

Conclusions on Serbia

(extract from the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2010-2011", COM(2010)660 final)

Serbia has made progress towards meeting the **political criteria**. Serbia applied for EU membership in December 2009. The Interim Agreement entered into force in February 2010 and Serbia has further progressed in complying with the Stabilisation and Association Agreement (SAA) requirements. The ratification process of the SAA was launched in June 2010. Judicial reform has continued but there were serious shortcomings in the re-appointment procedure of judges and prosecutors. Despite the active on-going cooperation of Serbia with the International Criminal Tribunal for the former Yugoslavia (ICTY), the two remaining ICTY fugitives, Ratko Mladić and Goran Hadžić, are still at large.

The UN General Assembly adopted on 9 September a joint resolution tabled by Serbia and co-sponsored by the EU as a follow-up to the International Court of Justice advisory opinion on Kosovo. The resolution acknowledged the content of the ICJ advisory opinion and welcomed the readiness of the European Union to facilitate a process of dialogue between the parties; the process of dialogue in itself would be a factor for peace, security and stability in the region, and that dialogue would be to promote cooperation, achieve progress on the path to the European Union and improve the lives of the people. Determined efforts are needed by all parties for the inclusive and effective functioning of regional fora.

Democracy and the rule of law have been further strengthened. Implementation of new Constitutional provisions such as those referring to the Statute of Vojvodina has advanced. Additional efforts are needed to ensure the compatibility of some constitutional provisions with European standards, particularly on the judiciary.

Further steps were taken to improve the functioning of the *parliament* through the adoption of a new Law on the National Assembly and new rules of procedure. However, efforts are necessary to further improve the quality of legislative output. The electoral legislation needs to be brought fully into line with European standards.

The coalition *government* remained stable and continued to demonstrate a high degree of consensus on EU integration as a strategic priority. However, the preparation and implementation of new legislation need to become more effective.

The capacity of the *public administration* is overall good but reform in this area is advancing at a slow and uneven pace. A stronger commitment to respect the mandate of independent regulatory bodies and provide them with adequate resources is needed.

There was good progress towards adopting the legislation providing for *civilian oversight of security forces* and implementing constitutionally guaranteed rights. However, civilian oversight, including by the relevant parliamentary committee, needs to be reinforced.

Serbia continued the reform of its *judicial system* with the re-appointment procedure of all judges and prosecutors and the introduction of a new court network. However, the re-appointment procedure had major shortcomings and was non-transparent. The two Councils responsible were elected under a transitory composition and did not apply objective criteria. Judges and prosecutors were not heard during the procedure and did not receive adequate explanations for the decisions. This puts into question the independence of the judiciary and may give room for political influence. The two Councils still need to be elected in their final

composition. The substantial backlog of pending cases remains a matter of concern. Overall, Serbia's judicial system only partially meets its priorities.

Progress in the fight against *corruption* continued with the Anti-Corruption Agency starting its work in January 2010. A majority of public officials submitted asset declarations to the new Agency as required. However, corruption remains prevalent in many areas and continues to be a serious problem. In the absence of a new law, control of the funding of political parties and financing of election campaigns remains weak. The Anti-Corruption Agency still has to establish a track record of verifying asset declarations and carrying out its role effectively. The number of final convictions, especially in high level cases, remains low. Public procurement, privatisation and public expenditure remain areas of concern. Protection of whistleblowers needs to be improved.

Concerning *human rights and the protection of minorities*, the necessary legislation is in place. The Constitution guarantees *civil and political rights* which are broadly respected but their enforcement remains to be fully ensured. Relevant legislation remains to be further brought in line with European standards.

There has been little progress concerning *the prevention of torture, ill-treatment and impunity* where a number of cases continued to be recorded. *Access to justice* is generally ensured. However, legislation and funding for a more effective system of free legal aid are still missing. Serbia made little progress in the reform of its *prison system*. A strategy to prevent overcrowding was adopted but poor conditions in prisons remain a matter of concern.

Constitutional and legislative provisions for the protection of *freedom of expression* are in place. The legislation allowing the *media* to operate freely is in place. However, incidents involving hate speech, threats and attacks, in particular against journalists, have continued. *Freedom of assembly and association* is guaranteed by the Constitution and in general respected.

Civil society organisations continued to be active in the social, economic and political life of Serbia and remain important in promoting democratic values. An Office for Cooperation with Civil Society was recently established.

Constitutional guarantees allowing for *freedom of religion* are in place. Inter-faith relations have improved. However, the lack of transparency and consistency in the registration process remains the main obstacle to some smaller religious groups exercising their rights.

The legislation for the protection of *social and economic rights* is broadly in place. The protection of women and children against violence needs to be strengthened. The law on gender equality, aiming at improving the position of *women*, was adopted. However, follow-up of cases of domestic violence remains inadequate. In relation to *children's rights*, there has been progress in strengthening the protection of children from abuse and negligence. The legislative framework prohibiting any kind of *discrimination* in the workplace and establishing a mechanism for protection against discrimination is in place. However, in practice, discrimination continues, particularly against the Roma, the LGBT community, women, national minorities and persons with disabilities.

There has been no progress with regard to *property rights* as an adequate legal basis for property restitution is still missing.

The legislation providing for the *respect for and protection of minorities and cultural rights*, is in place. Elections for the 19 National Minority Councils were held in June 2010 and were on the whole well organised. The Councils are yet to become operational.

The inter-ethnic situation in *Vojvodina* has been stable. The implementation of the newly adopted Statute and of the Law on Determination of Competencies, which provides for an extensive autonomy of the province in the areas of local finances and economic development has started. Further legislation needs to be adopted. The situation in *southern Serbia* is on the whole stable but tense. Clashes between ethnic groups and within the Muslim community in *Sandžak* have on the whole decreased. However, tensions persist in particular between the two existing Islamic organisations and in connection to the constitution of the Bosniak National Minority Council.

Some progress was made in addressing the issue of the status of *refugees* and *internally displaced persons (IDPs)* but further substantial efforts are needed. Despite a number of positive developments, the majority of the *Roma* population continues to live in extreme poverty. They also face discrimination, in particular as regards access to education, social protection, health care, employment and adequate housing.

As regards ***regional issues and international obligations***, Serbia has demonstrated a constructive approach in connection to developments in Bosnia and Herzegovina. The Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) noted in his latest report to the UN Security Council that Serbia's responses to the Office of the Prosecutor's requests for access to documents, archives and witnesses have been timely and adequate and that no requests remain outstanding. He also stressed the professionalism and commitment of the operational services working on the search for fugitives. However, he made a number of operational recommendations. Despite the active on-going cooperation of Serbia with the ICTY, the two remaining ICTY fugitives are still at large. Full cooperation with the ICTY remains an essential condition for membership of the EU, in line with the Council conclusions of 25 October 2010.

Good cooperation with EULEX has been established in relation to war crimes in Kosovo. However, problems of extradition and recognition of sentences continued to exist with some countries of the region.

Fresh impetus was given to the Sarajevo declaration process following the Ministerial meeting held in Belgrade in March 2010, at Serbia's initiative. This brought together Bosnia and Herzegovina, Croatia, Montenegro and Serbia, all of which agreed to work together in order to clarify notably refugee statistics and remaining open issues. The countries also committed themselves to work towards solutions to a number of outstanding issues by the end of the year.

Serbia has continued to actively participate in regional initiatives such as the South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC) and the Central European Free Trade Agreement (CEFTA). Serbia held the Chairmanship of CEFTA in 2010. It has been actively participating in the preparations for the upcoming Danube Strategy. Serbia made significant progress in its bilateral relations with other enlargement countries, particularly Croatia and Bosnia and Herzegovina, and continued to have good relations with neighbouring EU member states. An extradition agreement on cooperation in criminal matters was signed with Croatia. Regional cooperation was, however, affected by a lack of agreement between Serbia and Kosovo on the latter's participation in regional meetings. An acceptable and sustainable solution for the participation of both Serbia and Kosovo in regional fora needs to be agreed as soon as possible. This is essential for inclusive and functioning regional cooperation. Serbia still does not accept the Kosovo customs stamps notified by UNMIK. In Kosovo, Serbia maintained parallel structures and organised parallel municipal by-elections.

Following a severe recession in the wake of the global crisis, Serbia's **economy** gradually recouped stability as a result of an adjustment programme agreed with the IMF and also supported by the EU and the World Bank. As of the first half of 2010, economic activity has been picking up but recovery remains slow and fragile. Public finances continued to deteriorate despite a number of fiscal adjustment measures put in place to contain the budgetary slippage. Adoption by government of amendments to the budget system law and the pension law was an important step towards improving the quality of public finances. Other structural reforms, especially privatisation and enterprise restructuring, have been again delayed due to protracted unfavourable market conditions.

As regards the **economic criteria**, further progress towards establishing a functioning market economy has been limited. Serbia needs to make more efforts in restructuring its economy so as to cope in the medium-term with the competitive pressures and market forces within the European Union.

There is broad consensus on the fundamentals of a market economy. The adoption of timely and appropriate measures in agreement with the IMF was key in re-establishing macroeconomic stability. Serbia's external position improved during the recession. The pick-up in economic activity in 2010 led to a widening of the current account deficit which was, however, limited on the back of strong export and subdued import growth. Foreign exchange reserves remained relatively high despite regular interventions by the central bank to buffer volatility of the exchange rate. Inflation was broadly maintained within the target band as the central bank reverted to restrictive monetary policy. The banks continued to be adequately capitalised and liquid. Amending the budget system law and the pension law commits the government to fiscal consolidation over the medium-term.

However, Serbia has further postponed the reforms to tackle the biggest structural shortcomings. Despite a gradual economic recovery, the labour market has continued to deteriorate, with decreasing employment and increasing unemployment. Notwithstanding the corrective measures to limit the fiscal slippage during the crisis and the amended budget system and pension legislation to enhance fiscal discipline, the public finance sustainability in the medium term needs to be strengthened by reforms in the areas of healthcare system and public administration. Privatisation of the socially-owned companies has back-paddled following repeal of numerous sale contracts. Privatisation of the state-owned companies has been further delayed. The business environment continues to be constrained by red tape and weak legal predictability, in particular with respect to effective enforcement of property rights, which hamper market entry and exit. Furthermore, deficiencies in competition and infrastructure bottlenecks remain barriers to doing business. The informal sector remains an important challenge.

Serbia has made further progress towards aligning its legislation to **European Standards**. Serbia has also continued to implement the Interim Agreement provisions and made further progress towards complying with the Stabilisation and Association Agreement (SAA) requirements. Administrative capacity is good. However, further efforts are necessary to bring the legislation and the policies in line with the *acquis*. Implementation as well as enforcement of the adopted EU-related legislation needs to be ensured.

With regard to **internal market**, Serbia has made progress in meeting EU standards on *free movement of goods*. Legislation on metrology and on certain new approach directives has been adopted. However, a new legal framework for market surveillance is still lacking. The administrative capacity and cooperation between the State institutions need to be further strengthened. Further efforts are required to continue the transposition of the product-specific *acquis* into Serbian legislation.

Serbia is moderately advanced towards meeting EU standards in the areas of *movement of persons, services, right of establishment and company law*. A number of acts are still pending approval. In the area of *free movement of capital*, Serbia remains moderately advanced. Non-residents are free to make direct investments with certain restrictions. Serbia needs to continue its efforts to meet the gradual liberalisation requirements laid down in the SAA.

Serbia is already well on track to meeting the EU *acquis* and remains committed to reforms in the areas of *customs and taxation*. Obligations stemming from the Interim Agreement were respected. Further efforts are needed as regards procedures and administrative capacity. Enforcement capacity of the tax administration and tax collection has improved, although further progress is required in this respect. Serbia needs to take follow-up action to ensure that its tax legislation complies with the Code of Conduct for business taxation.

Serbia made some progress in meeting European standards in the area of *competition*. Implementing legislation of the competition law was adopted. Moreover Serbia should continue to work on its enforcement records. Knowledge of competition law and economics in the judiciary remains weak. Some progress has been made in the area of *state aid*. A State aid authority was established. However, the administrative capacity of the State aid Authority has to be strengthened. Effective implementation of the law needs to be ensured.

Serbia's preparations for establishing an effective and fully independent *public procurement* system with streamlined award procedures are moderately advanced. Significant efforts remain necessary to strengthen the capacity to implement the requirements of the EU *acquis*. Progress has been made in the area of *intellectual property* but further efforts are needed in terms of alignment with the *acquis*. Concerning enforcement, better co-ordination among relevant agencies is required, as well as substantial investment in judicial training.

Preparations are continuing towards meeting European standards in the areas of *employment and social policy*. Progress has been made in the area of *public health*. The strategic "Health Protection Development Plan" for 2010-2015 prepared by the National Health Council of Serbia prepared adopted by the Government.

Serbia has made some progress to align with European standards in the area of *education*. An overall strategy involving all levels of education, including lifelong learning, remains to be developed. Good progress has been made on alignment in *science and research*. However further efforts are needed to facilitate Serbia's integration into the European Research Area and to strengthen its national research capacity.

Negotiations for Serbia's accession to the *World Trade Organisation* (WTO) are nearing their end; the bilateral track of negotiations has already been completed with most WTO partners.

With respect to *sectoral policies*, in the area of *industry and SMEs*, Serbia is well advanced and fulfils European standards. Preparation of an industrial strategy is at a very early stage.

Serbia is advancing well towards meeting European standards in the areas of *agriculture, rural development, food safety, veterinary and phytosanitary policy*. The legal framework continues to improve. However, implementation and enforcement needs to be upgraded, especially in the food safety area. Administrative capacity is weak and resources need to be more efficiently allocated. Inspection services need further training. Recruitment of qualified staff needs to take place in the newly established bodies. Progress has been made concerning official control of laboratories.

In the area of *environment*, Serbia remains moderately advanced towards fulfilling the European standards. The National Programme for Environmental Protection 2010–2019 and a number of laws on air and water quality as well as on nature protection and climate change

were adopted. The new Chemicals Agency became operational. However, the capacity to implement and enforce legislation still needs to be strengthened.

Serbia has made some progress in the area of *transport*. The market access provisions of the European Civil Aviation Agreement are now applied. However, framework legislation remains to be adopted in the railways sector. Administrative capacity needs to be strengthened.

In the *energy* sector, Serbia has made some progress in terms of alignment with European standards. However, progress remains uneven. Further efforts are needed to achieve unbundling and real market opening together with a pricing policy offering a sustainable tariff reflecting costs. . Further efforts need to be made to strengthen the nuclear regulator.

Some progress has been made in the *information society and media* area. The legislative framework has been strengthened, but implementation remains slow and inadequate market and regulatory developments in the electronic communication sector are of particular concern. Preparations in the field of information society services are moderately advanced. In the audiovisual sector, media legislation needs to be aligned with the *acquis*, and a number of provisions of the Law on Public Information continue to raise concerns.

While Serbia is still at the early stages in the introduction of good practices in **public internal financial control** and external audit, some progress can be reported with the establishment of financial control Central Harmonisation Unit and the first audit of the state accounts by the State Audit Institution.

Serbia has made good progress in advancing towards meeting European standards in the area of *statistics* by adopting laws on statistics and the censuses of population and agriculture. Preparations for the population census are well advanced but its funding remains to be ensured. However, further progress is needed in several statistical domains and additional efforts are needed to strengthen the capacity of the statistical office.

Progress in the area of *justice freedom and security* has continued. Visa-free travel entered into force in December 2009 for Serbian citizens holding biometric passports.

There has been some progress in the area of *border management*, mainly through upgrading of equipment and infrastructure. However, further efforts are needed to eliminate the disparities between individual border crossing points and to improve control at the borders with the former Yugoslav Republic of Macedonia, Montenegro, Bosnia and Herzegovina and Croatia and in particular at the administrative boundary line with Kosovo.

Little progress has been made in the area of *asylum*. A list of safe countries for asylum seekers was adopted. However, the Asylum Office, the first instance body for asylum claims, has not been established. Many cases are closed because applicants leave Serbian territory or disappear. Serbia has made some progress in the area of *migration*. Implementation of the readmission agreement between Serbia and the European Union continued without significant problems. However, effective implementation of the migration management strategy is lacking. Efforts are needed to improve the coordination between the responsible bodies and to strengthen their capacities.

Some progress has been achieved to prevent *money laundering*. An action plan was adopted and a coordination body established. Efforts to improve national and international cooperation in the investigation and processing of offences continued. However, practical results have remained weak. The Administration for Prevention of Money Laundering lacks capacity to systematically identify suspicious cases. Reporting needs to be improved, in particular outside

the banking sector. The judiciary and law enforcement services lack the necessary expertise in money laundering cases and financial investigations. Final convictions remain rare.

Good progress can be reported in the area of fight against *drugs*. Law enforcement agencies continued investigations and improved international cooperation, leading to seizure of large quantities of illicit drugs. However, weaknesses continue to exist in surveillance of the borders with the former Yugoslav Republic of Macedonia, Montenegro, Bosnia and Herzegovina and Croatia and the Administrative Boundary Line with Kosovo.

Capacity building within the *police* has continued with the upgrading of specialised services of the criminal police. Cooperation between various police structures, as well as regional and international cooperation, has improved. However, strategic planning and human resource management need to be upgraded and recruitment procedures made more transparent. Internal control needs to be strengthened.

Good progress has been made in fighting *organised crime*. Cooperation between relevant agencies has improved within the country, in the region and internationally; this has led to good results in high-profile investigations and the arrest of a number of suspects. Confiscation of assets started in a more systematic way and confiscations were carried out in a number of cases. However, a new and substantially revised Criminal Procedure Code has still not been adopted. The capacities of the law enforcement agencies to use modern investigative techniques, in particular in the area of financial investigations, need to be further strengthened.

Procedures to identify victims of *trafficking of human beings* have been adopted and the number of identified victims continued to increase. However, the strategic framework needs to be amended to allow a better policy response to emerging trends and improved cooperation between the police, prosecution and courts. Serbia has made some progress in the fight against *terrorism* with the adoption of the Law on military security and military intelligence agencies. However, prevention policies need to be improved. A database on terrorist suspects has not yet been established.

There has been little progress on *protection of personal data*. The strategy for implementing the Law on personal data protection was adopted in August 2010. Despite some improvements, the office of the Commissioner for Information of Public Importance and Personal Data Protection continues to lack financial and human resources. Personal data protection is a key precondition for Serbia to conclude an agreement with Eurojust and an operational agreement with Europol.