such as expressed in the articles 50 and 51 against anyone who opposes public morality or creates unrest. The law raised the maximum jail time to three years and penalties to one million Syrian pounds (approximately \$ 21,500), compared to one thousand pounds previously.⁶³ Thus, it can be concluded that there is no effective separation of powers and there are no indications that the regime is actually interested in such a separation.

The Development and Implementation of a New Law on Associations

⁶² E.I.U., 2008: 3 and 12. The index is based on five categories: electoral process and pluralism; civil liberties; the functioning of government; political participation and political culture.

⁶³ Bunni, 2008: 101 and 102.

An important assumption in the UNDAF is that the Syrian government will issue a new law on CSOs, which will replace Law 93 of 1958. CSOs have requested the modification of this law or its replacement. Also the SPC, a government body, is of the opinion that the law is outdated. Maysa al Midani, director of the Civil Society Unit of the SPC and key government coordinator on NGO issues mentions the following on the issue of the new law: “[w]e do not know about the new law [...] There were many meetings and workshops on the subject a couple of years ago- the EU was involved at one point- and I know there is a committee dealing with it in the Ministry of Social Affairs. But I do not know what is happening. I have only seen a very old draft of the law.”⁶⁴ In cooperation with the EC, MOSAL organised in February 2005 a workshop with NGO participants that discussed legal, administrative, financial and building capacity aspects of the law. The same year, the Syrian Commission for Family Affairs, a government agency linked to the office of the Prime Minister, organised a workshop with 30 participants from various Syrian NGOs, the EU, the British Council and the Swedish Embassy, to look into the existing legal framework governing civil society. The main conclusions of the workshop were:

- The government needs to pass a new law, as it is not sufficient to simply amend the existing Law no. 93. As one participant noted, it would not be enough to amend an almost 50 year old text which was created in a complete different context and realities compared to the challenges faced by Syria today;
- The Ministry should respect Article 10 of Law 93, which provides that if the Ministry has not processed an organisation’s application within 60 days, the law will deem the applicant to be lawfully registered. The participants noted that this was not occurring in practice;
- The government must remove the difficulties facing the organisations in the registration process;
- It should allow organisations to establish links with other organisations working in related areas on the local, national and international levels;
- It should loosen restrictions on funding and allow organisations to fundraise and receive national and international support;

⁶⁴ Syria Today, 2007b: 6.

- It needs to appoint a new competent administrative authority to promote the civil society in Syria.⁶⁵

The core of the requested changes is less control and more support from the government and third parties. Since 2005, the Syrian authorities have not taken a decision on a new law on CSOs. In September 2007, when the Minister of Social Affairs and Labour was asked about the situation with respect to this drafted law, she stated that: “[w]e are studying the draft law very carefully and then the government will also discuss it. This is why I cannot speculate on the exact date on which it will be issued.”⁶⁶ In October 2008, a high MOSAL official indicated that: “[t]he draft law is ready; it has yet to be submitted to the Prime Minister for approval as well as to the People’s Assembly.”⁶⁷ In the beginning of 2010, during an international symposium on civil society and development organised by the Trust, the First Lady announced that the new law would soon be issued. Yet, to this day there has not been any new development in that direction. Even if the law, whose content is unknown, is approved by the Syrian authorities, the outcome might not necessary be positive for CSOs. Also reformists within the authorities warned that the development of a new law on associations will not necessary have a better law as an outcome. The 1958 law is not sufficient but it provides, of course depending on the way it is implemented, space for development of the civil society. The biggest issues have become the Emergency Law and the by-laws. The by-laws put constraints for CSOs to receive foreign funding as well as impose the necessity of a prior agreement by the authorities if a civil society organisation wants to have a general assembly meeting with its members.⁶⁸ Moreover, how effective a new law can be for CSOs active in the field of advocacy, if the political context remains one of repression. A staff member of an intergovernmental organisation commented: “[i]t is not the Law 93 of 1953 which is the core problem, although improvements are needed as CSOs indicate, but it is the political context in which the law is implemented. Even the idea of strengthening civil society in order to contribute to socio-economic development is encountered with mistrust by security services. Creating a platform of CSOs willing to work in the field of development (an initiative of the Trust for development supported by UNDP) is not self-evident for a country where taking initiatives outside the framework of the Ba’ath party is considered a

⁶⁵ Etana Press, 2008: 62 and 63.

⁶⁶ Syria Today, 2007: 19.

⁶⁷ Interview 02: Government official. 20 October 2008.

⁶⁸ Interview 08: EC Delegation official. 4 July 2007.

potential threat to security by the security services.”⁶⁹ An EC interlocutor made a similar observation: “[e]conomic reforms have top priority for the regime unlike political reform. The law on NGOs is linked to political reform.”⁷⁰

Government Support for Civil Society Organisation Participation in Policy-making and Implementation

There are no clear indications that there is a genuine interest from the government to engage civil society in policy dialogues. While the SPC has noted in the Five Year Plan the importance to do so in order to attain developmental goals, the practice is different. The legal preconditions are not established and the responsible ministry MOSAL is not able or willing to push for dialogue between the government bodies and CSOs. As indicated, in 2005 there have been some workshops with civil society involvement in order to discuss the content of a new law for associations. Neither this dialogue got a follow-up nor did the government come forward with a new law on associations. The SPC has invited some representatives of CSOs to participate in discussions during the preparation of the 11th Five Year Plan; these representatives were mainly from people’s organisations linked to the Ba’ath Party and from GONGOs. The only organisation pushing for a more structured dialogue between the government and CSOs for the moment is the Syrian Trust for Development. The latter is however a GONGO, initiated and supported by reformists within the regime. The establishment of the above-mentioned NGO platform by the Trust aims also to strengthen the contribution of civil society in the policy dialogue with the government. The establishment of the Platform as a legal entity is a cumbersome process, which started in 2009 and has not yet been finalised.

The EU, through the EC, until 2008 appeared to follow a two track approach aimed at strengthening the position of Syrian civil society. In the context of the bilateral cooperation agreement with the Syrian government it offered support to develop a new law on associations as well as to capacity building of CSOs. It also provided means for civil society involvement in different sectoral activities. Through its thematic programmes, especially EIDHR, without prior approval of the Syrian government, the EU tried to support directly activities of CSOs, including in the domain of human rights. Most of the proposed and/or supported activities on both tracks

⁶⁹ Interview 09a: Local staf member International Organisation. 1 December 2008. This official was summoned by one of the security services to give an explanation about the nature of the Platform, a stupid initiative as he was told by a high level officer. Only after indicating that the initiative had the blessing of the First Lady, the security officer stopped with his negative comments.

⁷⁰ Interview 17: EC Damascus delegation official. 2 May 2010.

were not accepted by the Syrian government, with the exception of assistance under the bilateral cooperation agreement to a few civil society activities in sectoral support programs such as rural development and health. As we have seen, the local CSOs involved are mainly GONGOs, such as the umbrella organisation of the Trust for Development and its rural development agency, FIRDOS. From 2008 until 2011, the EU policy of CSO involvement in its cooperation with Syria meant working with government initiated or approved CSOs.

6.4 Dilemmas in Democratisation

While the language of the EU as well as that of UNDP's governance cooperation agreement with Syria is one in which political governance aims such as democracy, rule of law and pluralism are mentioned as long-term goals, the concrete activities envisaged in the cooperation frameworks with Syria aim to improve administrative governance and focus on the improvement of efficiency and effectiveness of governmental institutions. Capacity building of CSOs is seen in function of contributing to the socio-economic reform. Apparently, the EU assumes that through political dialogue and assistance as well as positive conditionality, it can promote willingness of the Syrian government to democratise its political system. However, how effective is this soft power of the EU confronted with a strong, but authoritarian state as in the case of Syria? Börzel formulates this EU dilemma as follows: the EU focuses on the promotion of democratic governance when dealing with countries which are authoritarian (weak democracy) but have sufficient capacities to adopt and enforce policies (strong statehood). In such settings, "[b]ad governance is a result of formal institutions that bypass main principles of good governance such as transparency, accountability, the rule of law and participatory decision making. In order to undermine authoritarian rule, the EU seeks the cooperation with actors beyond the state. However, opportunities for supporting non-state actors are seriously constrained by the repressive nature of the regime, as well as the nature of the opposition, which does not always endorse the political principles promoted by the EU. Thus, the EU's influence on governance appears to be limited most for countries facing the biggest problems of bad governance."⁷¹ This creates a dilemma, as Van Hüllen indicates: in order to promote good governance a degree of political liberalization is necessary for the implementation of political dialogue and democracy assistance; however "[c]ooperation is most difficult where it is most needed."⁷² In an authoritarian context like the Syrian one, international organisations can only have cooperation

⁷¹ Börzel, 2009: 38.

⁷² Hüllen, 2009: 25 and 26.

with or support by those CSOs which have been cleared by the regime; in practice, these are GONGOs, CSOs led by people with good connections to the regime or people's organisations. The Platform for NGOs could thus be seen, as one civil society activist indicated, as a way to keep civil society under control by the authorities because "the relations with civil society have been outsourced by the regime to the Trust. It remains an attempt to centralize and to control."⁷³ A Syrian official of a multilateral organisation and board member of an NGO working for disabled children gives a different perspective; "10 years ago you needed permission from the security to hold a wedding. Now the government is sitting around the table with NGOs."⁷⁴ These NGOs however are strictly controlled and sometimes even created by the regime. Nevertheless, in general the attitude towards civil society remains one of distrust and control. As one human rights activist indicates: "[c]ivil society is considered dangerous. It should be under total control. Civil society means people start to think and act. The government does not seek partnership with civil society. It seeks to control civil society. The government has started to create and support certain NGOs, which are under its control. Pro-government people head them most of the time. In this way the government sends a message into the world, that we have a grown civil society which needs your help. So if you tend to help civil society in our country, here we are. We are waiting."⁷⁵ Another activist, a former reformist within the Ba'ath party, says the regime is against all kinds of groups; it is thus against NGOs, human rights associations and all civil society bodies. The attitude of the regime towards civil society changed in the sense that: "they form GONGOs either under the patronage of Asmaa al-Assad or headed by regime people in order to serve the plan of the regime and to control the real civil society and to show the world that we have NGOs. The Syrian government does not seek partnership with anybody."⁷⁶

The EU state-centred approach to the Middle East, characterised by cooperation instead of confrontation, makes it easy for authoritarian regimes to profit from the advantages of cooperation with the EU while avoiding or frustrating reforms and projects which might be against their interest. As for Syria, the government has been effective in limiting EU democracy and human rights assistance.⁷⁷ A complicating factor is that EU Member States can differ in their choices regarding the good governance approach to be followed as well as the instruments and channels to be used. Given the fact that to a large extent external relations are still the

⁷³ Interview 10: Women's rights activist. 4 May 2010.

⁷⁴ Interview 11: Official intergovernmental organisation. 4 May 2010.

⁷⁵ Interview 12: Human Rights Activist. 13 July 2009.

⁷⁶ Interview 13: Political opposition activist. 19 July 2009.

⁷⁷ Skov Madsen: 2009: 2 and 4.

competence of the Member States, these differences might become visible and thus easily exploited by authoritarian governments. Moreover, stability and security concerns might determine in practice EU development assistance more than democracy promotion. The EU rewarded Syria for its more cooperative stance in the case of Lebanon with the prospect of a ratified association agreement as well as a substantial increase in the volume of EU aid. These rewards were given while the Syrian government refused to cooperate with the EU in the field of human rights and continued to persecute alleged opponents, including key figures of the pro-democracy and human rights movement.

In sum, good governance in a broad sense, as interpreted nowadays by the EU and UNDP, covers both democratic governance as well as effective governance. Principles of democratic governance are participation, human rights and democracy, while the underlying principles of effective governance are efficiency and effectiveness. Democratic governance, in the case of semi- and authoritarian government, requires a system reform. Promoting democratic governance in such a context is very difficult because it requires opposition parties but also civil society to operate more or less independently from the state. Lip service is given by donors to promoting democratic governance. In practice, donors active in semi- and authoritarian states are at best only able to give support to activities promoting effective governance. It is often the preferred approach by donors, especially in the case of befriended authoritarian states. Moreover, if development is primarily interpreted as promoting sustained economic growth, there is evidence that it is more important to have effective governance than democratic governance. From a developmental perspective, it might be more realistic to focus on a step-by-step approach, improving participation of citizens at the local level and increasing accountability of local authorities. Even in an authoritarian context, there might be opportunities to make progress with forms of small governance or development. Political liberalisation in itself forms no guarantee for democratisation of a political system.

In Syria during 2006-2010, the regime blocked all initiatives proposed in the context of development cooperation, which would contribute to structural reforms in the sphere of good governance, such as a new NGO law and the establishment of a human rights committee. The regime cautiously allowed, as part of its socio-economic reform programme, more CSOs to be registered and to be active in development-oriented activities, including those which contributed to the empowerment of deprived groups in society, as long as the existing state power relations were not challenged. From the start, the Syrian regime made it clear that political reform had no

priority. International governmental aid donors, although adhering to the language of promoting democratic governance, in practice were only allowed, in a limited way, to contribute to initiatives promoting forms of effective governance. The presence or lack of democratic governance was no determining factor for the EU regarding the cooperation with the Syrian regime in the period 2006-2010. As we have seen in Chapter 3, the external policies of Syria played a more important role in this regard.