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signed by Mr Jordi AYET PUIGARNAU, Director

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HIGH REPRESENTATIVE OF THE  
EUROPEAN UNION FOR  
FOREIGN AFFAIRS AND  
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*Accompanying the document*

**JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT, THE COUNCIL,  
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE  
COMMITTEE OF THE REGIONS**

**EU support for sustainable change in transition societies**

{JOIN(2012) 27 final}

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This Staff Working Paper intends to provide more details on the relevant policies, instruments and examples referred to in the Communication on EU Support for Sustainable Change in Transition Societies. It also gives a more in depth view of key challenges to be addressed in a context of democratic transition and collects illustrative relevant examples from the European Transition Compendium setting forth the transition experience of EU Member States.

## **1. KEY CHALLENGES TO BE ADDRESSED IN TRANSITION SOCIETIES**

Shifting away from authoritarian, clientelist and corrupted regimes and moving towards democratic and more equitable systems is a difficult and uncertain process. Social, political and economic changes have to occur if the country is to engage irreversibly towards a more democratic and equitable society. A lot of challenges are at stake which all have to be tackled, even if at different stages, for a long lasting change in the lives of the people.

The relative importance of the challenges faced by emerging democracies may vary according to the specific context that has led to the change in the political power. These include typically restoring security, building national consensus on future values to which the country will adhere, setting up national institutions and processes guaranteeing that these fundamental values will be respected and creating the socio-economic conditions allowing social justice among citizens. It can indeed be assumed that where the root causes for people's calls for societal changes concern not only to the political situation but also the socio-economic situation (lack of decent employment and economic opportunities, inequalities), the prospects for successful political reforms are unlikely to be good without improvements in the latter.

These challenges are most of the time intertwined. There is no magic recipe to explain which one should be dealt with first or given greater importance at a certain time of the transition process. The sequencing of the reforms is highly context-dependent, but given the high expectation of the people after years of authoritarian rule, a balance has to be sought between quick-win reforms helping to keep the momentum and the adhesion of the people to the whole process and longer terms more difficult reforms.

The European Union has longstanding experience in successfully assisting countries in their transition process. The EU's enlargement policy has proven to be a powerful tool to foster societal transformation. Countries that have already acceded to the EU and those on the road

to join have undergone impressive changes through accession-driven democratic and economic reforms. Commitment, conditionality and credibility have been situated at the core of the accession process and its success.

### **1.1. Building national consensus on a new "social contract"**

Transition to democracy can be the result of different processes, such as internal mass revolution (the Arab Spring cases), civil war (Ivory Coast), negotiations processes (South Africa, Indonesia). Ensuring or restoring security is essential in order for the society to be able to define its new governing values in a relatively calm situation or to avoid a civil war, unilateral secession etc. The role of the police and of the army in these first phases of transition is central.

In some cases there might be an urgent need to strongly focus on reconciliation among different parts of the country or between different groups of the society in order to maintain national unity and build a strong national consensus on the future of the country. For instance in South Africa, "Truth and Reconciliation committees" applying the principle of justice rather than revenge played an important role in the democratic transition process at the end of the apartheid regime.

Engaging all parts of the society in the definition of the values that will form the base of the future state is another major challenge ahead of the transitional bodies. This requires broad participation of all parts of the society, including political parties, civil society organisations, youth and women movements, trade unions, people from remote areas, ethnic and religious minorities etc. The more voices participate in the debate the more likely it is to receive broad support for reforms. Experiences from Chile, Brazil, Argentina seem to indicate that engaging even the more reluctant part of the society to democratisation (in these cases the army, the police and the business community) is beneficial to the whole process.

All in all, the transition process should be nationally driven and should be as inclusive as possible in order to define a new "social contract" between the state and all parts of the society. This represents a major challenge as, following a long period of authoritarian rule, political parties and civil society organisations may not be well organised, citizens may not have a participatory culture and forces opposed to the changes might try to block the transformation process.

### **1.2. Designing democratic institutions and processes**

If building a national consensus on the main values at the base of the future society is a core challenge of transition processes, translating these broadly agreed values into facts is another one. The national "social contract" has to materialise into the constitutional process and the

establishment of the rule of law, the electoral process, but also into the setting up of democratic institutions, a revitalised civil society, all these elements leading in medium term to the development of a true democratic political culture.

Regarding the writing of the new constitution, a key challenge is the dismantlement (partial or full) of the previous state structures and institutions, of former ruling parties and vested economic interests. Further, it is crucial to ensure that the process is consensual and inclusive: from establishing a new social contract and agreeing on the broad aims, to setting up of the constituent assembly, to holding a nationwide and public consultation process, to subjecting the draft constitution to some form of democratic endorsement, for instance through a popular referendum.

Linked to this, the first democratic elections represent a litmus test for the new constitutional order and the legitimacy of the new democratic regime. In addition to the universal problems of the influence of money and the factionalism of special interest groups, countries in transition often face low levels of literacy or understanding of elections and insufficient expertise and funding. A pervasive lack of trust in transition can poison the atmosphere for credible and 'free and fair' elections, and result in low levels of candidate or voter participation. Strong demands of democratic reform from a population need to be promptly addressed but in parallel sufficient time is needed for preparing an election allowing it to be sufficiently credible for the population. Promoting inclusiveness, civic participation and transparency of the process is crucial for its success and cannot be improvised and rushed through.

The creation of democratic institutions (or the reform of existing ones) is of paramount importance to ensure compliance with the established democratic rules and for implementation. Therefore, strengthening democratic state institutions and consolidating their respective roles whilst ensuring their democratic legitimacy represents an additional challenge and needs to be addressed at the very beginning of a transition. Democratic checks and balances allow the parliament to exercise real oversight on the executive. Another equally important challenge is to ensure transparent and accountable government through a service-oriented public administration (including through judiciary reform and security sector and police reform), the availability of key economic and social statistics, capacitated local authorities, efficient and independent and effective electoral bodies, court of auditors, constitutional or other courts.

### **1.3. Security, justice and the rule of law**

Support for security, justice and the rule of law is of fundamental importance to establish stability, law and order and reinstating state authority. It is also one of the principle avenues for promoting democratic governance, citizen security gender equality and respect for human rights, and thereby socio-economic development.

Major challenges in the transition process are:

- Not only making the third branch of state independent, but changing it from an openly acknowledged arm of the government (and more particularly the ruling party);
- Not only reforming written laws, but making them implementable and respected, so that they do not merely exist on paper (addressing implementation gaps);
- Not only strengthening juridical institutions, but creating a culture of institutionalism, whereby independent but inter-related institutions function collectively as a justice sector;
- Not only raising the skills of judges, lawyers, and prosecutors, but making them into dedicated professionals who understand, respect, and carry out their roles in a justice sector which utilises its processes to promote respect for human rights;
- Not only improving the delivery of justice and justice services to the population, but also ensuring access to justice for ordinary citizens and disadvantaged social groups.

The process is complicated, politicised, context-specific, and not fully suited to reaping full benefits from technical assistance provided by outside parties. Legal and institutional reforms require time and must overcome resistance to change. Weak States, fragile countries, post-conflict situations, impunity, insufficient financial and human resources, and limited information resources pose inter-connected challenges.

#### **1.4. Socio-economic transformation challenges**

Over the longer run, the legitimacy of democracy needs to be rooted in its capacity to produce an outcome responding to the needs of the citizens and to enhance their welfare. One important risk facing nascent democracies is that democratisation is limited to a rotation of the elite in power without enhancing the effectiveness of public decisions. When institutions fail to enhance growth, employment and welfare prospects the democratisation process is put at risk and its legitimacy eroded.

There is no one-to-one relation between democratisation and economic success. Furthermore, economic policy challenges differ widely between countries in democratic transition. In some cases, the authorities may have to conduct substantial reforms to enhance the efficiency and sustainability of the economic system. This may result in some people losing and other winning and impose substantial transition costs on citizens and the production system. Both phenomena generate stress on the political, economic and financial system. In other cases, authorities may have to reorient some public policies or launch some new one to meet the expectations of the newly empowered citizens.

There are two key features that need to be addressed by any country in transition: stabilisation of expectations and adapting institutions to new challenges.

Stabilising expectations is needed for building up trust and improving incentives to investments, entrepreneurship and SME development. Such a stabilisation depends in the building up of a consensus on the fundamental orientation of the economic policy and the social contract of the country. Furthermore, property right issues that may legitimately arise after a regime change should be sorted out in a way perceived as fair and transparent by the vast majority part of the population. Institutions protecting equal opportunities and private initiatives are equally necessary as well as stability oriented macro economic policy and credible macroeconomic institutions.

The second feature is to ensure that political decision mechanisms and administrative capacities exist to legitimately and effectively decide on institutional changes and new policies. This supposes that demand for public goods, for equity and social inclusion by the citizens and the economic sector can be effectively expressed and taken on board through political institutions. Exogenous shocks, economic transformation and technological innovation change the nature of economic institutions and of policies that are required and demanded: no economic policy and only few economic institutions are adequate for ever. Political institutions that are responsive to bottom-up signals and able to create compromises are therefore needed. Such institutions can be best sustained in democracies. The same is true for the democratically legitimate capacity to mobilise the resources needed for implementing policies, in particular domestic revenues (taxation and natural resources).

Conciliating these seemingly contradictory objectives, the stabilisation of expectations and the imperative of change, is challenging. The fact that more than ever, economic transformation does not occur in isolation and is shaped by globalisation provides an opportunity and a risk. The opportunity is that aligning economic reforms on requirements provided by multilateral rules or a regional integration project defines and makes visible the broad direction taken. The risk is that changes required by international commitments or objectives of regional integration are not possible or are too slow because they cannot build up on a broad political consensus or are opposed by vested particular interests.

Moreover, it is important to address citizens' aspirations for more equity, social inclusion and social protection in three dimensions: political - the social contract between the state and its citizens legitimizes political authority; economic – social protection can contribute to growth and jobs by facilitating entrepreneurship and productive investment in a risky market environment; and social – it reduces inequalities and improves economic opportunities.

This is where the European Union can play a key role. It can reinforce the attractiveness of the international or regional anchorage of the economic and social transformation of its

partners taking account of their proximity, their development needs and aspirations. And it can support this transformation through various cooperation instruments, making it politically and socially sustainable.

## **2. EXAMPLES OF RELEVANT EU INSTRUMENTS AND TOOLS**

The EU has at its disposal a great variety of tools that can be used alternatively or in combination in order to support transition processes. While this is not necessarily an exhaustive list of all such tools, the examples provided below represent good samples of different modalities that can be used in various cases: projects, programme approaches, budget support, conditionalities, incentives, innovative financing mechanisms etc.

### **2.1. Actions under geographic programmes**

#### *2.1.1. Comprehensive democracy support*

In the past, the EU addressed some of these multiple challenges by a comprehensive approach to democracy support based on a broad and long-term support package, which aims at assisting home-grown democratic transition processes by strengthening the capacity of governments, parliaments and other state institutions, political actors, civil society organisations and other actors and by accompanying constitutional and electoral processes. The 2009 EU Council Conclusions on Democracy Support<sup>1</sup> in the EU's External Relations and its Agenda for Action provide the framework for such a comprehensive approach. The aim is to remain tailored to the needs of each country or society in transition and to encourage local ownership of the democratic process. It is also based on a strengthened coordination with EU MS and on increased coherence and mainstreaming of democracy support in the delivery of EU external assistance policies.

The comprehensive EU democracy support is based on a number of key principles: it is process-driven, it takes a long-term approach, it supports the demand-side of democracy, it involves all actors in the institutional reform process and the EU keeps to playing the role of facilitator of home-grown process. In doing so, the EU contributes to sustainable development, respect for human rights, democratic governance, security, poverty reduction and gender equality. The challenges that the EU's support to democracy and human rights faces in societies in transition are centred in the following four main areas:

1. the establishment of constitutional and electoral processes;
2. the strengthening of democratic institutions;

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<sup>1</sup> EU Council Conclusions on Democracy Support in the EU's External Relations, Brussels, 17 November 2009.

3. the strengthening of political and civil society;
4. the gradual development of a democratic political culture.

Example of support to the Parliament and to democratic constitution:

**Kyrgyzstan:** The European Union has supported parliament through three projects beginning in 2007 and continuing through to 2012. All three projects worth € 2 million, have been delivered by the United Nations Development Programme (UNDP) and focused on (i) strengthening parliament's legislative capacities, on public understanding of parliament's work, and in enhancing parliament's use of ICT; (ii) helping parliament meet its responsibilities outlined in the revised 2007 Constitution, and covering legislation, oversight, and representation functions; and (iii) supporting the institutionalization of the legal framework underpinning the country's new democratic Constitution.

EU support to the Kyrgyz parliament has resulted in positive outcomes in terms of enhanced capacity of parliamentarians and parliamentary administration which in turn has improved the effectiveness and stature of the institution. It has supported critically important revisions to the Constitution and is now helping to institutionalize the new democratic order. While Kyrgyzstan continues to face many challenges in its democratic transition, EU support has helped to strengthen parliament as a central democratic institution, enabling the country to preserve and extend democratic freedoms which stand out in a regional neighbourhood often characterized by authoritarian governance.

The EU support for democratic processes for instance in Tunisia and Bolivia illustrate the comprehensive approach to democracy support that relies on an effective complementary use of all existing EU instruments and programmes, as well as on political dialogue and strengthened coordination with EU Member States.

**Tunisia:** the EU is supporting the transition with a broad democracy package, including support to constitutional and electoral reform, the promotion of freedom of expression and democratic values, civic education, civil society, political parties, media, the electoral process and . Electoral experts were funded through EIDHR and the Instrument for Stability. EIDHR was also used to train local election observers and to strengthen the capacity of political parties in a non-partisan manner. EU budget support is part of this broad package to assist Tunisia in its democratic transition process in line with the Council Conclusions on the Future Approach to EU budget support to third countries, ,thus providing financial assistance to overcome immediate economic challenges (including social safety nets), jointly with other major donors while the country goes through the political transition.

**Bolivia:** the EU action has included, among others, support to institutional development and capacity building of organizations and social movements, inclusion of marginalized groups (e.g. indigenous peoples and women), and the decentralization process, as well as support to civil society organisations and democracy projects based on the Instrument for Stability and the EIDHR.

The EU and Member States are working towards greater coherence based on the Agenda for Action of EU democracy support, a framework on which to build a common understanding, approach and programming with regard to the complex challenges of Bolivian democracy. The value-added of this process lies on the potential to achieve greater impact by increasing coherence of EU and Member States support to democracy through joint analysis (democracy profile, mapping, gaps), approach and division of labour.

### *2.1.2. EU support for economic and social transformation accompanying democratic transition*

Supporting evolutions in the field of governance and democracy has to be coupled with support to the economic and social sectors, in order to increase social justice within the country. This support can take the form of projects/programmes or be achieved through budget support. One key element of decision regarding the modality best suited to convey EU aid, should be the length of the procedures, keeping in mind that economic and social quick wins for the population needs to materialise to anchor democratic evolution.

**Ivory Coast:** Total EU aid to Ivory Coast for the period 2008 to 2013 now stands at over €600 million. Since the end of the political crisis a year ago, the EU has doubled its aid to Ivory Coast, allocating first an additional €180 million and then projected budgetary support of €115 million. This aid will take the form of a ‘contract for rebuilding the state apparatus’ and will aim to strengthen essential public services for the population, targeting in particular the police, the judicial system and education. The European Union is supporting Ivory Coast’s economic recovery and the process of national reconciliation. Five new programmes worth a total of €125 million were launched in 2011, aimed at improving the transport sector, vocational education, economic governance, health and civil society. Since 2011, the EU has also provided €80 million in humanitarian aid in response to the crisis in Ivory Coast.

The partnership for transition programme is being set up. Its aim is to provide basic services to the population. Key sectors of intervention are food security, health and refugee and IDP resettlement. This partnership involves the government, humanitarian and development agencies signing up to an agreed strategy to allow time for the phasing in of public services as humanitarian agencies phase out in an orderly manner. A technical secretariat (ECHO experts) identifies good operations and partners for funding and provide field monitoring controls

In addition, the European Union is financing the reconstruction of infrastructure destroyed in the conflict, and contributing to governance, the judicial system, rural development and social policies. In 2012 water supply and sanitation programmes worth a total of €25 million are being put into effect, and the banana sector is receiving support totalling €44 million.

**Morocco:** The EU supports the implementation of the Agenda for the Equality between Women and Men adopted by the Moroccan government in 2011 through a EUR 35 million sector budget programme. The programme is part of broader EU support to the consolidation of democratic

governance in the Mediterranean. One of its main objectives is the strengthening the capacities of the national institutions in charge of implementing the Agenda for Equality. Support to the Ministry of Finance and line ministries to institutionalise gender responsive budgeting tools is also foreseen.

### 2.1.3. *Supporting civil society*

Supporting the development of a vibrant local civil society should be given an important place in EU action in transition countries context. According to its extensive definition (NGO, trade unions, academics, private sector etc), civil society is indeed an actor involved both in democracy, good governance and human rights and an economic and social actor which might play a catalysing role in achieving a sustainable and inclusive growth.

**The European Commission** has at its disposal a wide range of instruments to support civil society.

Support can be provided through geographic national programmes (for instance in Cameroun the PASOC programme) and/or through regional programmes (Civil Society Facilities for enlargement or neighbourhood countries).

Within the EU response to the Arab Spring, a specific Civil Society Facility for the neighbourhood (both Southern and Eastern) was created, with an overall budget of €26.4 million for 2011. This facility aims to strengthen the capacity of civil society organizations in all its components (NGOs, universities, think tanks, media) to promote reform and increase public accountability in their countries.

Specific thematic programmes such as the European Initiative for Democracy and Human Rights or the thematic programme Non State Actors and Local Authorities complement actions undertaken within the scope of geographic cooperation (See also point 2.2.1 and 2.2.3)

## Empowerment and participation through Women's Resource Centres in Afghanistan

In response to the structure of the Afghan society which often segregates and prevents women from being direct beneficiaries of development projects, the EU-funded action supports women by organizing them into community-based Women's Resource Centres (WRCs). The centres provide a comprehensive training programme aiming at empowering women and strengthening the civil society.

The objective is to include women in the democratisation process, both in the exercise of power and in creating public institutions responsive to women's needs.

### *EESC role*

Other EU institutions may also contribute to the strengthening of partner countries civil society. As part of its mandate in the external relation field, the EESC may play an important role as facilitator in the setting up or consolidation of structures for civil society participation in different partner countries and regions.

### *Latin America:*

The CC-SICA is the consultative body for Central American civil society within the Central American Integration System (SICA). The EESC established a regular working relationship with it from the time of its creation and formalised those meetings through a memorandum of understanding in 2006.

Since then, the EESC has worked to enhance the profile and recognition of the CC-SICA and to develop its capabilities, with very positive results. This was done by offering its expertise in how to implement consultation mechanisms, following up jointly with CC-SICA the negotiations for an EU-Central America Association Agreement, and facilitating contacts with political authorities both in Central America and in the EU. One of the most significant results came in 2010 when the Association Agreement between the EU and Central America provided for the creation of a Joint Consultative Committee of the EESC and the CC-SICA, the civil society consultative bodies of the two signatories to the Agreement, as part of the institutional set up of the Agreement. The Agreement should enter into force in late 2012 and should allow for an enhanced internal visibility and permanent participation of Central American civil society in the monitoring of an international agreement, thus setting the path for other opportunities for involvement in the Central American region.

### *Euromed:*

Based on its mandate under the Barcelona declaration of 1995, the EESC has established close ties with partner Economic and Social Councils (ESCs) from the southern Mediterranean, integrating them in a network of national ESCs from the EU and the south, and holding an annual summit of all Euromed ESCs. In partner countries with no ESC the EESC has established contacts with individual civil society organisations such as employers, trade unions, socio-occupational associations and NGOs, and, taking a longer-term view, has been helping these organisations to set up ESCs as platforms for social and civil dialogue with the respective national authorities.

Specifically in Jordan, from 2005 onwards the EESC cooperated closely with the ILO to promote a "tripartite +" model of an ESC, in other words an ESC which is engaged not just in classical social dialogue (tripartite dialogue between the social partners and the government), but which also draws in the other sectors of civil society, such as NGOs, socio-occupational organisations and consumers organisations. Besides providing support to the ESC with expertise it also lobbied the Jordanian government to support the creation of the ESC in close cooperation with the EU delegation in Jordan. The ESC was finally set up in 2009 and got access to some EU funds through the EU delegation. The EESC has recently visited Jordan to support the role of the ESC in the current transition period in Jordan and is planning to hold it as annual summit in Amman in October 2012.

#### *2.1.4. Application of incentives and conditionalities*

Once initial financial support has been provided by the EU in response to urgent needs, the incentive based approach can sometimes prove to be a useful approach to sustain, in the long run, the democratic evolution of a given country.

All EU external policy frameworks contain incentives and apply conditionality to varying extents to encourage reforms in partner countries. Incentives can be financial (e.g. assistance), economic or political (e.g. imposing or lifting sanctions); conditions relate to the nature and extent of reforms undertaken. These vary according to the policy framework:

The EU's Enlargement policy, as enshrined in the Treaty on European Union<sup>1</sup>, is the response to the legitimate aspiration of people of our continent to join the endeavour of a unified Europe. The integration of the countries of Central and Eastern Europe over the past decade has shown that enlargement benefits the EU as a whole and allows it to be better positioned to address global challenges. The future prospect of accession to the EU can be seen as an overarching incentive throughout the process. Enlargement policy is based on the principle of compliance with a key number of political, economic and acquis-related criteria (known as the Copenhagen criteria) before a membership application can be seriously considered. This framework of conditionalities, combined with technical and financial support, accompanies all stages of the accession process, from the granting of candidate status to opening of accession negotiations, open and closing of individual chapters and the final accession. Examples of conditionality range from reforms of the judiciary and the fight against corruption and organised crime to the need to ensure full cooperation with the International Criminal Tribunal for the former Yugoslavia (arrest and transfer of indictees to The Hague)

and meeting the requirements of the internal market. With the new approach on the rule of law negotiating chapters 23 and 24, the Commission further developed its approach by extending the timeframe for negotiations and supporting the candidate countries in developing concrete Action Plans, that will concretely guide the reform process until accession. Conditionality has also been successfully linked to progress along successive stages of the pre-accession process – signature/entry into force of Association Agreements, awarding of candidate status, opening/closing of negotiations and (to a lesser degree) financial assistance.

In European Neighbourhood Policy conditionalities exist in the field of political and security dialogue but also in economic and sector policies dialogue (market access, migration, energy cooperation, education, etc.). It follows an incentive-based approach, as outlined in Communications “Partnership for Democracy and Shared Prosperity” and “A New Response to a Changing Neighbourhood”. The principle of “more-for-more” is applied upon achievements and based on differentiation: those that go further and faster with specific, measurable reforms will receive greater support from the EU in terms of financial assistance, enhanced mobility, market access and access to the EU Single Market. Support will be reallocated or refocused for those who stall or retrench on agreed reform plans.

More concretely, closer political co-operation means advancing towards higher standards of human rights and governance, based on a set of minimum benchmarks against which performance will be assessed. A commitment to adequately monitored, free and fair elections should be the entry qualification for the Partnership. Partner countries carrying out the necessary reforms can expect to resume negotiations on or to update the existing Association Agreements with the aim of allowing for significantly strengthened political dialogue and increased links between the partner country and EU institutions. This will encompass deeper engagement on mobility and improved market access to the EU.

A programme on Support for Partnership Reform and Inclusive Growth (SPRING) was set up with a budget of €350 million in additional funds for 2011 and 2012 primarily for initiatives relating to democratic reform and socio-economic development. It is a multi-country programme with an umbrella approach that provides flexibility for modulating the assistance swiftly on a “more for more” basis to partner countries showing sustained commitment to, and progress in, democratic reforms.

So far Tunisia has benefitted from a concrete expression of the EU’s “more-for-more” approach through the EU SPRING support package of over € 350 million addressed to the EU’s Southern neighbours. In the post-election period, the full implementation of the “more for more” principle is expected to take the form of a continuous dialogue with the government and the civil society to monitor and support reforms.

<b>Tunisia:</b>
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Since the Revolution, Tunisia has engaged into significant reforms: freedom of expression, freedom of association, agreeing international conventions promoting respect of human rights, holding the first free elections including the presence of an EU electoral observation mission during the elections, maintaining the economic situation of the country despite the crisis and the consequences of the war in Libya. With the setting-up of the Constituent Assembly responsible for drafting the new Constitution, Tunisia entered into a new phase of democratic transition. Recognising the substantial reform progress made by the Tunisia since the Revolution, the EU responded fast the challenge of adapting its support to meet the needs of Tunisia. The EU increased its funding earmarked for bilateral cooperation with Tunisia from the ENPI from €240 million to €390 million for the period 2011-2013. The EU also decided that Tunisia should be the first beneficiary of financial support from SPRING. An initial €20 million was made available to Tunisia in 2011. Half of this was used to increase the EU contribution to the economic recovery support programme to €100 million, while the remaining €10 million was used for a programme of support to the implementation of the Association Agreement and to the Transition.

In the post-election period, the full implementation of the “more for more” principle is expected to take the form of a continuous dialogue with the government and the civil society to monitor and support reforms. To date an Action Plan for a "privileged partnership" is under negotiation.

Furthermore, a Dialogue on migration, mobility and security has been launched in October 2011. The negotiations leading to the conclusion of a Mobility Partnership are on-going and well advanced with Tunisian authorities.

The Cotonou Agreement with the ACP countries is also based on political conditionality and there is an in-built mechanism (Articles 96 and 97) whereby a serious breach of human rights in a partner country can lead to the suspension of the Agreement with that country.

Some financial instruments developed to implement the Cotonou Agreement are building on an incentive-based approach. This is for instance the case of the 10<sup>th</sup> EDF Governance Initiative. A recent evaluation<sup>2</sup> suggested that this process was more effective where multiple stakeholders were involved and where joint funding for governance issues from EU Member States existed. It also showed a need for more in depth analysis of the dynamics in the country, context specific approaches as well as strategic use of different incentives and the need for continuous dialogue on governance including also other partners than the government.

Lessons learned in cases such as Benin illustrate that successful results could be achieved where regular monitoring, with exposure to relevant stakeholders including civil society, took place. This served as a strong incentive for the government to keep the promises made and brought about credibility to the process in the eyes of the general public.

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<sup>2</sup> "European Commission, "Support Study on the EU Governance Initiative in view of the preparation of a Report by the Commission to the Council in 2012 – Annexes to the Final Report", December 2011, p. 4.

**Benin:** The EU Delegation updated the Governance Profile and the status of Governance Action Plan implementation on a yearly basis, i.e., not only at the time of the midterm review. The documents were shared with the partners (the government in Benin, especially the relevant ministries, and EU Member States) and finalised with their input. The updated tools were then distributed to national actors such as civil society, the private sector and other development partners. This took place during public workshops at which the media was present; three such workshops have been held to date.

The Governance Initiative process has allowed a more traditional form of development cooperation to morph into a more regular multi-stakeholder dialogue. Documents that used to be restricted to donors and the government and that laid bare the national governance process were made public in open consultations. A wide audience was made aware of the existing problems and witnessed the commitments taken by government to improve the governance of their country.

Moreover, these annual reviews ensured that regular follow-up took place. This has served as a strong incentive for the government to keep a number of its promises and brought credibility to the process in the eyes of the general public. Finally, it shows to all partners (national and international) where the country stands with the governance situation, what progress has been achieved and what has not moved on. The whole process has thus resulted in a benchmarking of the governance situation and of the government commitments over a period of five years.

Source: European Commission, "Support Study on the EU Governance Initiative", November 2011.

In the context of the European Development Policy, the Agenda for Change recently further highlights the EU's commitment to ensuring that a country's record and ability to conduct reforms concerning human rights, democracy and other key elements of good governance has a direct bearing on the mix and level of aid towards the EU's partners worldwide.

In addition, in line with the Commission Communication on the Future approach to EU Budget Support to third countries, the EU, when granting general budget support in the framework of its Good Governance and Development Contracts, will require specific conditions to be met in the field of democracy and human rights.

Trade Policy - while this is not its policy objective, given inter alia that trade instruments have to be consistent with WTO rules - may also indirectly provide incentives for partner countries' democratic transition. The EU's Generalised System of Preferences (GSP) provides for reduced tariffs for the goods of developing countries when entering the EU. Within this framework, a special incentive arrangement for sustainable development and good governance ("GSP+") offers further advantages (wider product coverage and increased preferential margin) to vulnerable developing countries that ratify and effectively implement core international standards in the fields of human, social and labour rights, environment and good governance. Any of the GSP arrangements may be temporarily withdrawn for the serious and systematic violation of principles laid down in the core international conventions

on human, social and labour rights and on a number of other grounds. For instance Belarus and Myanmar have seen their general GSP preferences withdrawn for violations of labour rights and Sri Lanka lost its GSP+ benefits for non-implementation of certain human rights conventions. The preferences should be re-established when the situation changes, which acts as an incentive for relevant reforms. This worked efficiently in the case of El Salvador which introduced the necessary reforms to remove obstacles to ILO core labour standards and thereby avoided withdrawal of its GSP+ status.

#### *2.1.1. Actions through innovative financial instruments and partnerships.*

The Commission supports innovative financial instruments and partnerships using grant resources to unlock financing and expertise from the private sector. These instruments serve to support various sectors (e.g. SME finance, infrastructure finance) and may come in various forms. The paramount objective of these instruments is to use a grant element strategically in order to make projects and initiatives by public or commercial financiers financially viable and thereby exerts a leveraged development policy impact.

Such instruments may help to alleviate market failures hampering private sector development in partner countries and address risks that prevent investments with a strong developmental impact from materialising.

One main set-up used successfully are the EU regional blending facilities, which combine grants with additional flows (such as loans and risk capital) from European Finance Institutions (e.g. EIB, EBRD) to gain financial and qualitative leverage and thereby increase EU development policy impact. Since 2007, four regional blending facilities have been set up: the EU-Africa Infrastructure Trust Fund (ITF), the Neighbourhood investment facility (NIF), the Latin America investment facility (LAIF) and the Investment facility for Central Asia (IFCA). With Investment Facilities for Asia, the Pacific and the Caribbean established in early 2012, global coverage has been reached. The regional level is necessary to ensure ownership of the instruments by the beneficiary countries and increase their visibility.

For instance, the SANAD fund for micro, small and medium-size enterprises (MSME) project for the MENA region, itself modelled after the successful European Fund for Southeast Europe (EFSE), is a good example of pooled funding by public and commercial investors. It promotes self-employment and income generation through microfinance and helps to create employment through support to MSMEs. The NIF furthermore supports the SME Finance Facility, aimed at Increasing the availability of long-term funding and financial services to SMEs in the Eastern Neighbourhood by providing loans and partial loan guarantees to participating financial intermediaries for on-lending to SMEs.

These types of tools should be taken into consideration when identifying the right mix of instruments to be used in support to a democratic transition. These instruments are aiming at mobilising additional funding to cover investments needs in partner countries and support infrastructure projects in various central sectors such as energy, environment, transport and social issues and provide support to the private sector targeting Small and Medium Size Enterprises.

## 2.2. Actions through various thematic instruments

In addition to funds available within the framework of geographic cooperation, other tools exist with a worldwide scope that could be usefully resorted to in transition contexts.

### 2.2.1. *European Instrument for Democracy and Human Rights*

The European Instrument for Democracy and Human Rights (EIDHR)<sup>3</sup> is a self-standing financing instrument that complements and reinforces actions on human rights and democracy within the framework of relevant EU policies, by primarily empowering local civil society to strengthen home-grown democratic processes. One of its main strengths is that it may be used without the consent of partner-governments and even where no established development cooperation exists with the country in question. The EIDHR has made considerable provisions for country specific small scale projects (Country Based Support Schemes - CBSS) in order to further enhance local ownership and improve access by national civil society organisations.

EU support in this area through the European Instrument for Democracy and Human Rights (EIDHR) has led to results such as, among others, legislative changes, reinforced parliaments, increased participation of under-represented groups in political life, a free press, trust in electoral processes and better transparency of political activity. As part of the increasing efforts to support democracy worldwide the EU has also for the first time launched a dedicated global call for proposals through the EIDHR in June 2011 with a specific focus on democracy.

In the context of the discussions on the new multi-annual financial framework 2014-2020, the Commission has proposed to render the EIDHR more effective, flexible and responsive and to strengthen its 'democracy' component. For instance, the Commission proposes to integrate into the EIDHR some of the elements existing in the Instrument for Stability, such as the modality of awarding direct grants to address even better any sudden needs arising from situations of transition (such as the democratic uprisings in the Arab world).

### 2.2.2. *Humanitarian Aid*

The humanitarian Aid instrument is not as such an instrument aiming at promoting democratic governance. But, addressing immediate needs of affected populations in particular in terms of furniture of basic social services it contributes to stabilisation. Humanitarian interventions promoting communities participation play an important contribution in terms of empowerment of local communities.

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<sup>3</sup> Regulation (EC) No. 1889/2006 of 20 December 2006.

In transition contexts, humanitarian interventions are as far as possible designed in order to support local capacities development (building on existing systems) rather than duplicating or substituting national structures and maintaining dependence on emergency aid.

Humanitarian interventions in South Sudan as well as in Ivory Coast have explicitly integrated those concerns at the level of the humanitarian strategies as well as in terms of implementation with the partners (part of the grant agreements).

### 2.2.3. *Instrument for Stability*

The Instrument for Stability (IfS)<sup>4</sup> is a strategic tool designed to address a number of global security and development challenges, and is complementary to the geographic instruments. It encompasses two main components. The first component is designed to allow short term actions. These actions should be aiming at preventing conflict, supporting post-conflict political stabilisation and ensuring early recovery after a natural disaster. It can only be used in a situation of crisis or emerging crisis, in order to re-establish the conditions necessary to the implementation of the Community's development assistance under other long-term instruments. Through this short term component actions can be undertaken in various fields: development of democratic and pluralistic state institutions, support for international criminal tribunals, promotion of independent and pluralist media, etc.

The second component of the instrument is aiming at implementing longer term actions. It should mainly contribute to fighting trafficking of people, drugs, firearms and explosive materials, addressing cross borders threats (terrorism, organised crime etc) and enhancing preparedness to pre and post conflict situations.

The IfS has a budget of €2.062 billion for 2007-2013<sup>5</sup>, of which €484 million are allocated for the long-term component (23% of the total). This allocation reflects the intention that the IfS should primarily be an instrument for crisis response, and that long-term measures under this Instrument should not be a substitute for those that could be delivered under country or regional strategies funded from the main geographic financing instruments.

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<sup>4</sup> Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability

<sup>5</sup> According to the Commission Communication "A budget for Europe 2020", COM (2011) 500 final part 1, it is envisaged to maintain this programme with an allocation of 2.51 billion over the 2014-2020 period.

#### 2.2.4. *The thematic programme Non State Actors and Local authorities*

The thematic programme for *Non-State Actors and Local Authorities* in the Development Cooperation Instrument is one of the few "actor-oriented" thematic programmes, giving a wide range of civil society actors and local authorities the exclusive opportunity (right of initiative) to propose actions and promoting an inclusive and empowered local society. The actions implemented do not necessarily have the backing of the host country government. This thematic programme strives to strengthen civil society in development in all its forms, both in Europe and partner countries alike.

The programme has a budget of € 702 million for 2011-2013 and the Commission has proposed to renew it under the 2014-2020 financial framework.

### 3. TRANSITION EXPERIENCE OF EU MEMBER STATES

Within the EU, the specific experiences of Member States may also provide useful examples on transition management.<sup>6</sup> The European Consensus on Development explicitly states (Article 33) that the "*EU will capitalize on New Member States' experience (such as transition management) and help strengthen the role of these countries as new donors.*"

It was within this context that the European Commission decided to embark on a compilation of such transition management experiences that were still very fresh in the minds of the public administrations concerned for knowledge-sharing purposes.

There is no one-size-fits all recipe, as the causes and context of transition processes and the countries' needs vary significantly from one country to another, not the least because some other countries may experience complex challenges of social cohesion and governance relating to ethnic, religious, ideological or other socio-political divisions that have not been relevant in Member States. With these caveats, there may, however, be useful insights that could be drawn from this wealth of experience for other countries elsewhere in the world.

The following are some excerpts of transition management experiences out of the myriad of experiences outlined in the European Transition Compendium (ETC). They are purely

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<sup>6</sup> Support to 'emerging democracies' in a state of transition from a one-party regime to a pluralistic liberal democracy requires a whole process of support that spans the political, economic and social spheres. It entails also the creation and implementation of a comprehensive set of legislative and regulatory reforms, the upgrading and modernisation of administrative capacities and a better and more transparent service-orientated public sector vis-à-vis its citizens. This process can be coined into the phrase 'transition management' and is inextricably intertwined with sowing the seeds for good (or better) governance, as an essential element in any development cooperation policy.

illustrative and only intended to give an example of reforms in each Member State covered in the ETC.

### **3.1. The Political Dimension of Transition**

#### *3.1.1. Set up of a new constitutional framework*

Fundamental changes were needed at constitutional level in order to ensure a successful transition to democracy and to a market economy in Central and Eastern Europe and the Baltic States. Some countries held their very first elections under their original constitutional framework which was later totally superseded, whereas others undertook this process in two stages: firstly, the adoption of the most basic and urgent constitutional changes in the form of amendments to the existing constitution and secondly, the adoption of a totally new constitution.

The diverse approach with which a new constitutional framework was established in all of these newly emerging democracies shows that countries going through a political transition need to find their own way and solutions how to go about such a process.

#### *3.1.2. Set up of political pluralism*

The set up of political pluralism is a cornerstone for a healthy democracy.

**Poland**<sup>7</sup> was one of the first countries in Central and Eastern Europe to re-establish democracy after 44 years of Communist rule. Transition was inevitable when Poland was experiencing deep political and economic crises in the 1980s which led to the rise of Solidarność (Solidarity). In the late 1980's, a broad democratic coalition developed around this movement which eventually negotiated political and economic reforms with the leaders of the Communist Party.

One of the very first steps undertaken during Poland's transition period as an emerging democracy was to re-establish the freedom of expression and association and the freedom to form political parties which would lead to the immediate organisation of free and fair elections aimed at opening up the national Parliament to democratically elected representatives of the population. The Solidarność-led movement set up a Citizens' Committee made up of opposition representatives and managed to get the State to accept them as a political partner with whom reforms had to be discussed and agreed. This movement later participated in the elections held in June 1989 and obtained a resounding victory, which forced the democratic movement to take on the responsibility of leading the Government. These parliamentary elections were held in 1991 under a new electoral law.

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<sup>7</sup> <http://www.eutransition.eu/#node:1074>

The newly elected Polish Parliament passed a first Constitutional Act in 1992 reflecting the changes that had occurred in Poland since 1989 (the so-called "small constitution"), but an entirely new constitution was finally adopted in 1997.

*The Polish experience clearly shows the efforts undertaken to establish political pluralism as a necessary first step in an emerging democracy and how a stable political party system can be consolidated in spite of various country-specific challenges.*

### 3.1.3. Decentralization of power towards regional and local governments

With the support of international donors, **Hungary**, in its transition period towards democracy, put strong efforts to revitalize local communities.<sup>8</sup> Different local communities throughout the country took part in the EU's LEADER program. Transnational cooperation was strongly supported via cross-border cooperation and the establishment of various Euroregions.

During the change of regime in the 1990's, the emphasis was put on the democratic operation, the autonomy and the construction of guarantees preventing the overgrowth of power when forming the system of local governments. The system was established fast, the country did not have enough time and experience for the development of a civil public administration.

Significant laws serving as the bases of the operation of local governments were passed in the first four years following the change of regime. More and more tasks were decentralized towards local governments through various legislative acts.

As Hungary developed with the new system setup, improvements were looked for through the creation of a special consultative body established in 2002 by the Ministry of the Interior.

Based on the recommendations of this working group, the Hungarian Government proposed the bill of the multi-purposed micro-regional associations of the local governments, which was adopted by the Parliament in 2004. The bill regulated the facultative associations instead of the mandatory ones proposed in the first version of the bill

The adaptation of the bill to the evolving Hungarian situation continued with discussions being held within the Forum of the Government and the Local Self-governments (KOEF). This Forum could work beside the Government as a preparatory and consultative body with a coordinating role. As the name suggests, this forum hosts both representatives of the Government and representatives of the Local-Governments. A major breakthrough came

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<sup>8</sup> <http://www.eutransition.eu/#node:1275>

about with a consensus on very important reforms that enabled the Government to adopt a proposal of amendments of the acts on local-governments.

Over the years, the political and financial landscape of regional and local governments in Hungary faced challenges. However, a renewed effort to view these challenges with a new perspective led to the set-up of micro-regional associations. These associations increased considerably the standards of service provision in terms of efficiency and also helped bridge social and territorial differences.

*In Hungary the choice to have the devolution of power away from the centre helped to improve transparency and accountability and to eventually assist the Central Government in getting closer to its citizen.*

#### *3.1.4. Set up of a Rule of Law framework: Reform of Legal Systems and the Judiciary*

The establishment of the rule of law with an independent legal and judiciary system is another fundamental aspect that needs to be considered in young emerging democracies. The **Czech Republic**<sup>9</sup> provides an interesting case study in this regard.

In December 1989, the Judiciary in the Czechoslovak Socialist Republic was in deep crisis at all levels and very few politicians or legal experts had a clear idea how the judiciary could be reformed to suit the demands and needs of the country. The judiciary lacked facilities, was poorly funded and judges had inadequate low salaries. Judges were ideologically involved in the previous coercive system of justice based on political classes and all of them were to some degree compromised and contaminated by every day contact with representatives of the totalitarian system.

In early 1990, the transition Government and the Parliament decided to “clean up” the judiciary. It was therefore decided to shorten the mandate of existing judges to approximately one year so as to allow for the screening of judges against whom objections had been raised due to their politically-driven decisions during Communist rule. The next logical step was then to proceed with new appointments for a new mandate.

New opportunities to practise law as independent freelance professionals or employed by an emerging private sector that offered better employment conditions led to an exodus of legal professionals from the Government. In addition, other challenges also had to be dealt with. This was, for example, the increased workload for the judiciary on a daily basis. Conflicts regarding the powers of the judiciary and their specific duties, an increased number of petty crimes, the building of a totally new commercial register that would provide for the legal existence of tens of thousands of companies under very primitive conditions had to be dealt

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<sup>9</sup> <http://www.eutransition.eu/#node:1261>

with. In short, therefore, the Court was facing increased number of cases to be resolved with the exception of family law. The human resource gap had to be addressed and appropriate training given.

All these efforts proved futile following the break up of the federation. It was only at the end of the 1990s that both the legislation and the judiciary had to be remodelled in line with the pre-requisites of membership of the European Union that acted as a true catalyst for change. The process of preparations for acceding the EU defined the next steps in the transformation process of the Czech Judiciary, which again required further reviews of repeatedly amended laws and regulations. However, despite gradual improvements, the status of judges and the basic organisational structure of the Czech judiciary remained unchanged, as defined in 1991.

This case study clearly shows the short-term and long-term challenges that a complete overhaul of a legal and judicial system based on the rule of law would entail. Some of the challenges mentioned here are definitely not new to those being faced by young democracies.

Another aspect that emerges is the fact that a regional institution (which was the EU in this case) can provide a good boost to the transformation process that is required if it has the necessary knowledge and expertise to provide guidance and support of the kind required

It also needs to be taken into account that any clean-up exercise in the judiciary faces the risk of strong politicisation, which could potentially influence the judiciary for decades. It is therefore particularly important – if a country decides to carry out such a process – to apply full transparency and ensure the application of objective criteria.

### *3.1.5. Public Administration Reform*

Public Administrations are the supporting arms and legs of a well-functioning Government. The countries of Central and Eastern Europe and the Baltic States provide an interesting insight into how the Government was finally put on centre stage in decision-making, rather than have it subordinated to a political-party. The reform of public administration – from internal organisation to staffing – is necessary to improve transparency, accountability, policy effectiveness and efficiency.

With its independence, **Latvia** needed to develop a new public administration system to operate efficiently and transparently.<sup>10</sup> During the very first phase of reform, Latvian politicians and civil servants had to design an entirely new system to manage the transition to a democratic system as well as the transition to a market economy.

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<sup>10</sup> <http://www.eutransition.eu/#node:1266>

During the Soviet period, political and executive powers were merged. This meant that every high-ranking employee in public administration was also a member of the Communist Party. The decision-making process was one of a top-down approach and the public had no say in policy-making, nor could it influence decisions. During the period of transition, the public administration consisted mainly of two categories of officials: experienced officials who had previously worked under the old public administration system; inexperienced people who wanted to start off a career in the new public administration. A main bone of contention was therefore the training of staff in a very short time.

The newly elected Government created the Ministry for State Reform (1993-1995) developed the Public Administration Reform Policy Paper, the first Law on Civil Service (April 1994), the School of Public Administration and the Civil Service Administration (established under the Prime Minister).

The prospect of Latvia becoming a European Union member acted as a catalyst for change. The Public Administration Reform Bureau (1997-1999) and the Secretariat of the Special Assignment's Minister for Public Reform Affairs (1999-2002) worked on the Law on the Public Administration System and improved administrative systems. The Ministry of Finance developed an internal audit system and the Ministry of Justice created an Administrative Procedure system. A new Law on Civil Service came into force in 2001, involving a move from the "career" system introduced by the 1994 Law to a "post" system, and reducing the scope of the Civil Service to central government Ministries and subordinated institutions and a certain number of special groups of public servants (police, firefighters, border-guards, state revenue service, the diplomatic and consular service). Since 2003 the State Chancellery, which is the state organisation responsible for managing the Centre of Government (including policy planning and coordination) has also been responsible for public administration reforms. It also oversees in-service training for the public administration.

Interesting to note as best practice is the fact that in 2000, the State Chancellery started the development and implementation of a uniform policy planning and coordination system. "Policy Planning Guidelines", which prescribe the basic principles for the policy development, types of policy planning documents and their hierarchy, were established. This was a basis for adoption of Cabinet Regulations No.111 "Rules of Procedure of the Cabinet of Ministers" of 12 March 2002.

Amendments to the "Rules of Procedure of the Cabinet of Ministers" adopted in 2005 stipulate that the state budget of 2007 should be drafted in accordance with the structure included in the programme part of ministries' strategic plans. This would ensure integration of sectoral policies used for annual budget application of the respective direct administration institution.

*The case of Latvia shows what efforts needed to be undertaken to put up a Public Administration composed of members of the civil service that executed their duties according to a clearly established code of ethics and policy planning guidelines, irrelevant of political beliefs. It also shows the sequencing of how such reforms took place.*

### 3.1.6. E-governance

**Estonia**<sup>11</sup> gave Public Administration Reform a slightly different twist . From the very initial stages of its reform reflection process, Estonia understood that the State and the information system of the State must be developed hand-in-hand, that ICT must support the everyday functioning of the State in the best possible manner to provide better public services to citizens and businesses. ICT solutions made the provision of public services and the communication between the State and the citizens as well as enterprises easier and more efficient. Estonia therefore used ICT solutions to manage information flows and facilitate institution building. Although it goes without saying that nowadays, a modern Public Administration and ICT tools go hand-in-hand, Estonia's example was ground-breaking for the simple reason that a 'poor' country still managed to successfully penetrate the use of ICT across all levels of society, starting off with Public Administration level. In fact, Estonia is now one of the leaders in integrating new technologies into the public sector reform process. An important step towards open and transparent governance was taken with the Public Information Act of 2001 and the opening of a Direct democracy portal TOM (Today I decide) in the same year, giving every citizen the possibility to present their ideas to the Government, debate over them, and get an official response. Just last year, the information system for legislative proceedings was opened and it is now possible to follow the birth of legislative proceedings until their actual date of implementation all on one 'window'. Estonia was also the first country worldwide to implement nation-wide remote internet voting since 2005.

*This case study proves that the early investment in ICT, albeit seemingly expensive at the beginning, is worth the effort and the financial resources. The spread of the use of ICT has not only contributed to more efficiency but also to more government transparency and accountability and hence more direct involvement of citizens in a participatory democracy.*

*At the same time, it is important to note that the introduction of ICT needs to be based on effective administrative procedures. ICT is only a tool to implement such procedures, but cannot replace them.*

### 3.1.7. Human Rights<sup>12</sup>

One of the core aspects of the process of political reforms carried out in Central and Eastern Europe was to incorporate into the legal system and to make effective the full enjoyment and free exercise of the human, political, social, economic and cultural rights recognised in international instruments adopted at world-wide and European level after the end of the II World War. Many of these rights were already enshrined in the national legislations (with notable exceptions, such as the right to private property but they were not effectively respected and protected. Lack of appropriate institutional mechanisms, both general (an independent Judiciary) and specific (such as Ombudsmen) and, even more importantly, lack

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<sup>11</sup> <http://www.eutransition.eu/#node:1267>

<sup>12</sup> <http://www.eutransition.eu/#node:1046>

of public awareness of these rights was a common feature in the countries belonging to the former Communist block.

Signature and ratification of the international instruments and conventions on human rights and their incorporation into the national legal systems was one of the first steps undertaken in many of these countries in the beginning of their political transitions. This was followed by the building of the necessary institutional mechanisms to ensure protection of such rights with the support of international organisations.

As a country emerging from the splitting up of the former Yugoslavia, **Slovenia**<sup>13</sup> aimed to have a strong institutional framework in place in this field as soon as it gained independence but there was a certain gap between legislation on one hand and practice on the other hand. Besides ratifying specific human rights conventions, it went about to create some institutional bodies to oversee the protection of human rights, such as the Human Rights Ombudsperson, the Information Commissioner, the Advocate of the Principle of Equality and the Parliamentary Commission for Petitions, Human Rights and Equal Opportunities, each of which perform specific functions.

Slovenia's case study, shows how government institution-building is a necessary first-step to safeguard human rights.

### *3.1.8. Gender Equality and Women's Rights*

During its years of transition, **Lithuania**<sup>14</sup> took steps to ensure that its legislation and all economic and social policies would support equal opportunities for men and women in the labour market. A Law on Equal Opportunities for Men and Women was passed in 1998, the Office of Equal Opportunities Ombudsman was established in 1999 and an Equal Opportunities' Commission was established in 2000 with representatives from 16 ministries and government agencies.

Women's rights in the labour market were included in the Law on Support of the Unemployed, the Law on Employment Contract and the Law on Safety and Health at Work. The cumulative impact of these laws was to have employers legally obliged to apply the same selection criteria for men and women and to also provide equal working conditions and opportunities. A Programme for Advancement of Women was adopted in 1998, together with a detailed action plan for its implementation over the years 1998-2000.

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<sup>13</sup> <http://www.eutransition.eu/#node:1257>

<sup>14</sup> <http://www.eutransition.eu/#node:1534>

In spite of all these efforts during this transition period, the Lithuanian authorities realized that gender inequalities in the labour market persisted and new measures had to be introduced to refine further the labour legislation in terms of equality of treatment, provide more training and information especially for women and provide more childcare services to encourage women to join the labour market. EU membership spurred further reforms and improvements in this regard.

Whilst the case of Lithuania gives an insight into what kind of laws were necessary to promote gender equality and ensure the protection of women's rights, the case of **Cyprus** provides insight into the institutional 'machinery'. In 1994, the Council of Minister of Cyprus set up the National Machinery for Women's Rights which is made up of representatives from major women's organisations in Cyprus,<sup>15</sup> trade unions and government departments and is composed of four entities that fall under the auspices of the Cypriot Ministry of Justice and Public Order. The National Machinery for Women's Rights tackles all women-related matters and focuses on the elimination of gender inequality and gender-related discrimination. It also has an advisory role to the Council of Ministers on any policies, programmes and laws promoting women's rights across all levels of society, sensitizes government departments on equality issues, monitors and evaluates the effectiveness and implementation of laws in this context and acts as a direct link between the government and NGOs. Through the multidisciplinary role of the National Machinery for Women's Rights, Cyprus has sought to strengthen women's political participation in the transitional and post-transitional process at all levels of decision-making.<sup>16</sup>

*As can be seen from the case of Lithuania, it is important to consider gender equality and women's rights issues from the very early stages of transition and to pursue with ongoing efforts to make subsequent adjustments and improvements in the years thereafter, especially to increase the number of women in the labour market. The case of Cyprus gives an idea how mainstreaming of gender-related issues and sensitization to women's rights can be pushed ahead.*

### **3.2. The Economic Dimension of Transition**

The economic dimension of transition has multiple facets, especially when considering the shift from a centrally-planned economy to a market-based economy, as was the case for countries belonging to the former Soviet bloc. Each country had to find its own way through this process and therefore, as for the political dimension of transition, there was / is no one-size-fits-all. In fact, the various experiences in the European Transition Compendium (ETC) show that whilst each country had its own way of sequencing and pacing of economic

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<sup>15</sup> <http://www.cyprus.gov.cy/portal/portal.nsf/All/640AA32E298C2742C2257036003F90A5?OpenDocument>

<sup>16</sup> <http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/F2E421B065ACE7C3C22579ED00242413?OpenDocument>

reforms, there was a common underlying objective: membership in a regional or supranational organization – in this case the European Union<sup>17</sup>.

Economic transition reforms undertaken by the Central and Eastern European Countries and the Baltic States were, *inter alia*, the liberalisation of prices, trade and foreign exchange, macro-economic stabilisation to deal with hyper-inflation, restoration of private property, creating an enabling environment for economic activity based on private ownership of enterprises and businesses, reform of the banking and financial sectors as well as of overall fiscal policy. Some countries chose a "shock therapy" approach to these reforms (Poland, Czech Republic, Estonia) whereas others referred a "gradualist approach" (Hungary and Slovenia). Private Sector Development was a key element in their economic transformation process<sup>18</sup>.

### 3.2.1. *Private Sector Development*

One of the most crucial aspects to ensure the successful transition to a market economy is private sector development.<sup>19</sup> It is interesting to note that in the case of the former Soviet bloc, in some countries (for example, in Poland), there was already a limited private sector before the actual change started in late 1980s; and in others (Slovenia) there was a system that, while not including private ownership, was already operating under quasi-market conditions. However, in most countries of the Soviet bloc, the private sector was absolutely non-existent before the political change happened.

At the very beginning of the transition process, it was necessary to change the legal framework to make way for the creation of private companies and company registers. New private companies emerged to fill in the gap where the State had withdrawn its functions. The new element of 'competition', both domestically and internationally required companies to be innovative. In the case of Small and Medium-Sized Enterprises (SMEs), support measures had to be introduced through specific public policies.

Another major objective of the economic policies undertaken by these countries in transition was the attraction of Foreign Direct Investment (FDI). Capital was needed to allow for the privatisation of state companies. This, in turn, required further investment in human resource training of how to manage a private enterprise.

In the case of the **Czech Republic**,<sup>20</sup> the beginning of the transformation process was dominated by large state-owned companies which were then gradually replaced by Small and Medium-Sized Enterprises (SMEs). The fast growth of SMEs was a characteristic aspect of

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<sup>17</sup> <http://www.eutransition.eu/#node:1041>

<sup>18</sup> <http://www.eutransition.eu/#node:1041>

<sup>19</sup> <http://www.eutransition.eu/#node:1056>

<sup>20</sup> <http://www.eutransition.eu/#node:1407>

the economic transformation that the Czech Republic was experiencing and which needed to be supported through a legal framework which gave rise to Act No. 299/1998 Coll. on the state support of SMEs. The support of the Government to SMEs was targeted on capital consolidation of firms, capacity building, consultancy, data acquisition, applied research, technological development and the creation of new job opportunities. The support was provided by the Ministry of Industry and Trade (and its predecessors), the Ministry of Finance and since 1997 by the Ministry for Regional Development as well. Through the design and implementation of the START programme, for example, favourable conditions for the establishment and development of SMEs were created and they were assisted with designing and implementing business plans.

*This example shows that the fast growth of SMEs leads to economic transformation and that both processes need to be supported with specific government measures that create the right policy framework for a business enabling environment.*

When **the Slovak Republic** gained independence,<sup>21</sup> its economic activities concentrated on large state-owned enterprises, its industrial production relied on the heavy industries with high consumption of energy and raw materials. It also had a low level of finalization of production as well as low involvement in foreign trade and it had to convert its armaments industry.

The development of the Slovak enterprise sector as of 1993 took place in a context of reforms in the business environment (banking sector reforms, labor market reforms, tax and public finance reforms, bankruptcy reforms and streamlining procedures in registration of business). Challenges that had to be overcome were weak enforcement of law (insufficient quality and lack of stability of legislation, long duration of resolving disputes), significant administrative burdens, high financial burdens for employers (social security payments), a non-functioning capital market and lack of skilled labour force in some sectors.

The set-up of the National Agency for Development of Small and Medium Enterprises (NADSME) founded in 1993 was crucial to support development and growth of small and medium-sized enterprises (SMEs) in the Slovak Republic with the aim to improve the competitiveness of the sector within the single EU market and the markets of third countries.

*The Slovak case shows that the strengthening of the rule of law, particularly in the field of law enforcement, contributes to a better business environment.*

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<sup>21</sup> <http://www.eutransition.eu/#node:1407>

### 3.2.2. *Reform of Public Finances*

**Bulgaria**<sup>22</sup> kicked off a comprehensive stabilization and economic reform process in 1997 with the set up of the Currency Board Arrangement (CBA). This was considered to be the best cure to deal with the circumstances of soft budget constraints, commercial bank financing of loss-making enterprises and hyperinflation. A conservative fiscal policy approach was adopted together with sound macroeconomic management and the acceleration of structural reforms in order to restore growth, reduce inflation and reassure public investors.

In 1999 and 2000 major improvements were made towards effective budget execution. Central government funds were centralized in a single treasury account at the Bulgarian National Bank (Central Bank) and major reforms were also undertaken in the area of intergovernmental relations concerning municipal finances. In 2002, the Council of Ministers approved a programme for implementation of fiscal decentralization. This set a clear framework of intergovernmental responsibilities, standards for service delivery, matching revenue collection with expenditure needs, maintenance of fiscal discipline and a greater participation of citizens in the planning and execution of municipal budgets. Within the Ministry of Finance, a Public Finance School was inaugurated in 2004 having the special responsibility to build capacity inside the Government system on budgetary and Public Finance Management (PFM) issues.

*The case of Bulgaria gives one example on how reform in public finance was conducted to bring about economic transition and how it was reinforced and accompanied by capacity-building of personnel within government services.*

## 3.3. The Social Level

At the **social level**, one supportive element of political transition to democracy is surely that of civic education and civic engagement for citizens that can effectively understand and participate in the building and reinforcing of an active democratic culture, well aware of their rights and duties, able to think critically and to learn how to effectively participate in political life as a citizen by exercising their civic rights.

### 3.3.1. *The development of Civil Society Organisations*

The development of an organized civil society is a must for democracy to take roots because they cater for a change in mentality and attitude in society at large vis-à-vis a ruling government. The aim of civil society organisations is usually to empower individuals to speak up for their individual and collective rights and this in turn influences policy-making at the highest levels. The building from scratch of civil society organisations is shown by the experience of the former Central and Eastern European Countries and the Baltic States.<sup>23</sup> While under former regime "civil society organisations" were part of the power and control system of the single party regime, with no freedom of association, the democratic transition experienced by these countries put in place an enabling legal environment for CSOs to

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<sup>22</sup> <http://www.minfin.bg/en/>

<sup>23</sup> <http://www.eutransition.eu/#node:1050>

officially register and start freely their activities. Such a process was supported by international donors throughout. Nowadays, CSOs influence general policy-making and decision-making in these countries.

In the particular case of **Estonia**<sup>24</sup>, two laws to regulate non-governmental organisations were adopted: the Law of Non-profit Associations and the Law of Foundations – both of which set clear guidelines for operation.

Estonia was in fact the first country in the region to develop a policy framework for cooperation between government and civil society. The EKAK (Estonian Civil Society Development Concept) was drafted between 1999 – 2002 (adopted by the Estonian Parliament in December 12, 2002). It sets out the tasks of the public sector and citizens' initiatives and establishes principles of their cooperation with each other in politics and public administration. It also elaborates on the complementarity between public authorities and civic initiatives, establishes principles for cooperation to help strengthen overall civil society in Estonia. The Tartu Volunteer Centre, with the help of various local NGOs, was involved in the development of a Strategy for Volunteering in Estonia which was later adopted by the Joint Committee for implementation of the Estonian Civil Society Development Concept.

*The case of Estonia is a good example of the transition process, where government built and established a good working relationship with civil society organisations from the very beginning and whereby both parts considered each other's work as complementary.*

### 3.3.2. Education

Economic growth and job creation does not happen overnight. It requires adequate support and investment in the human resources of the country. Hence, education at all levels of society is an essential ingredient to sustain and support economic development.

**Malta** offers a different experience because of the particularity and challenges of being a small island state with a localised and geographically-confined economy. Firstly, every single raw material and most of its produce are generally imported, with the exception of some agricultural and fishery products. This automatically means higher costs for consumers. Secondly, small island economies have typically small local markets that challenge the notion of market competition and could have monopolistic tendencies, also causing higher consumer prices. Thirdly, Malta was extremely dependent on tourism, especially from the UK in particular after independence in 1964. In the 90s, Malta therefore had to find ways how to diversify its economy and eventually, how to shift its focus from the manufacturing sector on textiles to nowadays more services-oriented sectors and the export of semi-finished products.

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<sup>24</sup> <http://www.eutransition.eu/#node:1252>

For Malta, tackling economic development was inextricably intertwined to its own investment in its one and only 'natural resource': its human capital. As the level of investment in education increased over the years, a radical reform in professional and vocational education and training<sup>25</sup> was designed and kicked off in 2001 when the Malta College of Arts, Science and Technology (MCAST) was established. This type of educational investment has substantially contributed to the building of a now dynamic and competitive knowledge-based economy. It also increased the number of opportunities for lifelong learning, particularly in the upgrading, upskilling and reskilling of workers to face the challenge of an ongoing changing technology.

The establishment of MCAST managed to raise the status, accessibility and attractiveness of professional and vocational education and training (VET). It keeps abreast with changing demands of the local industry and holds regular meetings with different industrial sectors, the Malta Chamber of Commerce, Enterprise and Industry, Malta Enterprise, the Employment Training Corporation (ETC) and other entities. The MCAST Board of Governors includes experienced educationists in VET but also a number of leading industrialists who ensure that MCAST's policies, strategies, objectives and programmes are consonant with the changing industrial, commercial and servicing highly competitive world outside.

*This case study shows that the transition to a more developed nation is spurred on by investing in the education of the workforce and that the country's possession or lack thereof of natural resources does not necessarily play a role in helping the economic development of a country.*

### 3.3.3. Health

For decades **Slovenia** has been engaged in a systematic process of health care system modernisation.<sup>26</sup> Reintroduction of compulsory health insurance and introduction of voluntary health insurance have been among the most important reform strategies across the years for Slovenia.

The Health Insurance Institute of Slovenia ("Zavod za zdravstveno zavarovanje Slovenije" - hereafter ZZZS), nowadays a public institute bound by Law to provide compulsory health insurance for all citizens and /or inhabitants of Slovenia, has established a stable and efficient system with the aim of containing costs on a macro level of health care whilst simultaneously ensuring accessibility and quality of services. Until 1999, ZZZS was also implementing voluntary health insurance which later led to the creation of an independent mutual voluntary health insurance organisation called "Vzajemna."

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<sup>25</sup> <http://www.eutransition.eu/#node:1474>

<sup>26</sup> <http://www.eutransition.eu/#node:1495>

During the EU integration process, a lot of effort was invested into the education of its healthcare system personnel, including higher level professional training. Slovenia also established itself as a best practise example of sustainable financing of its health care system, especially with the successful launch of its Slovene Health Insurance (smart) Card project.

*This case study shows how Slovenia improved over the years its quality and accessibility of healthcare services whilst at the same time bearing in mind the importance of having a healthcare system that was financially sustainable in the long run.*

#### 3.3.4. Employment

The fall of the Communist Regime under which everybody was employed by the State obviously led to various socio-economic changes which had to be dealt with.

In the case of **Romania**<sup>27</sup>, after 1990, the new Government established an institution that would deal with employment, vocational training and guidance for people looking for a job, but would also make cash payments for the unemployed population as a social welfare benefit.<sup>28</sup>

Thus, in 1999, a National Agency for Employment and Vocational Training was set up, as a public institution of national interest, having legal personality. The Agency was renamed in 2000, becoming the National Agency for Employment (ANOFM). Over the years, this agency has expanded on its services to include, for example, professional job coaching, vocational training, pre-dismissal services, labour mediation, consultancy for starting a business and to provide subsidized employment for people in disadvantaged groups of the population.

In 2006, Regional Action Plans for Employment aimed at implementing employment policy at regional level were elaborated. The regional action plans were and still are managed, revised and upgraded through “Regional Employment and Social Inclusion Pacts” which involve all relevant players at local, county and regional level. The pacts have 3 levels of operation – the programming/planning and evaluation (regional level) – and two implementation levels (county level and local level - municipal or communal). The pacts are supported by a management structure, permanently providing logistical and technical assistance, namely permanent technical secretariats.

*This case study shows how the employment strategy put in place tackled employment not only from a 'central perspective' (i.e through the establishment of the National Agency for Employment and Vocational Training (ANOFM)) but also from a regional point of view with specific action plans and two levels of implementation to reach out as much as possible to the people.*

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<sup>27</sup> <http://www.eutransition.eu/#node:1061>

<sup>28</sup> <http://www.eutransition.eu/#node:1518>

### 3.3.5. *Social Dialogue*

During the whole process of transition, **Romania**, like other Central and Eastern European countries and the Baltic states, had to set up mechanisms and institutional bodies to ensure dialogue between government representatives, trade unions and employers' associations in matters of economic and social policy. Although mostly of a consultative nature at the outset, these tri-partite social dialogue mechanisms later expanded to more specific policy and public governance issues (such as the management of active employment policies at regional and local level). Therefore, social dialogue between trade unions and representatives of employers was developed right from the start. However, collective bargaining was somewhat slow to move ahead, both at sector or regional level as well as at the level of individual companies or enterprises. With the help of EU-funded projects, this particular problem was gradually tackled and Romania and other countries in Central and Eastern Europe and the Baltic States strengthened their experience in designing and implementing projects in support of social dialogue.<sup>29</sup>

*A lesson-learned in this case is that collective bargaining is an important element of social dialogue. It develops over time and should not be overlooked, especially when trade unions start to develop.*

### 3.3.6. *Reforms of Pension Systems*

During the era of the pre-transition period, the pension system used by **Romania** and other Central and Eastern European countries, pension systems were based on a pay-as-you-go model, fully funded by the state budget and with very early retirement ages, different for men and for women. With the economic and demographic changes rapidly brought about by young emerging democracies, the pension system had to radically change because it was financially unsustainable and there was a risk of collapse of the systems in a short period of time unless substantial reforms were introduced.<sup>30</sup>

Work and studies on pension reform started in the mid-1990s, but it was only in the final years of the decade – or in some cases in the early 2000s – that such reforms were eventually implemented, through the adoption of new legislation. This was the case for Romania which introduced a three-pillar pension funding system to include both state and private sector sources: firstly, a system managed by the public sector, based on mandatory contributions; secondly, a mandatory savings system managed by the private sector and thirdly, an optional savings system based on voluntary contributions.

*From this example, one can reflect further about the advantages for partner countries to develop social welfare as part of a social safety net for citizens. This, however, cannot come about unless there is effective domestic resource mobilization.*

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<sup>29</sup> <http://www.eutransition.eu/#node:1518>

<sup>30</sup> <http://www.eutransition.eu/#node:1518>

## Sharing 'transition management expertise' with partner countries

Member States that joined the EU in the past decade have found ways how to share their transition management expertise with partner countries across the world, as have other countries before them who have gone through similar experiences. The following are just but some examples:

- E-governance reform in partner countries is a priority for **Estonian Development Cooperation** within a larger framework of building democratic societies and transparent, accountable, and participatory governments. Areas of shared expertise include ICTs in public sector reform, change management, development of E-government technical and institutional framework, development of a legal and fiscal framework for information society, development of e-services, open governance, e-democracy and e-participation, ICT in education, cyber security, regional and local e-governance and mobile governance. Projects focussing on these topics have been conducted upon request by various partner countries and there are others in the pipeline.
- The **Czech** Ministry of Finance developed a technical cooperation programme based on the Czech experience of the transition management process in relation to public finance. This "Transformation Financial and Economic Cooperation" has a specific budget allocation to meet requests for knowledge transfer activities made by partner countries for the organization of consultations, seminars, workshops and even internships targeting public finance issues.
- **Romania** organised a knowledge-sharing workshop on democratic transformation entitled "North Africa and Eastern Europe: viewpoints and shared experiences of transition." The institutions involved were the Romanian Ministry of Foreign Affairs, UNDP, the United Nations Electoral Assistance Division and the Permanent Electoral Authority of Romania. The main aim was to explore whether the Eastern European democratization and transition processes would provide a useful learning process for Tunisia and Egypt and to have a forum for free debate between Tunisian and Egyptian officials, civil society representatives, academics, journalists and international experts in an atmosphere free from political and social pressure. Amongst topics the discussed were the management of the electoral process and the credibility of elections to instigate further reflection about ownership of the democratization process.
- **Lithuania** – as other enlargement countries – made use of twinning projects in support of its own institutions since 1998. Since becoming an EU Member State in 2004, the Lithuanian institutions made use of this twinning experience with partner countries. An example of one of these twinning projects is the support to the Milli Mejlis (Parliament) of the Republic of Azerbaijan. A second successful example was that of capacity building in the areas of food safety and animal welfare. In 2011, the State Food and veterinary Service of Lithuania, together with Hungarian specialists, implemented this Twinning Project in Serbia. The main objective was to provide assistance to the Veterinary Directorate of the Ministry of Agriculture, Forestry and Water Management to strengthen their capacity to

enforce and implement the Serbian Food Safety Law and Animal Welfare Law which are already largely aligned with EU legislation.

The experience and the expertise developed in the EU and its Member States through the accessions in the past decade in handling processes of transition can be an important added-value for partner countries around the world, aspiring towards a successful transition management process. Eventually, the specific experience of the new Member States could provide further scope to explore untapped comparative advantages as areas of expertise within the EU's external action where bilateral or joint programming could be undertaken to develop new partnerships, synergize efforts with those of more long-standing donors and attract resources. It would also work towards boosting the donor profile of these Member States not only within the EU's development cooperation sphere but also internationally. After all, it is an undisputable fact that a newly independent state can get advice from a country that has itself recently experienced independence; a small island developing state can get advice from small island economies that have faced and may still face similar challenges; and a once centrally-planned economy can walk in the footsteps of others that have learned from painful reforms towards a market economy.

Last but not least, **Croatia's** accession to the EU will open another facet of experience and expertise in transition management that can be shared with partner countries.