

Conclusions on Serbia

(extract from the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2009-2010", COM(2009)533 final)

Serbia has made progress in meeting the **political criteria** and addressing key European Partnership priorities. The government has demonstrated its commitment to bringing the country closer to the European Union by undertaking a number of initiatives including the implementation of provisions of the Interim Agreement. Cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) has further improved, however ICTY indictees Ratko Mladić and Goran Hadžić are still at large.

A number of initiatives were taken to consolidate **democracy and the rule of law**. However, further reforms are needed to ensure that the new constitutional framework is implemented in line with European standards, particularly in the area of the judiciary.

Parliament revised its rules of procedure and this has led to improvements in its work and the legislative process. The adoption of a new Law on Political Parties has, moreover, established clearer and stricter rules for party registration. Election legislation, however, has not yet been revised to bring it fully in line with European standards. Parliament has not sufficiently used its powers of oversight over the executive and the capacity of parliamentary committees remains weak.

The *government* has demonstrated a high degree of commitment to European integration and has been active in preparing legislation across a range of areas and implementing a national programme on European integration. However, insufficient attention has been paid to effective implementation of existing laws and impact assessment. Planning of government work needs to be strengthened and greater coordination between ministries ensured.

The *public administration* has good overall capacity. The Serbian European Integration Office has been functioning well however administrative capacity on European integration within line ministries needs to be strengthened. Overall reform has been slow. Transparency, impartiality professionalism and accountability have to be improved and greater priority given to fighting corruption and supporting the work of independent bodies. Independent and regulatory bodies function relatively well, within the constraints imposed by limited resources.

There has been some progress in terms of *civilian oversight of the security forces*, with more involvement of the parliamentary committee for security and defence. Legislative reform has however still to be completed.

As regards the *judicial system*, a package of laws was adopted, introducing a broad reform of the judiciary and a reorganisation of the court system. Two new bodies – the High Judicial Council and the State Prosecutorial Council – were established. However, there remain concerns about the way in which the reappointment procedure for all judges is being carried out and the risk that the lack of transparency could lead to long term politicisation of the judicial system. The backlog of court cases has not been reduced and court procedures still need to be streamlined and an efficient court management system introduced.

Serbia made progress in the fight against *corruption*. The law enforcement authorities have shown higher commitment to fighting corruption, leading to the arrests of several suspects, and a number of high-profile cases have been opened. Parliament has elected the executive board of the new Anti-Corruption Agency which will become operational in 2010. Corruption, however, remains prevalent in many areas and continues to be a serious problem. Public procurement and privatisation are particularly vulnerable sectors. Final convictions in

corruption cases are rare. There are shortcomings in the Law on the Anti Corruption Agency and there is insufficient supervision of the financing of political parties and of cases of possible conflict of interest.

The legal and institutional framework for *human rights and the protection of minorities* is in place and *civil and political rights* are broadly respected. However, existing constitutional and legal guarantees need to be fully enforced.

There has been some improvement in the *prevention of torture and ill-treatment*. The State Ombudsman reported a decrease in the number of cases of ill-treatment. However, some allegations against the police have not been fully investigated. As regards *access to justice*, there was no progress in adopting legislation and establishing a comprehensive system of free legal aid. Regarding *prison system* reform, initial steps were taken to introduce a system of alternative sanctions however the practical effects of these measures have been limited. Overcrowding, violence and drug abuse remain a concern.

Freedom of expression is generally protected under the Constitution and hate speech is prohibited. In practice, there have been incidents involving hate speech, threats and physical attacks against journalists, human rights defenders and the lesbian, gay, bisexual and transgender (LGBT) population, and the perpetrators have not been brought to justice. As regards the *media*, the Law on Public Information was amended introducing additional media regulation. Concerns, however, have been expressed by professional associations and international organisations over the lack of transparency and lack of public consultation prior to the adoption of the amendments. There are concerns, moreover, that some of the new provisions, such as the severity of penalties for violating professional norms, may have the effect of infringing on media freedom. The right to *freedom of assembly and association* is provided for in the Constitution and has been further enhanced by the new Law on Associations. These freedoms are generally protected however a planned Belgrade Pride Parade had to be cancelled in September 2009 at the last minute amid threats of violence against the organisers and participants by extremist groups.

Civil society continues to play an active part in the social, economic and political life of Serbia. The new Law on Associations has clarified the legal status of NGOs. There have been some efforts within the Serbian administration to improve cooperation with civil society but this needs to further developed.

There are constitutional guarantees in place allowing for *freedom of religion*, and discrimination on religious grounds is prohibited. However, the implementation of the 2006 Law on Churches and Religious Communities has produced discriminatory effects regarding the registration of so-called "non-traditional communities".

The legal provisions on the protection of *economic and social rights* are largely in place. Greater emphasis now needs to be paid to ensuring more effective enforcement of legislation. A national strategy to improve the position of *women* and promote gender equality has been adopted and discrimination based on gender is prohibited. However, a specific law on gender equality has not yet been adopted and the protection of women against violence needs to be considerably strengthened. Concerning *children's rights*, a national strategy for the protection of children from violence was adopted. More concerted efforts are needed to be taken in order to increase awareness of the situation of *socially vulnerable groups and persons with disabilities* and ensure that their rights are protected. A Law on the Prohibition of *Discrimination* was adopted which further develops the legal framework for the protection against discrimination. In practice, however, there is ongoing discrimination, particularly against vulnerable groups such as Roma, persons with disabilities and the LGBT population.

As regards *property rights* the lack of a clear legal basis for property restitution continues to prevent the proper launching of this process.

The legal framework is in place providing for *minority rights and cultural rights*. The new Law on National Minority Councils has also been adopted. The Ministry for Human and Minority Rights has played an important role in raising awareness and promoting minority rights, as has the state and provincial ombudsmen. In addition to the Constitution, new anti-discrimination legislation explicitly prohibits the discrimination against ethnic minorities.

As regards *Vojvodina* no agreement has been reached at national level on the adoption of a new Statute. An agreement on the restructuring of the Government Coordination Body for *southern Serbia* was reached. However the situation in southern Serbia deteriorated in July 2009 following a number of attacks on the Serbian gendarmerie. The situation in *Sandžak* is volatile; divisions within the Muslim community have continued and there have been several outbreaks of violence.

The number of *refugees* and *internally displaced persons (IDPs)* in Serbia remains high. The situation for IDPs continues to be very difficult and they are faced with many obstacles in exercising their social rights.

During the Serbian Presidency of the *Roma* decade, Serbia adopted a national strategy for the improvement of the status of the Roma. However, further efforts are needed to ensure its full implementation. The Roma population continues to endure very difficult living conditions and frequent discrimination.

As regards *regional issues and international obligations* Serbia has made further progress in its cooperation with the ICTY. In his address to the UN Security Council in June 2009, the ICTY Chief Prosecutor stated that the Serbian authorities have responded adequately and in a timely manner to specific requests for assistance and that cooperation must continue and lead to further concrete and positive results. A number of search operations have taken place, however ICTY indictees Ratko Mladić and Goran Hadžić are still at large. Full cooperation with the ICTY remains an international obligation and a key priority of the European Partnership.

Serbia, together with its neighbours, should address the regional impunity gap, including by taking steps towards extradition agreements covering war crimes cases.

Serbia continued to actively participate in regional initiatives, including the South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC) and the Central European Free Trade Agreement (CEFTA). Bilateral relations with other enlargement countries and neighbouring EU Member States have improved. However, further progress is required towards finding definitive solutions to the various bilateral issues which remain open, particularly as regards borders. Regional cooperation was, however, affected by Serbia's approach to participation by Kosovo in regional fora.

Serbia contests Kosovo's¹ declaration of independence and has pursued legal and diplomatic measures to this effect, including through the International Court of Justice (ICJ). The Serbian government does not have official contact with the Kosovo authorities, insisting on dealing only with UNMIK and EULEX. The government maintained parallel structures in Kosovo and held local by-elections while, at the same time, discouraging Kosovo Serbs from participating in municipal elections organised by the Kosovo authorities. As regards trade, the Serbian government does not recognise Kosovo's customs stamps that have been notified to the European Commission and which are, according to UNMIK, consistent with the provisions of UNSCR 1244. Serbia's refusal to recognise Kosovo's customs stamps raises serious concerns. Serbia and Kosovo need to reach pragmatic solutions enabling key regional *fora* to continue fulfilling their role in advancing regional cooperation and development.

¹ Under UNSCR 1244/99.

The Serbian government has taken first steps to cooperate with the EU rule of law mission (EULEX) but these efforts need to be further strengthened. In September 2009 EULEX and Serbia signed a protocol on police cooperation.

The **economy** of Serbia was severely hit by the current global economic crisis. Growth slowed down by the end of 2008 and the economy entered into recession in 2009. As a result, macro-economic stability has deteriorated. Moreover, previously expansionary policies and the lack of discipline have led to a significant fiscal deterioration.

As regards the **economic criteria**, Serbia made only limited further progress towards establishing a functioning market economy. Further efforts will be needed to enable Serbia to cope in the medium-term with the competitive pressures and market forces within the EU. Structural reforms need to be accelerated.

The liquidity of Serbian banking system has been maintained and Serbian banks are well capitalised and by and large profitable. On the external side, the Serbian economy is going through a process of rapid external adjustment. This is reflected in a substantial decrease in the current account deficit. Foreign exchange reserves remained stable. Consensus on the fundamentals of a market economy has been maintained, but the government lacks a medium-term structural reform strategy.

In response to the deepening economic crisis, Serbia requested assistance from the IMF and the EU and agreed to undertake a number of fiscal measures to reduce overall expenditure. However, as the crisis aggravated, the IMF programme was revised. Measures to improve the medium-term public finance sustainability are lacking. The monetary policy framework for inflation targeting remained difficult to implement and risks undermining the credibility of the central bank. Inflation remained relatively high. Some progress was made in privatisation of socially-owned companies, but not with the state-owned companies, thus affecting the dynamism in the private sector. Unemployment remains at a persistently high level. Excessive administrative requirements continued to hamper market entry and exit. Legal predictability needs to be improved, in particular with respect to effective enforcement of property rights. The informal sector remains an important challenge.

Serbia has made progress in aligning its legislation and policies to **European Standards** and has started to implement the Interim Agreement according to the provisions and schedules established in that agreement. Customs duties were lowered with effect from 30 January 2009, and relevant measures were taken in the areas of competition, state aid and transit traffic. Furthermore, Serbia has adopted important legislation in a number of areas including agriculture, environment, employment, competition, public procurement and justice, freedom and security. Administrative capacity has been improved in key areas for the implementation of the Stabilisation and Association Agreement. However, Serbia needs to make further efforts to ensure effective implementation and enforcement of EU-related legislation.

With regard to **internal market**, Serbia has made some progress in aligning its legislation, and strengthening institutional capacities. There has been good progress in the field of *free movement of goods*; the adoption of new legislation on standardisation and conformity assessment has set the basis for further alignment with the *acquis*. The institutional capacities of the Standardisation Institute and the Accreditation Body were improved and Serbia has increased the number of adopted European standards. Some progress was made in the field of consumer protection with the adoption of legislation on product safety and electronic trade. However, administrative capacity needs to be further improved. Legislation on accreditation and metrology has not yet been adopted. Serbia needs to step up efforts to establish a market surveillance system. New legislation on consumer protection has yet to be adopted.

Serbia is moderately advanced in the areas of *movement of persons, services and the right of establishment*. Some progress was made in terms of legislative alignment in the area of postal services. With regard to financial services, a roadmap was prepared with the aim of

implementing new banking regulations. However, a number of laws are missing or are not in line with European standards, notably in the areas of banking regulation. In the area of *free movement of capital*, Serbia needs to continue its efforts to fully liberalise current account transactions and lift restrictions on short term credit and portfolio investments.

Serbia has made good progress in the area of *customs*. The capacity of its customs administration was enhanced and a set of legal acts was adopted in order to implement the Interim Agreement. However, further alignment with the EU Customs Code is required, in particular with regard to transit and risk analysis. Serbia has taken steps to further develop its legislative framework in the area of *taxation*. Tax collection procedures have improved as have the enforcement capacities of the tax administration. Serbia has to further improve the collection of registered debts and to continue alignment in the area of excise duties and VAT. Serbia has made good progress in the area of *competition and state aid* by adopting new legislation. The Commission for the Protection of Competition needs to strengthen its capacity to carry out economic analysis. Moreover, an independent state aid authority has still to be established.

Serbia has made good progress in the area of *public procurement* with the adoption of new legislation. However, members of the new Commission for the Protection of Bidders' Rights have still to be appointed. Serbia has continued to make progress in the enforcement of *intellectual property rights*. The administrative capacity of the Intellectual Property Office has improved. However, the questions on financial independence need to be resolved and the problem of the shortage of competent judges addressed in order to ensure effective enforcement of intellectual property rights.

In the area of *employment policy* good progress was made with the adoption of several important laws and of the National Strategy for Employment for 2009. The record of implementing employment measures and policies has improved, but coordination with other policies needs to be strengthened. Some progress can also be noted in the field of *social policies* although the legislative framework needs to be developed further and the existing legislation properly implemented. There has been some progress in the field of *public health policy*, mainly in primary healthcare reform and disease prevention. Further efforts must be made towards the alignment with European standards.

Progress has been made in the areas of *education and culture*. In the area of *science and research* and innovation Serbia has made important efforts in promoting research cooperation and participating in projects under the Seventh EC Framework Programme for Research and Development. However, substantial efforts are needed by Serbia to strengthen its national research capacity and to ensure further integration into the European Research Area.

Serbia's preparations to join the *WTO* are well advanced and a number of WTO compatible laws have been adopted.

With respect to *sectoral policies*, in the areas of *industry and SMEs*, the institutional framework has improved and Serbia has started implementing its SME strategy objectives. However, a modern industry policy strategy in line with the EU approach has not yet been adopted.

There has been progress in alignment with the *acquis* in the areas of *agriculture and rural development* with the adoption of important framework laws. This is also the case with regard to food safety however little progress has been made on the upgrading of food and by-food establishments. There has been some progress in the *veterinary and phytosanitary* areas but only limited progress in the upgrading of *laboratories* for the control of the food chain safety. Serbia has made good progress in the area of *environment*, notably with the adoption of a large package of laws and with the ratification of international conventions. Institutional capacity and technical and human resources, however, remain weak, especially at the local

level. Further efforts need to be invested in the adoption of water related legislation and the overall environmental capacity building.

In the area of *transport*, a new Law on Road Safety has been adopted and road tolls for domestic and foreign vehicles have been harmonised. The European Common Aviation Area Agreement (ECAA), the Montreal Convention and the Horizontal Agreement on Certain Aspects of Air Services have been ratified. However, problems have arisen regarding Serbia's compliance with market access obligations under the ECAA. More generally, further efforts are required to implement the first transitional phase of the ECAA and improve coordination between the Ministry of Infrastructure and the Civil Aviation Directorate. Rail transport remains in need of major restructuring.

Serbia has made some progress in the *energy* sector. Further efforts are needed to comply with the Energy Community Treaty requirements, and to address outstanding issues in relation to environmental aspects in the energy sector and nuclear safety. As regards security of supply, some progress has been made in increasing gas reserves however natural gas interconnections between Serbia and other countries of the region remain limited.

In the areas of *information society and the media*, progress was made through the adoption of several pieces of legislation. Serbia also ratified the European Convention on Transfrontier Television. Institutional and regulatory capacity is still limited and progress remains contingent on the implementation of the legislation.

Progress was made in the area of *financial control*. A comprehensive policy paper on public internal financial control (PIFC) was adopted by government. The Budget System Law, which also includes the legal basis for PIFC entered into force. Preparations for the introduction of a modern and effective system of public *financial control* however remain at an early stage. The recently established State Audit Institution is not yet fully operational.

A new development strategy for *statistics* has been adopted. Progress has also been reported in the field of sector statistics with the preparation and conduct of surveys and censuses. However, Serbia still needs to put additional efforts into creating a fully operational business register and into further strengthening administrative capacity.

There has been progress in the area of ***justice, freedom and security***. The visa facilitation and readmission agreements between Serbia and the European Community continued to be implemented. Serbia made significant efforts in all areas of the visa liberalisation roadmap, in particular regarding the introduction of new biometric passports. On the basis of Serbia's progress, the Commission in July 2009 proposed lifting the visa obligation for Serbian citizens, on condition that Serbia meets the outstanding criteria before the Council takes its decision.²

Implementation of the new law on *border control* has started, but further efforts are needed to improve the technical standards and equipment of certain border crossing points and the control of the boundary line with Kosovo.

Serbia has made little progress in the area of *asylum*. Despite some weaknesses, asylum procedures are by and large satisfactory. However, there has been little forward planning to address the potential increase in the number of applications and there is no coordination body for the integration of asylum seekers. Good progress was made in the area of *migration* with the adoption of the migration management strategy and the implementation of the Law on Foreigners. However, further efforts are needed to implement newly adopted strategies and to improve the monitoring of migration flows.

Money laundering continues to be an area of concern. The Law on the Prevention and Fight against Money Laundering and Terrorist Financing was adopted. However, reports on

² COM(2009) 366.

suspicious transactions are mostly limited to the banking sector and the number of investigations and convictions in money-laundering cases remained low.

Serbia is a major transit country for the smuggling of *drugs* to Europe. A strategy for the fight against drugs was adopted as well as an action plan. Enforcement authorities seized a large amount of drugs. However, drug trafficking through Serbia remains of serious concern.

There was some progress in the reform of the *police*. Capacity building and training as well as international and regional cooperation increased. However, strategic planning and internal control need to be improved. A national strategy to fight *organised crime* has been adopted. First steps have been taken to improve the institutional and legal framework for financial investigations and seizure of assets. However, the adoption and entry into force of a revised new Criminal Procedure Code has been further delayed. Investigative capacities remain weak, leading to a low number of final convictions in this area. Sustained efforts are needed in the fight against organised crime which remains a matter of serious concern.

Serbia made some progress in the fight against *trafficking in human beings*. The Council of Europe Convention against trafficking in human beings was ratified and an action plan was adopted. Cooperation between various stakeholders, including NGOs, in the fight against trafficking has improved. However, the number of final convictions in this area remains low, while the percentage of under-age victims continued to rise.

Some progress has been made in setting up the legal and institutional framework for the *protection of personal data*. However, further efforts are needed to fully align the existing legislation with European standards and ensure proper implementation of the relevant provisions.