

Conclusions on Serbia

Serbia is well on its way to sufficiently fulfilling the **political criteria** and the conditions of the Stabilisation and Association Process. The stability and functioning of institutions was ensured in the lead up to as well as in the aftermath of elections held at presidential, parliamentary and municipal level, and in Vojvodina. Despite a slowdown of legislative activity in the electoral context, some progress was noted in the implementation of reforms in most areas. Serbia maintained its full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). Results were achieved in the dialogue with Pristina, but the implementation of agreements was uneven. Serbia's interpretation of the agreement on regional cooperation and representation of Kosovo* was eventually clarified and, subject to continued implementation, no longer hampers the inclusiveness of regional cooperation. Serbia's new leadership has underlined its commitment to implement all agreements already reached in the dialogue with Pristina as well as to begin tackling the broader political issues. Fulfilment of this commitment is key to moving to the next phase of Serbia's EU integration.

Democracy and the rule of law have been further consolidated. The elections were qualified as 'competitive, held in a conducive environment and professionally organised' by international observation bodies. Electoral operations in Kosovo for the parliamentary and presidential elections were facilitated by the OSCE and took place in an orderly manner. In line with UNSCR 1244/99, local elections were not held in Kosovo, contrary to past practice. The 2011 legislation on parliamentary mandates and the financing of political parties was implemented. A certain lack of transparency in the proceedings of the State Electoral Commission and in the administration of the new single voters' registry was however noted. The government needs to follow up the recommendations of the OSCE/ODIHR election observation mission.

Legislative activity of *parliament* has been reduced due to the election cycle, but other parliamentary activities continued normally. Further reforms are still needed to ensure that the constitutional provisions, notably on the judiciary, are fully in line with European standards. The *government* preserved its stability and completed a full term in office. A new coalition government was formed in July 2012. The new government maintained the country's strong strategic orientation towards EU integration. Both the new president and the new government have pledged to pursue the EU agenda of reforms and to closely cooperate together to achieve corresponding progress. The government needs to improve consultation of stakeholders in policy formulation and develop its monitoring of the implementation of new legislation.

Public administration reform is proceeding at a slow pace and is hampered by insufficient political commitment. The legislative framework needs to be completed and fully aligned with international standards. Implementation of the existing laws and public administration reform strategy needs to be improved. Merit-based recruitment and promotion systems should

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

be developed and implemented. The follow-up of the recommendations of independent regulatory bodies needs to be stepped up.

There was little progress in the area of *civilian oversight of security forces*. A specific parliamentary committee was set up but parliamentary oversight remained overall limited. Following a ruling by the Constitutional Court, the legal framework for monitoring of communications by security and intelligence services needs to be clarified.

Regarding the *judiciary*, little progress was made, mostly in enforcing new legislation aimed at improving the efficiency of the judicial system. The review of reappointments of judges and prosecutors did not correct the existing shortcomings and was overturned by the Constitutional Court who ordered the reinstatement of all judges and prosecutors that had appealed their non-reappointment. Cases returned by the Constitutional Court will need to be processed diligently and in accordance with the Constitutional Court's decisions. A system of professional evaluation, effective disciplinary rules and stronger integrity safeguards remains to be established. In order to restore the confidence of the citizens, the authorities will need to consider additional measures to strengthen the independence, impartiality, competence, accountability and efficiency of the judiciary, in particular: transparent criteria for appointments of judges and prosecutors; initial and in-service training under the Judicial Academy's responsibility, together with appraisal of serving judges and prosecutors, including of the newly appointed ones in 2009; integrity safeguards; court rationalisation. To meet these challenges, a new strategy on judicial reform is needed, together with an action plan to implement the strategy, based on a functional review of the judiciary.

Implementation of legal framework of the *fight against corruption* has continued. The Anti-Corruption Agency's operations increased, mostly in relation to the financing of political parties. However, corruption remains prevalent in many areas and continues to be a serious problem. A new Anti-Corruption Strategy and Action Plan are still awaited. The implementation of the legal framework and the efficiency of anti-corruption institutions need to be significantly improved. Further efforts are needed to adopt a more proactive approach to investigating and prosecuting corruption and the judiciary needs to gradually build up a solid track record of convictions, including high-level cases, particularly in cases of misuse of public funds. Stronger political direction and more effective inter-agency coordination are needed to significantly improve performance in combating corruption.

In the *fight against organised crime*, the legal framework is generally adequate and continued to be implemented. Improved inter-agency coordination and regional and international cooperation has led to concrete results against organised crime groups. Organised crime remains a serious concern in Serbia, in particular regarding money laundering and drug smuggling. The track record of investigations and convictions needs to be built up further.

Human rights continue to be generally well respected and further progress has been made in the areas of *human rights and the protection of minorities*. The legislative and institutional framework for the *observance of human rights* is in place. Further efforts in the implementation of the international instruments are required.

There has been some progress on *civil and political rights*. Freedom of assembly and association are constitutionally guaranteed and in general respected, but the Pride parade was again banned in October 2012. The governmental Office for Co-operation with Civil Society has been very active. The legal framework for freedom of expression is in place but violence and threats against journalists remain of concern. The implementation of the media strategy needs to be speeded up. Freedom of thought, conscience and religion is in general respected but the registration process for religious communities continues to lack transparency and consistency. The National Mechanism for Prevention of Torture commenced its work but needs further strengthening. Although one new facility was opened, overcrowding in the prison system remains a serious concern. On access to justice, an effective system of free legal aid still needs to be developed.

The legal framework for the protection of *social and economic rights* is in place. Further measures to fight all forms of discrimination are needed as well as efficient mechanisms to improve the protection of women and children against any form of violence. The most discriminated groups are the Roma, persons with disabilities and sexual minorities. A proactive approach towards the better inclusion of the LGBT population and a greater understanding across society is needed. The social dialogue needs to be improved and a solution brought to the issue of social partners' representativeness criteria. Regarding property rights, implementation of the 2011 law on restitution has started.

The legal framework providing for the *protection of minorities* is in place and generally respected. Some positive steps were taken to improve the situation of minorities, including the Roma. Regular financial reporting by the national minority councils has been introduced. Additional efforts are needed to ensure an effective implementation of the minority legislation throughout Serbia and address identified shortcomings. Serbia needs to do more to support the socio-economic development in the areas of Sandzak and Presevo, Bujanovac and Medvedja. The Roma, as well as refugee and IDP population continue to face a difficult situation.

Regarding *regional issues and international obligations*, Serbia continued to cooperate fully with the International Criminal Tribunal for the former Yugoslavia. Serbia continued to provide smooth and swift access to documents and witnesses, in support of the ongoing or planned ICTY trials. Domestic processing of war crimes continued and regional cooperation and exchange of information intensified. However, Serbia needs to further intensify its investigations into the networks of aid to the former ICTY fugitives in order to achieve visible results.

Serbia's policy regarding the International Criminal Court continues to be in line with the EU's guiding principles and the EU Common Positions on the integrity of the Rome Statute. Serbia does not have any bilateral immunity agreement.

Significant progress has been made as regards the Sarajevo Declaration Process. Bosnia and Herzegovina, Croatia, Montenegro and Serbia continued to cooperate on finding sustainable solutions for the refugees who were displaced as a result of the armed conflicts in the 1990s. The four countries signed a ministerial declaration and agreed on a Regional Housing Programme assisting some 27,000 households or 74,000 individuals. At an international

donors' conference held in Sarajevo in April 2012 some €265 million was pledged in support of the programme. Good cooperation needs to continue on all outstanding issues in the process.

Serbia still needs to achieve further progress towards a visible and sustainable improvement of relations with Kosovo, the key priority set out in the Commission Opinion on Serbia's membership application. New results were achieved in the dialogue with Pristina, with agreements on regional cooperation and representation of Kosovo and on integrated management of the border/boundary. Serbia's interpretation of the agreement on regional cooperation and the representation of Kosovo was eventually clarified soon after the formation of a new government and, subject to continued implementation, no longer hampers the inclusiveness of regional cooperation. Serbia also eventually signed the IBM technical protocol in September 2012 which has yet to be implemented. Implementation of other agreements reached in the areas of freedom of movement, cadastre, civil registries, customs stamps and mutual acceptance of diplomas has overall moved forward. Following the elections and a new leadership in Serbia taking up office, Serbia needs to continue to engage constructively in the next phase of the dialogue in order to achieve further progress towards a visible and sustainable improvement of relations with Kosovo.

Serbia maintained a good level of relations with its neighbours and active involvement in regional cooperation, notably with its chairmanships of the South East Europe Cooperation Process (SEECP), the Migration, Asylum, Refugees Regional Initiative (MARRI), the Adriatic-Ionian Initiative (AII) and the Black Sea Economic Cooperation (BSEC). It continues to play an active part also in the Regional Cooperation Council (RCC) and the Central European Free Trade Agreement (CEFTA).

The **economy** of Serbia continued to grow in 2011 by 1.6% but recovery weakened significantly in the second half of the year before turning into contraction in the first half of 2012. Unemployment soared at 25%. The budget deficit reached 5% in 2011 and was even higher in the first semester of 2012. Serbia entered into a precautionary Stand-By Arrangement with the International Monetary Fund in September 2011 but the completion of the first review has been postponed because the 2012 budget deviated from the agreed fiscal programme. Economic reforms have mostly stalled in the pre-election period. The independence of the central bank has been seriously challenged by the adoption of amendments to the Law on the National Bank of Serbia in August. The IMF conducted a fact-finding mission in September 2012 but talks have not restarted yet on a stand-by agreement.

As regards the **economic criteria**, there was no further progress in the reporting period towards establishing a functioning market economy. Serbia needs to make significant efforts in restructuring its economy so as to cope in the medium-term with the competitive pressures and market forces within the Union.

The consensus on the market economy fundamentals has been broadly preserved but needs to be reinvigorated. Short-term external financing risks are dampened by the still ample foreign exchange reserves and the favourable external debt structure, with a strong prevalence of long-term debt. Trade integration with the EU remained high. The banking sector is

well-capitalised and liquid. The central bank stepped up its supervision of the banking sector. Some steps have been taken in speeding-up and facilitating market entry. Some limited steps have also been taken in order to improve the business environment notably in the areas of company law and SME policy.

However, high budget deficits have constrained the effectiveness of the macroeconomic policy mix and the main burden of adjustment fell on the monetary policy which continues to be restricted by the high degree of euroisation of the economy. Labour market conditions deteriorated sharply with rising unemployment. Sustainable employment creation represents a major challenge. Lax fiscal policy and increasing government debt are rapidly limiting fiscal space to cushion further shocks. There is a need of urgent and decisive consolidation measures, backed by systemic reforms of the public sector, in order to restore public finance sustainability. Delays in structural reforms are also constraining the scope for growth-enhancing policy responses. Special attention is needed to further improve the business environment. The development of a dynamic private sector has not made progress and state interference in the economy remains very high. Privatisation and restructuring of publicly-owned companies advanced very slowly and, in some cases, earlier privatisations have even been reversed. Legal predictability remains weak and unclear property rights continue to hamper economic activities. The informal sector remains an important challenge.

Regarding Serbia's **ability to take on the obligations of membership**, Serbia continued aligning its legislation to the requirements of the EU legislation, albeit at a slower pace as activities of both government and parliament were reduced during the election year. Good progress has been registered in company law, intellectual property rights, statistics and customs union. Further efforts are needed in particular in the areas of judiciary and fundamental rights, justice, freedom and security, agriculture and rural development, environment and climate change as well as in financial control. The Interim Agreement (IA) of the Stabilisation and Association Agreement (SAA) has continued to be smoothly implemented without any outstanding issues. Serbia continues to build a positive track record in relation to the obligations under the SAA/IA.

Some progress was made in the area of *free movement of goods*, where preparations are moderately advanced. EU standards continue to be implemented and the Serbian accreditation body became a full member of the European cooperation for Accreditation. Market surveillance remains highly fragmented and inspection controls continue to impose an unnecessarily high administrative burden on business. Implementation of the legislation, administrative capacity and coordination among institutions need to be enhanced. There has been some progress in the area of *freedom of movement of workers*, where preparations are moderately advanced. Coordination of social security systems needs to be improved and preparations for participation in the European Employment Services network stepped up.

There was little progress in the area of *right of establishment and freedom to provide services*, while there was some progress in the area of *free movement of capital*, including in the fight against money laundering. Further efforts are needed to align the legislation for short term

capital operations, real estate and payment systems with the *acquis*, and to step up the fight against money laundering. Overall, alignment in these areas is moderately advanced.

In the field of *public procurement*, some progress was made notably in the area of public private partnerships. Serbia needs to keep up steady efforts to implement its legislative framework on public procurement, and in particular to avoid irregularities in the use of the negotiated procedure. Effective coordination between the main stakeholders, including audit and judicial institutions, needs to be ensured. The enforcement record and administrative capacities of the Budgetary Inspection of the Ministry of Finance in charge of supervision of public procurement needs to be substantially strengthened. Alignment in this area is moderately advanced.

Good progress was made in the area of *company law*, where alignment is well advanced, with the entry into force of a new law in February 2012 and the adoption of several amendments to this law. For corporate accounting and auditing, efforts should be stepped up as concerns independent public oversight, quality assurance and investigations. Serbia made good progress in aligning with the EU *intellectual property rights acquis* and with the implementation of its Intellectual Property Rights (IPR) strategy 2011-2015. A formal coordination and cooperation mechanism between the institutions in charge of IPR protection still needs to be established. Alignment in this area is advanced.

Some progress was made in the area of *competition policy*, where alignment is moderately advanced. The competition authority strengthened its capacity and the State aid authority developed its enforcement record, but the *ex-ante* notifications of State aid measures need to be improved. In both the anti-trust and mergers as well as State aid fields, additional advocacy measures are needed. Serbia made some progress in the area of *financial services*, where steps were taken towards implementation of the Basel II requirements. Serbian legislation must be further aligned with the *acquis* and effectively implemented in the medium term. Alignment in this area is moderately advanced.

There was little progress in the area of *information society and media*, where alignment is moderately advanced. The general authorisation regime for telecom providers came into force in full and some key competitive safeguards were introduced. The switchover from analogue to digital broadcasting has begun. The telecoms regulators' financial independence has yet to be improved and Serbia's legislative framework has yet to be aligned with the *acquis*.

There has been progress in the field of *agriculture and rural development* including with regard to agricultural statistics. Structures and resources for the implementation of rural development under IPARD have advanced well, but additional capacity building is still essential. Overall, in this area alignment remains at an early stage. Some progress was made in the area of *food safety, veterinary and phytosanitary policy*, where preparations are moderately advanced. Further strengthening of the administrative capacity of the institutions involved in controlling food chain safety, in particular of the veterinary, phytosanitary and national reference laboratories is needed. Efforts are needed regarding the upgrading of food and feed establishments, the management of animal by-products and genetically modified organisms. Some progress can be reported on *fisheries*. The collection of market data needs to

be improved and a national catch certification scheme for imports and exports of fishery products needs to be established. Preparations in this area are moderately advanced.

Some progress can be reported in the area of *transport policy*, particularly in road, inland waterways and air transport. Laws on Railways and Railway Safety and Interoperability need to be adopted. Attention needs to be paid to fair market access; further efforts need to be made in separation of infrastructure manager and railway operator, as well as a properly defined regulator. Further strengthening of the capacity is needed, in particular for enforcement and inspection. Overall, Serbia's alignment in this area is moderately advanced.

Little progress can be reported in the area of *energy*. Further efforts are needed to achieve real market opening, unbundling and cost reflective tariffs. Framework legislation on rational use of energy as well as legislation on commodity reserves remain to be adopted. The role and independence of the energy agency and of the nuclear regulator need to be strengthened. As a matter of urgency, Serbia needs to address the issue of the inclusion of Kosovo in the regional electricity transit mechanism, as referred to in the Reasoned Opinion of the Energy Community. Overall, preparations in this area are moderately advanced.

Some progress can be noted in the area of *taxation* with the implementation of the corporate Serbian Tax Administration strategy. Modernisation needs to continue. Tackling the grey economy remains a challenge. Substantial efforts are required to improve the IT system, the communication with taxpayers and to further align the legislation on excise duties. Overall, preparations in this area are moderately advanced. No progress can be reported in the area of *economic and monetary policy*, where alignment is moderately advanced. Recent amendments to the law on the central bank jeopardise its independence and thus constitute a significant step back in the alignment to the *acquis*. The capacity for economic policy formulation and coordination needs to be further improved. Good progress can be reported in the area of *statistics*, where Serbia is moderately advanced. The population and housing census was carried out according to plans. The capacity of the Statistical Office will have to be reinforced over the next years in order to allow for the comprehensive implementation of the statistical *acquis*.

Some progress can be reported in the area of *social policy and employment* especially in the fields of employment policy, health and safety at work and social inclusion. However, employment policies in general are affected by adverse economic developments and limited budget allocations and need to be enhanced. Increased efforts are also needed to restructure and reform social protection and regain sustainability. Overall, Serbia has started to address its priorities in this area.

Progress was made in the area of *enterprise and industrial policy*, where preparations are on track. Serbia implements the Small Business Act in an appropriate manner.

Serbia has made some progress in the area of *trans-European networks*, where preparations are moderately advanced. It is continuing to develop its transport and energy networks and to participate actively in the work of the South East Europe Transport Observatory and the Energy Community. Major challenges remain in terms of financing the new interconnections

of energy and transport networks. Progress was noted in the area of *regional policy and coordination of structural instruments*, where preparations are advancing. Serbia has completed the preparatory stages for the decentralised management of IPA for four Components. Adequate implementation capacity needs to be further ensured. Programming needs to be improved, especially in terms of preparing a solid project pipeline based on relevant strategies.

There has been little progress regarding the *judiciary and fundamental rights*. The review of reappointments of judges and prosecutors did not correct the existing shortcomings and was overturned by the Constitutional Court who ordered the reinstatement of all judges and prosecutors that had appealed their non-reappointment. A new strategy for judicial reform is needed based on a functional review. Implementation of the legal framework to fight corruption has continued. However, a new Anti-Corruption Strategy and Action Plan are still pending. Stronger political direction, more effective inter-agency coordination and a proactive approach in investigating and prosecuting corruption are needed. Regarding fundamental rights, the legislation is in place and broadly respected. Freedom of expression is in general guaranteed but the implementation of the media strategy needs to be speeded up. Discrimination based on ethnicity, gender, and sexual orientation remains widespread and further measures to fight all forms of discrimination are needed. A proactive approach towards the better inclusion of the LGBT population and a greater understanding across society is needed. Some positive steps were taken to improve the situation of minorities, including the Roma, but additional efforts are needed to achieve consistent implementation of the legislation across Serbia. Overall, Serbia has started to address its priorities in this area.

Serbia made some progress in the area of *justice, freedom and security*. Serbia is actively involved in international police and judicial cooperation and law enforcement agencies generally have sufficient capacity to carry out standard investigations. Additional efforts are needed to increase capacities to carry out complex investigations and to strengthen coordination between law enforcement agencies and the judiciary. A track record of proactive investigations and final convictions in organised crime cases needs to be built up. Overall, preparations in this area are moderately advanced.

Little progress was registered in the area of *science and research*. Both public and private investments in research remain low and Serbia generally needs to reinforce its national research capacity. Overall, preparations in this area are well on track. Little progress can be reported in the area of *education and culture*, where alignment is moderately advanced. There was progress in making the education system more socially inclusive, as well as in introducing quality assurance standards in elementary education. Better implementation of higher education reforms remains a challenge and reforms in the vocational education and training sector still need to be speeded up. Financial management and financial control still need strengthening with a view of Serbia's participation in the future Education, Youth and Sport programme.

Some progress has been achieved in the area of *environment* in which alignment with the *acquis* and the ratification of international environmental conventions continued. Significant

further efforts are needed in order to implement the national legislation, especially in the areas of water management, industrial pollution control and risk management, nature protection and air quality. The strengthening of the administrative capacity should remain a priority. Little progress was achieved in the field of *climate change*. Considerable efforts are required on awareness-raising on opportunities and challenges of climate action, setting a more strategic approach for the country, aligning with and implementing EU climate *acquis*, as well as strengthening administrative capacity and inter-institutional cooperation. Overall, Serbia has started to address its priorities in these areas.

There has been some progress in the area of *consumer and health protection*, where preparations are moderately advanced. Efforts need to focus on implementing the existing legislative framework and further aligning with the *acquis*. Institutional coordination between the relevant actors and administrative capacity in both areas of consumer protection and public health need to be strengthened.

Serbia made good progress in the area of the *Customs Union*, with the adoption of new laws and sustained efforts to improve the administrative capacity, in particular in the audit and post-clearance sector. Serbia also needs to ensure the proper application of the EU *acquis* at the administrative border/boundary line with Kosovo. Customs related security legislation needs to be implemented and the Customs Declaration Processing System renewed or upgraded. Overall, preparations in the area of the customs union are well on track.

Some progress has been made in the field of *external relations*, where preparations are moderately advanced. Accession to the WTO is pending the finalisation of bilateral negotiations. In the area of *foreign, security and defence policy*, Serbia significantly improved its alignment with EU CFSP declarations and showed continued commitment to participate in EU civil and military crisis management operations. Preparations in this area are well on track.

Some progress was made in the area of *financial control*, particularly as regards external audit. Substantial efforts are needed to develop public sector financial management and control based on the underlying concept of managerial accountability. There has been no progress in the area of *financial and budgetary provisions*. The necessary administrative infrastructure, including coordination and organisational and procedural links between various institutions involved in the own resources system will need to be developed in due time. Overall, preparations in these areas are at an early stage.