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MONTESQUIEU, ROUSSEAU AND THE FRENCH REVOLUTION

Vojislav STANOVČIĆ[1]

Abstract: Two great thinkers of the XVIII century – Montesquieu (1689–1755) and Rousseau (1712–1778) – developed new and specific ideas and published literary, historical, sociological, political, legal, philosophical works. Their works and doctrines were contradistinguished. Both authors passed away, but later their ideas were implemented as active ideologues and leaders, with different results. More efficient were those who implemented ideas and engaged liberal ideologues, enlighteners, lawyers, politicians, revolutionaries in the French Revolution. Successors of Montesquieu's and Rousseau's ideas, successfully implanted ideas-values in the 'Déclaration des Droits de l'Homme et du Citoyen'. Girondins accepted basic ideas from Montesquieu, and Jacobins from Rousseau. Two sides with opposite conceptions and political systems and democracy. One side claimed legality and human rights; and the other – people's sovereignty and revolution. The moderate liberal constitutionalist ideas were inspired by Montesquieu's works succeeded and in history achieved results. These ideas were man's freedom, spirit of laws, constitutionalism and its framework, separation of powers, representative democracy, federalism - and Girondins were active in mentioned ideas and early years of the Revolution. Jacobins based ideological programs on the ground of Rousseau's ideas: equality, 'forcing people to be free,' 'the general will', people's sovereignty defined as 'absolute, indivisible and inalienable,' the principle of unity power (government), 'despotism of virtue', mass political actions. The French Revolution experienced some features like the English Civil War. But, the mixture of some ideas of Montesquieu and Rousseau was used in 'Declaration' (1789), and the French Constitution of 1791. The

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American founding fathers incorporated some ideas from Montesquieu for American Constitution, like federalism, separation of powers, etc. The ideas of Montesquieu were paradigmatic and successful in establishing institutions in many countries. Some Rousseau's ideas were radical, supported by left movements but were not successful (Corsica, Poland, and different leftists up today).

Key words: constitutionalism, spirit of laws, human rights, separation of powers, federalism; absolute sovereignty of people, equality, social contract, despotism of 'virtue'.

I
Analyses and Criticisms of Historical Experiences

Among a large number of factors and thinkers that had led to the French Revolution and exerted impact on its course and nature it is hard to single out and precisely establish the contribution in ideas of two most important French political thinkers of the 18th century. They did not even live to see its beginning but they certainly influenced its actors and institutions and to some part its nature. These thinkers are, of course, Charles-Louis de Secondat, baron de la Brede et de Montesquieu, 1689–1755 and Jean-Jacques Rousseau, 1712–1778. Emile Durkheim treated them as 'forerunners of sociology' (Durkheim, 1953).[2] Taking into consideration the general significance of these thinkers it is a great challenge to attempt to show how their ideas reflected on the events and movements, some acts, basic principles and institutions. This includes shaping of the nature of the French Revolution, although they did not exert their influence independently from other factors, then events and criticisms of the absolutist state, corruption, the influence of the Church, social inequalities and other defects of the *Ancien Regime*. In the 18th century, which was called the age of enlightenment of reason, among political thinkers in Europe and America theories of social contracts were very influential (that were after the ancient period re-established in France as early as in the 15th century) as well as theories on human natural rights and freedoms and then principles and some institutions of British Constitutionalism. The French enlightenment was permeated by the idea of national government. This would be the government that could be justified and established by reason. Montesquieu mostly devoted his attention to British Constitutionalism. He was mainly under its fruitful influence with which he was acquainted during his émigré life in England. Rousseau also spent some time in England as an émigré enjoying the friendship and hospitality of David Hume. However, unlike Montesquieu,

[2] In one debate, Raymond Aron says that he will not treat Montesquieu as a forerunner of sociology, but as one of its great theoreticians. (Aron, 1972, p. 17).

Rousseau was by no means impressed by the British system, but on the contrary, he despised the so-called British Constitution (although his proposals for the Constitutions of Corsica and Poland contain some elements of the British Constitution itself). However, the other group of ideas (of natural rights and social contract) considerably set the tone for his teachings (although there were writers that presented a rather well founded thought that Rousseau incorrectly gave a title for his Social Contract (Contract social), because his organic community did not involve a social contract but 'Principles of political right' ('Principes du droit politique') as it is allegedly more adequately expressed by the subtitle of the treatise (Vaughan, 1915).[3]

Actually, simultaneously with the shaping of philosophy of enlightenment liberal political theory developed. Although these two things went on in parallel and jointly contributed to the French Revolution these thinking currents should not be confused and identified with each other. There were educators that inclined to liberalism while there were those who were willing to accept *despotism éclairé* (enlightened despotism). While Montesquieu as a lawyer, writer and political thinker with ideas on the best state system containing the one of freedom and separation of power to legislative, executive and judicial, both belonged to encyclopaedists and educators and advocators of liberal ideology Rousseau's position was, as we shall see, much more disputable. In any case, the French Revolution resulted, among other factors, from liberalism as political and economic theory. Rousseau had been an educational philosopher and writer exerting influence on the ideologies that appeared later.

In the sense mentioned above, the American and French Revolutions have some common sources, connection, mutually influencing each other. As the American Revolution had occurred much earlier than the French Revolution, in most cases the influence of the former on the latter one is mainly discussed.[4]

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[3] Some other writers pointed to the contradictions between the individualist approach in both of his Treatises….and the collectivist and etatist approaches in the *Contract*. As with Rousseau, there are many other contradictions such as between The Social Contract and Considerations on Constitutions of Corsica and Poland. Based on the note on The *Social Contract* it can be concluded that he conceived this work as the beginning of a larger work on political institutions.

[4] An English historian wrote: 'The French Revolution resulted from the previous developments among which the American Revolution played the most important role (Parkinson, 1959, p. 209). On the influence of the American Revolution in France see Condorcet, 1786. One interpretation of this influence was presented by Freidrich von Gentz, a student of Kant, who at first had been enthusiastic about the French Revolution and later he translated to German Burke's *Reflections on the Revolution in France*. He was also the author of probably the first comparison of the American and French Revolutions. (Gentz, 1959). Further, see Gottschalk, 1948; Fay, 1927. Louis Hartz deals with the mutual influences within the context of ideology of liberalism (Hartz, 1955). The similar approach is also taken by Watkins, 1948.

It is obvious in the history of the American Revolution that what the participants in those events had in mind was not only the independence from the British crown but a big project of the establishment of a political system on new foundations, *Novus Ordo Seculorum*. This is the way Hannah Arendt sees the ambitiously set goals of both these two revolutions. They were inspired by the similar, that is, liberal ideology. Maurice Duverger writes that in the late 18th century within a time interval of several years liberal ideology stirred up two revolutionary explosions – in America and in France (Duverger, 1980, p. 40).[5]

There is one widespread opinion, which is different, and if not completely opposite to our opinion on the role of Montesquieu and Rousseau. In his book The French Revolution there is one part in which Albert Soboul speaks of the philosophy of bourgeoisie (pp. 48-54) as a manifestation of the crisis of the old society. Speaking in black and white almost in a caricatural way he makes a contrast between two powerful thought streams prevailing before the Revolution. He says that one is 'inspired by the feudal system which is illustrated by Montesquieu's 'The Spirit of the Laws', from which for a long time the parliament and privileged figures drew arguments against despotism; the other – philosophy stream, being hostile to clergymen and sometimes even to religion, but being politically conservative; in the second half of the century when the two streams existed new, democratic ideas emerged striving even more to equality. Previously dealing with the issues of reign the philosophers made a shift treating the social problem of ownership. …..Voltaire, an indisputable representative of the philosophical movement after 1750 until his death – contemplated on carrying out reforms within the absolute monarchy and handing over the power to rich bourgeoisie, Rousseau, being the man of the people, expressed the political and social ideal of the petite bourgeoisie and artisans' (Soboul, 1966, p. 49).

However, at his time Montesquieu undoubtedly contributed to shaping of the trend of European liberalism. In that regard, the role of Rousseau's political philosophy is disputable. By a number of ideas against despotism and usurpation of power and advocating freedom and equality of people as well by presenting

The comparison of the American and French Revolution, the mutual influences of figures and ideas from both countries on each other is the subject of a number of other works: (Chinard, 1925; Du Pont de Nemours, 1931; Aulard, 1921). In our opinion, the French 'Declaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and of the Citizen) exerted influence on the American 'Bill of Rights', 1791.

[5] Duverger also shows the nature of the changes brought by the French Revolution. Its actors achieved a universal mission including Napoleon, who 'poses for the history' and 'despite the fact that he ruled as a dictator he established monarchy and created a new aristocracy….his armies overthrew or upset kings' and emperors' thrones. They diminished the importance of aristocrats and clergymen. They weakened the power of the Pope. The civil code was established everywhere and it was based on the equality by birth and capitalist ownership. The Vienna Congress vainly tried to re-establish the old legitimacy. (Duverger, 1980, pp. 40-41).

his radical ideas of democracy Rousseau also exerted his influence on liberalism trends. However, the radicalism of his theory of democracy and willingness to hand over totalitarian powers to the community, this including the state as a collectivity, shows that his theory can have Hobbesian implications. In practice, this had been manifested by the occurrence of the French Revolution and later it was more and more emphasised that Rousseauian ideas could turn into a sort of totalitarianism.[6]

The challenge to devote attention to the theories of Montesquieu and Rousseau among many influences and ideas before the French Revolution is great for their significance. It is even greater, more interesting and more current because these two philosophers advocated two different concepts of political system and because their idea, concepts of the best system and followers – directed the Revolution in different ways. Actually, at the beginning their followers had jointly worked on radical changes and it could be said that they jointly started the Revolution but with different conceptions and desirable changes and goals of the Revolution. Later, they took different ways and finally came into conflict. This was caused not only for different ideas but for some other factors, and especially the very nature of mass movements that then, at the first time, appeared in the form of lay democratic movements, then the struggle for power[7], demagogy and

[6] The dispute is still going on concerning Rousseau's liberalism or totalitarianism. The author of one of the latest interpretations of Rousseau in liberal sense is John W. Chapman (1956). He is of the opinion that by his concept of general will not only in his early Debates but also in The Social Contract he advocates nothing else but the state advocated by neoliberals of the 20th century – the state that will intervene for the benefit of an individual.

[7] Bertrand Russell writes that as late as 'from the American and the French Revolution to the present times democracy in modern sense has become an important political power. Socialism as an opposite to democracy, which is based on private ownership, came into power for the first time in 1917' and that 'the power of all big states was aristocratic all until the American and the French Revolution' (Rasel, 1962, pp. 475 and 737). Famous historian of the French Revolution Albert Mathiez writes that even during 1790 there have not yet been substantial doctrinary differences between the organisations that will soon become sharply opposed to each other. These are, on one hand, the Society of the Friends of the Constitution and on the other, the Society of 1789. The Society of the Friends of the Constitution is more familiar as the Jacobin Club. Originally, the organisation of representatives of the third estate in the Estates-General gathered around representatives of various orientations offering them a speaker's platform for discussing various issues and for organising support in Paris and through similar clubs in the province. At the beginning, among members there were abbot Sieyes, count Mirabeau, marquis Lafayette, Brissot and others that would soon join the opponent Society of 1789. These two societies were in friendly relations until May 1790. Therefore, the Society of the Friends of the Constitution created both Jacobins and Girondists. Comparing with the clubs mentioned above the Club of the Friends of the Monarchy Constitution (established in November 1790) was different by its character. Not only Albert Thiers whose *The History of the French Revolution and the Consulate and the Empire* makes an impression that we are reading a record of the events (1900-1903) or Thomas Carlyle, who has become popular by his *The French Revolution*, although he

exceedingly optimistic and naively utopian and at the same authoritarian aspiration to change the world at once and rearrange it by the order of 'reason'. This was, actually, the main demand of enlightenment, whose most important representatives (especially Voltaire, Diderot, la Metri) were willing to accept the enlightened despotism with an autocrat that would carry out their plans. In the light of practical experiences, some conclusions on the nature of their teachings could be drawn from to the consequences which the political conceptions of Montesquieu and Rousseau brought during the Revolution.

In practice, something analogous occurred in France as if the history of civil war had reoccurred, this referring to the so-called Puritan Revolution in England (1642-1660). The English Revolution was very bloody. During the Revolution there emerged various and rather radical ideas and demands on the part of religious and political groups: independists, levellers, diggers, representatives of the rebellion army working on the Constitution whose adoption had been promised, etc.[8] This led to the conflicts among the revolutionaries themselves. In this way, already this revolution 'devoured its own children' – the famous sentence that was uttered at the beginning of the French Revolution as a warning what could happen by clever Pierre Vergniaud, one of prominent orators and leaders of Girondists.[9] In this way, the Commonwealth was established in England or

describes more off-colour details which are used as a basis for the narration but also Jean Jaures, Georges Lafebvre, A. Mathiez and A. Soboul wrote a lot on the hostilities and conflicts between some individuals and groups as well as on the insatiable ambitions of some leaders. As Mathiez writes 'The only thing that separates members of the Club 1789 and Jacobins is the lust for power. One group have ministries in their hands, while the others wish the same. (Mathiez, 1948, p. 87). Especially at the beginning the competition and hostility between Mirabeau and Lafayette, who were ideologically close to each other, gave a tone to a series of events (Mirabeau called Lafayette Caesar and Cromwell). Being largely envious of Mirabeau on the part of most members of the Constituent Assembly and even fearful that he would come to power made them make a decision on 7 October 1789 that the King could not appoint ministers who were members of the National (or Constituent) Assembly. Thus, in one case the ambitions of some figures and in the other, attempts to stop them shaped the constitutional institutions. The struggle for power between the leaders of the French Revolution takes a lot of space in all studies and history books of these processes, although they are not always presented as the lust for power. See (Brinton, 1931; Cvajg, 1983; Karlajl, 1837; Tijer, 1900 - 1903; Jovanović, 1920) which describe in a picturesque way the manipulation of the people and their mutual conflicts.

[8] For more details see our work 'Pluralističko shvatanje društva i slobode' (Pluralist Conception of Society and Freedom), introductory forward study for (Laski, 1986, pp. 7–137).

[9] Usually when it was too late revolutionaries from many generations remembered the warning made by Vergniaud that the revolution could treat its children in the same way as Saturn devoured his children. However, it neither saved them nor averted others just like the burnt flies around the candle or light do not avert others that fly over and end their lives in the same way. What kind of instinct make insects die like this is the subject zoologist should treat, but many political science studies show that among revolutionaries (or generally in radical groups) many acts are motivated by struggle for power and envy.

actually Cromwell's rule with some republican features. However, this rule proved to be more absolutist than had been the previous monarchy rule. Finally, monarchy was restored and therefore, the First English Revolution looked like a futile effort to limit the king's power (although this Revolution also brought some changes and a precious, but expensive experience).

The Second English Revolution was different by its character, course and outcome. This was the so-called Glorious Revolution (1688) and Montesquieu had the opportunity to study its achievements being enthusiastic about it. There is a widespread opinion that Montesquieu incorrectly understood the English system of separation of powers. Radomir Lukić shows that it is wrong to criticise Montesquieu for not describing the English system 'correctly', because he did not want it. He expressly presented that if executive power was vested in some people from the legislation body there would be no more freedom (Montesquieu, 1748, livre XI; Lukic, 1955, 1-2, p.128).[10] Therefore, Montesquieu described an imaginary system and he was closer to the ideas of John Locke than to the English system. The objective of the ideas advocated by Montesquieu was to bring about similar social and political changes in France.[11]

Unlike Montesquieu Rousseau's ideas were much more similar and closer to populist and republican ideas which became prominent during the First English Revolution. Some of these ideas certainly exerted their influence on Rousseau.[12]

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[10] R. Lukić emphasises in a well-founded way that Montesquieu's contemporaries and revolutionaries headed by Voltaire and Rousseau considered that the he had proved that the best government was the one with a people's representation body and that 'The Spirit of the Laws' 'contributed very much to the creation of the revolutionary spirit of the bourgeois revolutions in America and in France (Lukić, 1955, p. 122).

[11] The fact that Montesquieu advocated the ideas of British constitutionalism, which involves a prominent class compromise and political agreement between the king and those who have brought him to power, serves to a number of his critics to put him in the group of conservative thinkers. It is also a fact that the founder of conservative ideology Edmund Burke was the leader of British liberals who defended the same those ideas and institutions in his famous criticism of the French Revolution (Burke, 1790, 1953, 1973), where he very significantly anticipated the future course of events and 'deformations' including conflicts and terror and that the army would 'submit to the first more famous general'. In our opinion, based on the character of the Puritan Revolution, or actually the civil war in England, Burke anticipated that the event would take the similar course in France. On the relationship of thoughts between Montesquieu and Burke, see (Courtney, 1963). In our country a large study on 'Burke' was written by Slobodan Jovanović (1935, pp. 273–400). Montesquieu and Burke had the same opinion on an element concerning the character of representation. Both of them were against imperative mandates. Montesquieu built the theory of representation in accordance with this theory of representative democracy. Burke advocates the similar theory. One should be reminded that Burke, although being a founder of conservatism as a political ideology, was also a prominent official and member of the parliament of the Whig (Liberal) Party.

[12] Rousseau was inspired by the ideas of levellers and diggers, Milton's republicanism and defence of freedom of written expression, although Rousseau's letter to D'Alambert on the issue of

Neither Montesquieu nor Rousseau had ideas on revolution, as are those of today. They wanted changes as well as to bring the society and the state in accordance with their projects for which Montesquieu and many others thought that could be justified by 'old laws', freedoms and moral customs, reason and circumstances; on the other hand, Rousseau thought that they should be compatible with the emotions and predispositions of the naturally good generic man, who was spoiled by social institutions, inequality and lack of freedom.

II
Intellectual exertions, political and ideological preparation

The French Revolution had been preceded by a longer intellectual and ideological preparation.[13] A part of these preparations also included Montesquieu's and Rousseau's works. Some ideas that exerted influence of the participants in the French revolution had originated from the distant past because they made current classical republican virtues and patterns. Many others had originated from the ideas that had been topical in the epoch of renaissance restoring the ideas which put the man in the centre of interest increasingly treating him as an active participant, creator of social and political forms.[14]

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theatre in Geneva (actually, on the necessity of censorship on the part of the government) was contrary to Milton's views. In spite of the substantially difference conception of the nature of man and the so-called natural condition Hobbes's *Leviathan* (1651) probably influenced Rousseau by the full and consistently defined conception of absolute, unique and indivisible state (similar to Bodin's sovereignty as absolute, indivisible and inalienable), to which Rousseau introduced another sovereign (people). Then, Rousseau could also be influenced by Hobbes's view on the subordination of religion to the state politics (concerning this issue Rousseau refers to Hobbes's view). As on the view on civil religion where Rousseau refers to the utopian work of James Harrington *Oceana* (1656) there are grounds for assuming that other ideas from this work also influenced Rousseau (such as those on ownership as determinant of political relations). However, on the other hand, Harrington could be considered a forerunner of the idea of checks and balance of power, while Rousseau could be regarded as one of the most consistent protagonists of the idea of unity of power. Harrington influenced Montesquieu as a proponent of the idea on the rule of law and not people and separation and mutual control of various branches of power.

[13] Freemasons had played a great role before the French Revolution – Helvetius, D'Alambert, Condorcet, Franklin, and later de Maiste and others were members of the Masonic lodge; in Paris in 1778 they received the exhausted Voltaire and there remains to be explored their role introducing the idea of brotherhood in the great slogan of the Revolution (Leroy, 1946; Fay, 1924). They are significant for having a more complete picture and studies of political philosophy centred around Rousseau, (Vaughn, 1939), where about fifty pages are dedicated to Montesquieu.

[14] Taking Machiavelli as the first thinker that had freed politics of naturalist and theological determinism and thought that the man could also create political forms and the current policy by his statesmanship virtue Jacobins regarded him as the forerunner of modern revolutionaries. In that regard, they could rely on several Rousseau's positive assessments of Machiavelli.

The general trend led to the age of reason, enlightenment, conceptions of progress, social contract, natural laws and other similar categories through Bacon, Descartes, Locke, Newton, Pope and others, almost culminating with the French Revolution in the second half of the 18th century. In four decades between 1748 and 1789 a large number of works was published forming 'the spirit of the time' this including even ideas and institutions which prepared or actually meant revolution in heads of the people. Concerning the French Revolution a question is posed by John Adams as regards the American Revolution. He, as one of the authors of the 'Declaration of Independence' and second President of the USA, wrote that the Revolution had produced its effects in America even before the war (for independence) had broken out because it occurred in heads and hearts of people.[15]

If we wish to list the works that directly prepared spirits for the great revolution, then we would not make a mistake if we started with Montesquieu's works.,[16] or

[15] John Adams in his letter to Hezkiah Niles of 14 January 1818; quoted from (Arendt, 1973, p.294). He did not ascribe this revolutionising and production of some effects to any particular revolutionary spirit but to the fact that inhabitants of the colonies had been legally grouped in corporations, which were actually political bodies. They had the right of assembly at meetings of the city parliaments which shaped the public opinion and feelings of people. (Adams wrote this in a letter to abbot Mably, 1782). This structure of the organised democratic power, which became a tool of the revolution resisting to the king's power is very important for the course and character of the American Revolution and for the comparison with the French Revolution. Together with the deep difference in social tensions and conflicts as well as in the ideas that prevailed we should also take into consideration this organised basis of two powers in America in order to explain why the American Revolution took a peaceful, 'reformatory' course, while the French Revolution took a violent, unstable and bloody course. Another participant of the American Revolution and also one of the authors of the 'Declaration of Independence' Benjamin Rush had a different opinion of the moment of culmination of the Revolution and in 1787 he wrote the following: 'Nothing is customary as is the confusing of the notion of the American Revolution with the last American war. The American war is over, but this is not the case with the American Revolution. Even on the contrary, only the first act of the big drama is over. We should still establish and improve our new forms of governance (Miles, 1822, p. 299). Charles E. Beard, who at his time had attracted attention with his book *An Economic Interpretation of the Constitution,* 1913, or actually the attempts to interpret some constitutional solutions by economic interests of those who wrote the Constitution, what was later successfully refuted by many thinkers, had thought that the Revolution started after independence had been won. (See: *An Economic Interpretation of the Constitution,* 1913 and Chapter VIII entitled 'Independence Completed by the Revolution').

[16] As early as in 1721 Montesquieu had anonymously published *Persian Letters* (1951) in which through the impressions presented by two fictional Persians, Rica and Usbek, he criticised and mocked the customs and circumstances in France, and especially the despotic character of the authorities and the role of clergymen. There he also mentions other countries and political systems, treating matters which he later studies in detail in *The Spirit of the Laws*. In his *Considerations on The Causes of the Greatness of the Romans and their Decline* (1734), the second most important work of his, Montesquieu makes his contribution to the establishment of history as a science. This is not the history of Rome but the considerations on how various political and legal institutions

actually with his work *De L'Esprit des Lois* (The Spirit of the Laws) on which he worked as some would say fourteen while we would say about twenty years and which could take the first place on the list of works that not only gave incentive for the trend that led to the French Revolution, but it also contributed to the development of our civilisation (Montesquieu, 1748).[17] The writer puts and explores the problem of ' the spirit' or the nature of the laws, or actually the 'necessary relations which result from the nature of things', which means that he studies what factors legally make an impact on the nature of the system of the country and why in legal and political sense laws in various countries differ from each other. Thus, this work is a study of comparative law and politics, but the facts are arranged in a way required by some goal or plan of the book (although the existence and nature of such a plan was a subject of the dispute in which several authors participated). By his work *De L'Esprit des lois* (The Spirit of the Laws) Montesquieu made a great contribution to sociology and political and legal philosophy. Writing this work, he visited several European countries, and due to political reasons, in one period of his life he lived as an émigré in England. There he observed and studied its system which impressed him for the balance the authorities achieved in its prelateship's with other factors and freedoms which citizens enjoyed.

Montesquieu was one of great figures among enlighteners of the 18th century. He was aristocrat by his origin, education, public positions and manners, while he belonged to this extraordinary circle of thinkers who were known as 'philosophes

exerted their influence on what was the subject of his book. He was certainly inspired by the ideas of those Roman historians which praised 'the mixed system' and moderation. This work was actually created in the process of collecting and analysing the materials in which he was interested for his main work that during that time he had intended to write.

[17] Montesquieu had been born exactly a century before the French Revolution, so its 200th anniversary should be celebrated together with the 300th anniversary of his birth. In our country, it is planned to celebrate these two historical dates in an appropriate way by publishing in Serbian *The Spirit of the Laws*. The so-called Sretenje Constitution of Serbia adopted in 1835 is permeated by Montesquieu's liberal ideas including the one on the separation of powers as an intention of the creators of the Constitution to limit the Prince's absolutism. Such a Constitution had neither suited Prince Miloš nor the then influential powers and Turkey, Austria and Russia were against it demanding that it should be abandoned, what coincided with the Prince's wish. Several years after the most important parts of The Spirit of the Laws (since 1843-47) six parts or five volumes from Montesquieu's work were published, while the publication was interpreted in the middle of the fifth book; see: *Zbirka razny polezny predmeta*, Beograd, Kn'igopečatnja Knjažestva Srbskog, 1844–47. Concerning the important articles in our country we should mention that E. Spektorski wrote about Montesquieu on the 250th anniversary of his birth (1939); and Radomir D. Lukić, on the 200th anniversary of his death, 'Monteskjeova politička teorija' (Montesquieu's Political Theory). Lukić says that the most famous, eleventh book The Spirit of the Laws that deals with 'the laws upon which political freedom is being built' has exerted the strongest influence on Montesquieu's age and made the greatest contribution to the revolutions in America and France (Lukić, 1955, p. 126).

(philosophers)' or 'encyclopaedist' by their intellectual interests and ranges. Considering his political and legal views, it can be said that he was a moderate liberal constitutionalist. He was of the opinion that where certain conditions were created 'the spirit of the laws' of a country should be permeated with principles for which we would say that are actually those of liberal orientations belonging to British Whigs. Montesquieu thought that this was the condition to be fulfilled so that citizens and the state as a whole could achieve progress.

In the field of political theory, the basic objective of Montesquieu's work was to explore the conditions for the adoption of good laws and not for a good lawmaker. In his conception of the nature of the laws, in the way he conceived them and by the whole contents of the work, the idea of the rule of law was implicit. Harrington and Locke particularly inspired him to adopt such an idea as well as some others. This idea had been very influential at the beginning of the French Revolution, but later the political will of some groups and figures prevailed introducing the elements of oligarchy and personal power and in Montesquieu's terminology, also some elements of despotism. Particularly important are Montesquieu's views against absolute power and the demand for separation of powers, which he considered necessary in order to ensure rights and freedoms to citizens. This is because he thought that 'it is only power that limits power' ('le pouvoir arrete le pouvoir') (Montesquieu, 1758, p. 169) and therefore, that three branches of power (legislative, executive and judicial) should be arranged in such a way that they restrain, control and limit each other. His idea (although he was preceded by Harrington, whose *Oceana* he used, as well as by Locke) had exerted great influence on American constitution makers. And then, this idea returned to exert influence in France before and at the beginning of the Revolution. Another significant political idea, which like the former ones greatly influenced American constitution makers, was his idea which advocated federalism. This idea made him become one of pioneers of the theory of this political form. In short, he considered that federalism could ensure democracy or a republican form, which was attainable only in small communities ensuring at the same time security from external dangers, and this was achieved by the association of several autonomous communities in a powerful federation. In the field of law and especially in the field of constitutional law his work considerably contributed to constitutionalism, which in the 18th century resulted in the first applicable written constitutions that limited power. The first such a constitution was the Constitution of the USA (1787), which also aroused interest in France.

Montesquieu strove towards realignment of France in order to ensure above all, freedom of people, to finish with despotism, limit the power and enable all classes (groups) to participate in exercising power in the way similar to the one he found in England. Actually, this was similar to what Aristotle advocated, and he was the philosopher that undoubtedly inspired Montesquieu. Montesquieu advocated the

participation of aristocracy in power by taking the British system as a model, but he was against the rule of aristocracy in the way it was often ascribed to him. It is true that he was not enthusiastic about democracy which in the 18th century was conceived primarily as direct rule of the people. In this sense, Aristotle's influence on Montesquieu is certain. Montesquieu writes that 'in democracy the people are in some things a sovereign, while in others it is a subject. Sovereignty cannot be manifested in any other way but by voting, and votes express one's own will… For this reason, the laws that define the right to vote are of fundamental significance for this form… The people, upon which sovereign power rests, should do itself what it can do good, while what it cannot do good should be left to its ministers… The people has the right to appoint ministers….or actually, the people should elect its administration… The people is very capable of choosing the ones to whom it should entrust power….But, would it be capable of managing public affairs, perceiving the circumstances, development, right moments and using them? No, it would not be capable of doing this…Public affairs should be done at a rate that is neither too slow nor too fast. And the people are, however, either too active or insufficiently active. Sometimes, with a hundred thousand of hands the people tears everything down; some other time, with a hundred thousand of legs it does not move faster than some insects (Montesquieu, 1758, pp. 14-16). Montesquieu was in no way a proponent of any theory of equality and even less of the people's sovereignty – says Aron Raymond (Aron, 1972, p. 59). What Montesquieu wanted was a kind of aristocratic-liberal, moderate, representative democracy that would enable people to enjoy in 'freedom within the law'. That is the famous formula that makes an impression that freedom is limited. However, at the same time it manifests perhaps the only realistic possibility that it is really enjoyed. In Montesquieu's opinion a great advantage of the representative government is that it can consider (discuss) problems. According to him, the people should not participate in power in any other way but by electing its representatives. (This is, actually, one of Aristotle's formulas). 'For this reason, the laws that establish the right to vote are of fundamental significance for this kind of government'.

Montesquieu presented an interesting conception of political freedom and some of its institutional guarantees. He says that there are those who confuse the power of the people with its freedom. As Montesquieu writes – It seems that in democracy the people can do what they want, but for him, in a society with laws freedom is not that one can do everything he wants but 'freedom is the right to do what is permitted by the law, and if a citizen could do what the law prohibits then there would no more freedom, since all others could have the same powers' (and they would, thus, conclude that this would lead to the establishment of Hobbes's intolerable 'natural state'). Further, Montesquieu says that by their nature, it is neither democracy nor aristocracy that makes free states. His opinion is that only a free man can do what he wants to do and what he should do. This

is very close to Rousseau's and Hegel's views. Within the context of their other ideas, the latter two are presented as proponents of totalitarianism. This is because this idea can make one assume that some other can better know than the man concerned what that man can do and what his freedom should include, finally imposing such freedom and human needs. This is, as we know today, a big illusion and defects of many false 'democratic' dictatorships, including the Jacobin one. Or, this Rousseau's principle can be very easily applied in an evil way for the sake of absolute democracy. Actually, those who do not wish to be free (because they are aware of the social significance of political engagement) should be made to be free even under the threat of death penalty. Montesquieu does not follow this path, although he also uses the term 'general will' (see: livre XII, ch. VI) on whose account Rousseau makes complete his construction of total people' rule. The institutional context within which Montesquieu places his idea of freedom is also different. This is because in the same parts he explicitly discusses the problems of separation of powers, so that nobody would have absolute power over others, thus, actually, limiting freedom. The role of the state is in Rousseau's and Hegel's views different by its nature and makes it absolute, what is not case with Montesquieu (Montesquieu, 1758, pp. 167-169).

Today, two types of modern political forms are often mentioned. These are Jacobin and federal. The former is characterised by centralisation, unity (unitarianism) of the society and unity of powers, making the same, reduction of autonomy of parts, while the latter one is characterised by almost the opposite, pluralism and autonomy of parts, associative conception of society, separation or dispersion of powers. In this sense, the 'Jacobin' form in France started with centralism that had been established before the Revolution proceeding not only with the Jacobin rule of the 'unitary and indivisible republic' but also later with Napoleon's administrative centralisation of the empire. The forerunners or proponents of this idea are Machiavelli, Bodin, Hobbes, and with some reservation, Rousseau could be added to this group. The representatives of the latter, associative conception rely on Aristotle, Aquinas, Althusius, Locke, while Montesquieu should also be added to this group. Sometimes, the former ones are called apostles of order, while the latter ones are called apostles of freedom. It would be paradoxical to include Rousseau among the latter apostles of order if he was considered the personification of spontaneous and unrestrained individualism (today's hippies could claim that he was their model, while anarchists could consider him their forerunner, who inspired William Godwin to write his An Enquiry Concerning Political Justice during the French Revolution. However, in some parts of this theory Rousseau supports populist totalitarianism and absoluteness of political rights of the state. Both movements mentioned above had their followers during not only the French Revolution, but also even today. It seems that we should observe the contributions of Montesquieu and Rousseau within this context.

Let us see what intellectual achievements were made at the time when Montesquieu's works had been published and immediately after that. They encouraged and enlightened the public in the forthcoming years and decades all until the Revolution. A year before the publication of The Spirit of the Laws, La Mettrie published his L' homme machine (Man a Machine). A year later, the publication of Buffon's Histoire naturelle (Natural History) started (the work which by its comprehensiveness and basic goals can almost be compared with Encyclopaedia because between 1749 and 1789, 32 volumes were published). As early as in 1751 the publication of Encyclopedie (Encyclopaedia) began. Apart from Diderot and D'Alembert, as editors, Montesquieu, Voltaire, Rousseau and dozens of other associates worked on it.[18] In 1750, Turgot delivered the famous lecture at Sorbonne presenting the idea of progress of the human spirit.[19]

Being romantic and in many things irresponsible individualist and a very eloquent dreamer Jean-Jacques Rousseau very self-confidently, effectively and successfully started his political and writing activities in 1749 by publishing 'Discourse sur les sciences et les arts' (Discourse on the Arts and Sciences 1750) by entering the contest of the Academy of Dijon with the topic 'Has the Revival of the Sciences and the Arts Helped to Purify or to Corrupt Morals'. Rousseau was awarded the first prize for his criticism of sciences and arts in the name of morals, but he was more unlucky with his better and more influential work 'Discours sur l'origine de l'inégalité' (Discourse on the Origin and Basis of Inequality Among Men) which was written in 1754 and published in 1755. The latter 'Discourse' undoubtedly exerted influence (it was quoted by many significant writers of that period) in the wave of ideas among which a group of writers (especially among writers of communist utopias, but not only among them) which emphasised equality. There were several discussions on equality, but it should be assumed that Rousseau's ideas made a great contribution to the creation of the famous slogan of the French Revolution ' Freedom, equality, fraternity'.

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[18] Encyclopedie (Encyclopaedia) was dedicated to Bacon. In spite of many difficulties and obstacles made by the authorities and the Church, it was completed in 1772 (28 volumes). In order to finish it D'Alembert had to resign from the post of editor. As an oddity that when checking the galley proofs Diderot found out that in some entries the most liberal parts were deleted by 'printers', what made him intervene in order to turn back the deleted words and sentences.

[19] Turgot had been against the idea of separation of powers. From that standpoint, several decades later he also criticised the Constitutions of the American small states asserting that the separation of powers had brought inequalities and divisions in the society. As an answer to the criticisms of Turgot, Gabriel de Mably and Dr. Price John Adams wrote a large work where for the purpose of defending these Constitutions he analysed dozens of historical examples of political systems and works of great historians and political thinkers. See (Adams, 1787–1788, 1971).

If we could say for Montesquieu that freedom is the fundamental determinant and preoccupation of his political theory, then for Rousseau, we should also put emphasis on equality together with freedom. While it could not be claimed that Montesquieu inspired French communist utopias of the 18th century(the ones presented by abbot, philosopher, diplomat and historian Gabriel Bonnot de Mably, priest Jean Meslier, enigmatic Morelly, whose works have made his name famous, while there are no data on the writer himself, and thus it is assumed that it was a pseudonym of some of famous enlighteners) , except with his criticism presented in Persian Letters, for Rousseau one should assume that that he wrote under the influence of these ideas and that he himself encouraged their authors (Morelly's Code of Nature was published in 1755).[20]

While Morelly's work Ruler from 1751 was under the great influence of Montesquieu's work *The Spirit of the Laws*, in *Code of Nature* he took positions that were opposite to Montesquieu's views. Contrary to Montesquieu who wrote in detail on the impact of natural or actually geographic conditions and climate, Morelly emphasised the impact of social institutions, relative independence of the society and the decisive impact of social interests in the development of the society.[21]

Before we discuss Rousseau's main political work, we should also mention some famous works that paved the way to the French Revolution, although they were only intended for contributing to progress of the human mind and human way of life. In 1756, Voltaire published his *Essay on the General History* and the *Customs and the Spirit of the Nations* (Voltaire, 1756).[22] In 1758 the forerunner of utilitarianism, Claude Adrien Helvetius, published *De l'eprit* (Spirit), the work that

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[20] One very good expert in French liberal thought of the 18th century says that 'the main trend of socialism of the 18th century started in 1775 with Rousseau's attack on private ownership in Discourse on the Origin and Basis of Inequality among Men. At that time Morelly's work was more significant and systematic than Rousseau's 'Discourse', which, on the other hand, was written in a more intersecting way, more eloquently and more enthusiastically.

[21] Compare (Nedeljković, 1957, pp. 39-40). The subtitle which was omitted in the Serbian translation is characteristic because it announces the alternative 'spirit of the laws', although in several parts he mentions and expresses respect to Montesquieu. He polemises in some other parts with his principles and political forms not mentioning Montesquieu by his name. The full title of Morelly's work is *Code de la natur, ou le veritable esprit de ces loix (*Code of Nature or, the True Spirit of Laws). Here is one part concerning Montesquieu, although his name is not mentioned: 'You say that the principles of democracy are honesty and virtue; that aristocracy is maintained by moderation, that monarchy is based on honour; that fear consolidates the cruel power of despotism. [This concerns The Spirit of the Laws, Livre III - V.S.]. Good Lord, how weak those supports are! Everything rests, more or less, on ownership and interest, the most sinister among foundations' (Moreli, 1957, pp. 149-150). According to Morelly ownership and interest are the things that determine politics and he explores under what pretext politics sacrifices the interest of masses to the interest of an individual.

for its contents and Locke's sensualism or actually sensual cognition as a basis was considered sinful and was immediately condemned by the Pope and the Paris parliament (or actually the Court). According to Helvetius, all people are equal by birth and what make them unequal are different social conditions for their education. Jeremy Bentham said that in Helvetius's work he first learnt the principle 'the greatest possible happiness for the greater possible number of those affected.' In 1758, Mably had completed his work Rights and Duties of the Citizen, but it was published not sooner than before the Revolution (1788). In that work he had presented a number of proposals that were applied thirty years later and they are as follows: to convene the assembly of estates, to reduce the size of lands, to reduce the public costs; he advocated the law against luxury and for a mixed form of government for which he used the term 'republican monarchy' that was often used in the first years of the Revolution. One of Mably's basic ideas is equality. He presents it in several works (1776).[23] In 1762, Jean-Jacques Rousseau published, in our opinion, his two most significant works that made him famous in the history of political and pedagogical thought. These are The Social Contract and Emile.[24]

Unlike the historical and empirical assumptions and data upon which Montesquieu based his analyses and established his theory Rousseau started from the assumption that the ideal community of people had fallen apart for the wealth inequality. Such an assumption was nourished by various utopias of that time and Daniel Defoe's Robinson Crusoe also exerted influence on Rousseau. Since that

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[22] However, during his studies Voltaire established and made a large list of factual errors and omissions made by Montesquieu in his The Spirit of the Laws. See (Faguet, 1902).

[23] The Essay on 'Legislation' (1776) is in the form of dialogue between an Englishman and a Swede. The English thinks that freedom is the basic factor that makes England powerful and prosperous and that its prosperity directly results from free trade, while when the principle of freedom is abandoned (as is the case with the American colonies) this produces harmful effects. The Swede is of the opinion that they live better than the English people because they have abandoned the striving for world glory and they are not preoccupied with making money. They are content with modest prosperity. However, they live a normal life where they find happiness and satisfaction, while they produce material goods by working in a disciplined and self-sacrificing way. In their country, moral character comes before glory, while they respect satisfaction more than property. In their relative poverty, they still hope that they will become citizens, while in the striving for money the English will become mere mercenaries. Mably was similar to Rousseau believing that reason is a frail obstacle to human passions. One should know that Anglophobia was widespread in France after the war from 1756-1763 and that the favourable milieu that had been created during the Montesquieu's time vanished.

[24] We shall not deal with Emile here, but it should be noted that in the consideration of the government of Poland Rousseau devoted great attention to education of citizens and that the ideas from that part became fully prominent, while The Profession of Faith of the Savoyard Vicar contributed to the position of the French Revolution to the Church or clergymen and the so-called civil religion.

ideal primitive community have fallen apart – says Rousseau – people, who are born free live all over the world in chains of slavery. He was of the opinion that any power was usurpation unless it came from the people and that the man's freedom in an organised society could be ensured provided all people participated in political power as citizens. That is the significant theory of indirect democracy. He thought that political representation and standing army were twin enemies of democracy.[25] Decisions of the political body should be an expression of the so-called general will ('volonte generale' – the term which is rather characteristic for Rousseau's political philosophy, although he might have taken it over from Montesquieu in whose works we find it. General will is neither a will of all nor a will of the majority (although it can finally be established in that way and in this way it was interpreted by abbot Sieyes in the Revolution), but it is the wish that takes into consideration basic long-term general interests making decisions in accordance with them, being allegedly never wrong.

According to Rousseau, the people's sovereignty is absolute, indivisible and inalienable. That, first of all, means that the people may decide on everything they want and in the way they want (in other words, the people would not have to respect any rights which someone would treat as inviolable; also, they may decide without any previously defined procedure as was the case with the alleged trials or by killings of the majority that were sent to the guillotine or as being suspicious were killed in prisons.[26] This being true, in spite of the fact that Rousseau explicitly says that 'sovereign power, although being thoroughly absolute, dedicated, and inviolable does not and cannot exceed the limit of the general contracts and that any man can freely handle its property and freedom provided by those contracts' (Rousseau, 1978, p. 112). By its practical implications, Rousseau's theory may mean that an individual or a minority cannot enjoy protection when a decision is made by a majority. It further means that the government is organised on the principle of its unity and not division and that it exercises power directly and not through its representatives. Due to practical difficulties to achieve such democracy, Rousseau wrote that it is not for people but for gods. Then, in the projects of constitutional systems of Corsica and Poland, he proposed the solutions that were not in line with his theoretical and revolutionary views presented in The Social Contract. For Corsica, he provided for that in order to be able to make decision it should technically gather around as many people as possible that should elect the executive power. In Poland, he provided for the Senate as the body that should have the decisive role, while he deprived the ordinary, poor people of the right to vote.

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[25] Montesquieu was of one of the first writers who noted 'one new disease which has spread all over Europe, it has taken our rulers making them keep a disproportionately big number of soldiers', and when one state does that the other also resorts to this. The consequences will include general impoverishment and citizens will be turned into the Tartars. (Montesquieu, 1758, p.242). Montesquieu's and Rousseau's formulations are similar, this meaning that the former influenced the latter one.

[26] For more details on this aspects see (Čavoški, 1989).

Theoretically, or according to The Social Contract, once the people wins power, every year at the general assembly it should express its opinion on the following two important issues: would it keep the up-to-then form of rule, and would the same persons that have exercised power keep on doing this. Thus, when the idea of the people's sovereignty is once achieved, according to the Rousseau's conceptions, the 'revolution' could be carried out every year, what actually means that is quite superfluous. One of the most famous Rousseau's views by which he assumes that he resolves the basic question concerning the way the man should keep his natural freedom while yet living in an organised society has been very often quoted by using the formulation in The Social Contract:

'Finally, everyone giving himself to all, gives himself to nobody; and there is no associate over whom he does not acquire the same right as he yields others over himself; then we get a counter value for all we have lost and more strength to retain what we have.

If we, thus, eliminate from the social contract what is not its essence, we shall discover that it is reduced to the following: "Each of us gets united one's own characteristics and one's own power under the supreme rule of the general will and we accept each member in the society as an inseparable part of the whole". (Rousseau, 1978, p. 101).

The above mentioned text means the following: as all people get associated with each other as individuals and give themselves to the common government in which everybody takes part in, then no one is subordinated to anybody, everybody is equal and free and everybody's individual rights can count on many times more powerful protection of the associated force of the community. This, however, has some similarities with the equality of buyers and sellers on the market. Only, there is a big difference between a political community and market, which includes the fact that the community has power and it can make individuals do something on behalf of the community, while this could be done from a different view or interests of those to whom power (authority) has been entrusted. They can even do it on the detriment of the community on whose behalf they act. Even a 'conspiracy' can be hatched on the part of one group to monopolise power in interpreting the general will. In other words, Rousseau forgets or simply does not recognise the real nature of power or force, what also includes the real nature of the political man in whose behaviour the aspiration to power and envy plays a big role. For this reason, the materialisation of Rousseau's ideal community should be closer to Hobbe's *Leviathan* than to Locke's civil society and division of power. There is almost no doubt that this is because that ideal 'community' is provided with the people's sovereignty which is absolute, indivisible and inalienable. Thus, the people's sovereignty has the characteristics, which were enlisted by Jean Bodin when the term was introduced, only with Rousseau, the bearer was changed. And here we have the big question should the power of people be limited as any other. Rousseau's claim (in the way 'everyone who gives himself to everyone gives

himself to no one') is nothing more than an attempt to solve one of the biggest questions of the political community by applying rhetoric and sofism.

While Montesquieu had been a great proponent of division of power Rousseau was against such a solution and a proponent of the idea that later became well known as the theory of unity of power. These different 'technical solutions' serve to conceive the desirable political system on the part of these two authors and basic values that would permeate the system.

How are these ideas of the two philosophers manifested in the light of modern theory and practice of democracy? The theory has assumed and the practice has shown that, in spite of ideological and even theoretical arguments, which speak in favour of unity of power and mass direct democracy, that idea, can be institutionalised with difficulty producing a democratic outcome. Therefore, in all great movements, including the French Revolution, it has ended with dictatorship or by a law of oligarchy, concentration of all power in a small group of people or in individuals. In this way, following Rousseauian principles led at best to the so-called totalitarian democracy. That is why, for example, taking into account the leaders of some states which were engaged in World War II Bertrand Russell writes that Churchill and Roosevelt are products of Locke and Hitler of Rousseau (Rasel, 1962, p. 658).[27]

Rousseau was mostly unaware that some of his solutions we presented were problematic. On the other hand, he was aware of the danger of bureaucratic usurpation of power and corporation interests which overpower the general will with bureaucracy. Even four decades before 1789 Montesquieu had also been aware that big upheavals and destruction of institutions would occur, and

[27] Someone put Stalin with Hitler together, while Russell himself erroneously asserted in some other place that liberalism of Rousseau and Kant divided into two streams – hard and compassionate. In that way, the hard stream allegedly logically and gradually developed into Stalin through Bentham, Ricardo and Marx, while the compassionate one through other logical levels - Fichte, Byron, Carlyle and Nietzsche developed into Hitler. (Ibid. p. 617). Russell liked to follow the 'logical' evolution and influences of some theories and to present views that sometimes put under suspicion or made worthless some established assessments. He was wrong about some of them, as was he in the previous presentation of liberalism which he made too simple. Russell had presented his views several years before others pointed to the totalitarist consequences of the Rousseauian conceptions of democracy. (Arendt, 1958). Hannah Arendt points to the fact that totalitarianism has emerged in the places where people have already found themselves in unbearable conditions and in which the world of public order of values has collapsed. Under such circumstances, people are trying to escape from hopelessness and loneliness, where every 'common sense' vanishes and people do not believe any more what they see and what they hear inclining to their imagination, being under such conditions captivated by anything that looks universal and consistent. See more in: (Talmon, 1952, 1960), which considers Rousseauian ideas; and (Shklar, 1958), where one of the basic theses is that that the ideas of enlightenment are based on the hope that human communities could be rationally learnt and arranged and which had brought a number of utopias in the 19th century and that in the evolution that continued in the 20th century they turned into totalitarian societies.

therefore, he expressed more fear that the society would face new despotism than a hope that it would achieve freedom.[28]

In spite of many controversies of Rousseau's teachings which give grounds for different interpretations like whether he is an individualist or collectivist, liberal or totalitarist, whether he is a proponent of religious tolerance as he verbally advocated in The Social Contract, although he excluded some religions in the same work (such as lamaism, Catholicism, Japan religion) it should be pointed to the one between Rousseau's radicalism in The Social Contract, on one hand, and extreme pragmatism, caution of opportunism, reformism and the like concerning practical matters of power and rule, on the other hand. He was asked to write the project on the Constitution of Corsica (Vaughn, 1915) and *Considérations sur le gouvernement de Pologne* (Considerations on the Government of Poland). He was given an opportunity to play the role which he desired according to The Social Contract ('If I were a ruler-legislator'). Just on the basis of the idea presented in The Social Contract in 1764 he was invited to make a project on the Constitution of Corsica. In making both draft constitutions he relied on Montesquieu, but in spite of some utopian ideas he was too cautious to propose some democratic reforms. As provided for Corsica, every citizens would make a contract with every other citizen in the way that each of them swears 'before almighty God' by handing over his body, property, will and power to the Corsican nation, this including all his property and himself. Full equality would be established in Corsica ('No one would be rich'), while every person would produce goods according to his needs.[29] That state would have no capital because corruption takes root there. As Corsica is too big an island for introducing direct democracy he proposed electing the executive power by a part of the people (the greatest possible number that could be gathered together at once)

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[28] Compare (Montesquieu, 1758, livre VIII, ch. VIII). In Montesquieu's opinion there would be no troubles if a moderate government of one form turned into another – monarchy into republic or vice versa, but only if a moderate government turned into a despotic one. Montesquieu thinks that the greatest part of the peoples in Europe still live by applying some customs. But, if despotism is established by long abuse of power or by big conquests, both freedom and morality will fall. Montesquieu saw such a turn for the loss of authority and reputation of the authorities and for the weakening of morals and customs. Compare (Montesquieu, 1758, I, pp.131-32). The author of this paper thinks that a 'long abuse of powers' whose condemnation was prominent in 'The Declaration of Independence of the USA' and in several criticisms of despotism in France made respect rights and freedoms. For the preambles of the Constitutions of France of 1946 (it is considered important) and of 1958 the texts from the French past which were based on the Declaration of the Rights of Man and of the Citizen 1789 were interpreted and adopted and their basic ideas proclaim fundamental freedoms and respect of constitutional provisions.

[29] In The Social Contract he thought that everybody should be an owner (for this he is reproached of being a proponent of petit bourgeois views), while every citizen should hand over his property to the sovereign (the idea that was also used in the period of the Montagnard dictatorship).

and that the mandate of the government elected by this assembly would be short. According to his explicit opinion, the state should by no means be poor, but vice versa, he thinks that the state should be the only owner of all properties individuals would enjoy proportionally to their contribution.

Even if it had wanted, Corsica could not have carried out Rousseau's projects since it was annexed by France (1768). Soon after (1769) Poland addressed enlighteners asking them to present their ideas on the constitutional system of this country. Rousseau accepted that general call and *Considérations sur le gouvernement de Pologne* (Considerations on the Government of Poland) was created. Mably also submitted his proposal for the Constitution of Poland. In his considerations, Rousseau endeavours to inflame patriotism and love of the Poles for freedom, while laws should serve those purposes. On the other hand, in spite of freedom ('Ah, freedom, if only those poor people could become familiar with you….') he tells to the Poles that in searching for and enjoying freedom they should be moderate. In spite of thinking what can be obtained they should also think what could be lost in that lust for freedom. Concerning reforms, he was so cautious that he even did not provide for the abolishment of serfdom. His formula for Poland is – elective monarchy, strong Senate as the centre of the power which would not include poor people, etc. He devotes great attention to education taking as a model his Emile and federalism which he advocates in case of Poland in a more explicit way than he does in The Social Contract. Many writers ascertained that if in The Social Contract Rousseau was a revolutionary in the proposals for the constitutional systems of Corsica and Poland hew took a rather indulgent attitude to the circumstances in those countries making attempts, in line with Montesquieu, to take into consideration the traditions and the given conditions.

Montesquieu's and Rousseau's teachings are basically different in conceiving pluralism or actually in views on desirability or undesirability of such a phenomenon in the society and the state. This resulted in many other differences and implications including the one that France should proclaim unitarian (unitary) and indivisible state and threat with death penalty to anyone who would require the introduction of federalism. Continuing with Aristotle's associativist conception that were followed by Althusius and Locke (later these were Madison and Tocqueville and many others in the 19th and 20th centuries when this heritage created schools of pluralist conception of the society) Montesquieu attempted to find a way to reconcile some contradictions resulting from complexity of the society. A part of this solution he conceived in the form of federal republic that was for him a 'society of the society' ('société de sociétés') (Montesquieu, 1758, liv. IX, ch. I). His theory of factors and associativist conception of society excludes methodological and ontological monism, monopolism and monolithism in the society.

Rousseau was aware of the stratification and factual pluralism of the civil society. In his essay 'Political Economy' which was written for Encyclopaedia he

said: ' All political societies are composed of other, smaller societies of different kinds of which each has its own interests and principles…. The wills of such separate societies have always two kind of relationships: for members of the association it is the general will, in relationship to the broader society it is the private will, which is very often right in former sense, and wrong in the latter.'. Rousseau was of the opinion that the state or the political body of the people should not succumb to that pluralism of interests, associations, organisations. Therefore, these forms mentioned above should be abated, or actually prohibited, and if this is not possible, it should create as many as possible of them. While he accepted federalism as an appropriate form to merge freedom and democracy with the capacity for defence, as for internal pluralism of the society, Rousseau expresses not only doubts but fears as well. According to his conception, no internal divisions should exist because they attack the people's sovereignty and general will in the way he conceived them.

'In order to present the general will appropriately it is therefore, important that there is no separate society in the state and that any citizens can vote by his own will… If there are separate societies they should be multiplied (increase their number) in order to prevent inequality as did Solon, Numa, Servier' (Rousseau, 1978, lib. II, ch. III)[30]

Rousseau was inspired by ancient Greek city-states (particularly by Sparta) and Geneva. His vision was a community as a whole, indivisible, total, based on friendship and good-naturedness of people who make it and live in harmony with no conflict of interests, although he was aware of a possible conflict between particular wills with the general will, as well as of the possibility that within a narrow community prevails the general will of its members, while in the behaviour of the community towards the broader one to which it belongs the particular will prevails. In accordance with Rousseau's political philosophy of direct democracy and the general will one can easily project the rule of an elite of those who know better what the general will is. During the French Revolution, these had been Jacobins, while in the revolutions that occurred later, which followed Rousseau's model, there was always a group that monopolised for itself the interpretation what the general interest or the general will was.

[30] Rousseau praised Montesquieu as a writer who noticed the significance of the atomisation of the society. If it goes too far then it actually comes close to the so-called mass society where if there are associations, groups, organisations, etc. they are powerless. It was Rousseau's ideal that only individuals with no particular influences on their wills could participate in expressing the general will. As for the multiplication of interests, corporations, associations and the like, the similar view was advocated by James Madison in famous Federalist, No. 10. See (Hamilton, Medison, Džej, 1981).

It results from Rousseau's conception of the people's sovereignty as absolute, indivisible and inalienable that the power that is exercised in the name of the general will cannot be substantially limited. The assumption or conception that the people or the majority can and have the right to make any decision against the minority was denied by the democratic theory as early as in the 18th century. It was developed then and called one's attention to the possibility of tyranny of the majority (Madison and later Tocqueville, Mill, etc.) They follow Aristotle in this, for whom absolute democracy or the democracy, which is not limited by laws, is the worst of all political forms (ochlocracy, as this form was called by Bentham). The French Revolution was like a sort of global political experiment with radical ideas of democracy. That experiment failed, because with its first steps it turned into negation of rights and freedoms, into a despotism of an 'virtue' and it clearly manifested the trend that was later called the iron law of oligarchy.

In order to make a whole picture of the ideal milieu within which ideas were created and that would become prominent in 1789 we shall mention some works that were written after Montesquieu and Rousseau. Holbach (Paul Henri baron d' Holbach; one book on him has a bit pretentious but indicative title *Le System de la Nature* (The System of Nature) which he published in 1770 (under the pseudonym Mirabaud) and was severely criticised by the official society. Then the American events followed which made even the proponents of absolutism to give credit, show a liking and provide help to American revolutionaries, thus giving vent to their Anglophobia and not understanding to what extent the American ideas would be subversive for French absolutism. Some writers are of the opinion that 1776 is the initial year in the history modern political ideologies. In 1776 apart from Paine's revolutionary pamphlet 'Common Sense', 'The Declaration of Independence of the USA' and Mably's discourse mentioned above, Adam Smith published his The Nature and Causes of the Wealth of Nations '(Smith, 1952, 1970), while Bentham published A Fragment' on Government'. There, at the beginning he makes a citation of Montesquieu giving him credit for advocating introduction of mixed government (in that regard, before Montesquieu there prevailed unmixed barbarism – says Bentham). Following Helvetius, Bentham formulates his famous utilitarian principle of 'the greatest happiness' (the category of 'happiness' or 'searching for happiness' became a driving and instrumentalist force in the American Revolution and in 1789 Revolution.

One historian writes: 'Let us berate – Voltaire, Rousseau, Diderot, Raynal, d'Holbach, Volney, Helvetius, d'Alambert, Condorcet, Bernardin de St. Pierre, Beaumarchais – all of them are rebels that level the church and the state to the ground or search perfection in the nature which must be established in France' (Brinton, 1965). The list can obviously be expanded.

The role of intellectuals, *sociétés de pensée* (philosophical society), groups of *les economistes* (economists) (Quesnay, Mirabeau, de Nemours, Turgot, etc.) and above

all, *philosophes* (philosophers) was very significant. These are philosophers which were later said to have contributed to the Revolution. Montesquieu and Rousseau played an important role in these circles. Today one could say that their role reduced only to presenting their ideas. One should be reminded on the anecdote concerning the lecture of Thomas Carlyle. When the lecture was finished a businessman who wanted to ask a question spoke with disdain that the lecturer had only spoken of ideas. (This implied that the lecturer missed to talk of some practical things from which people live). Allegedly, Carlyle responded the following: ' Once upon a time there was a man whose name was Jean-Jacques Rousseau and who did nothing during all his life but only presented ideas. But, the second edition of his work was bound by skins of all those who mocked the first edition.'

III
Various theories and policies paved the way to revolutions

When it is said the 'French Revolution' if it is not specified then it is the one to which we usually add the year 1789 and which some people call The Great French Revolution. In the chain of events which make it is not so simple to specify the most important one that would be marked as its beginning, while it is even harder to say where, when and what its end was. Some details such as the convening of the Estate General, its turning into the National Assembly and then into the Constituent Assembly (later, of course, into the National Convention), fall of the Bastille, abolishment of feudal privileges, adoption of 'Déclaration des Droits de l'Homme et du Citoyen' (The Declaration of the Rights of Man and the Citizen), preparation and adoption of the Constitution, abolishment of monarchy and proclamation of republic and then the events that followed the following years and decades – are given various social, political and ideological meanings, what depends on what theoretical and ideological category apparatus is applied (Godichet, 1969). If we consider the events only in the categories of Montesquieu's and Rousseau's teachings, we would come to various or actually opposite assessments. Many people are in no doubt to mark the fall of the Bastille as the beginning of the Revolution. Other justifiably point to the fact that the change had occurred even earlier, which is in our opinion significant, when representatives of the Third Estate constituted the National Assembly and then decided to adopt the Constitution that would limit any power, this even including the King's (or the people's power). As it is well known the National Assembly bravely stood up to the King's threats and pressure and on 7 July it established the Constitutional Committee, while on 9 July it proclaimed itself the National Constitutional Assembly. Albert Sobou calls this change the 'legal revolution', while, according to him, the fall of the Bastille is 'the people's revolution'(Soboul, 1966, pp. 91, 103–112).

Ideological determinants and assessments on the Revolution differ among themselves, while they are often not in accordance with some historical facts. Here

are the consequences of the approach following Montesquieu's or Rousseau's ideas: If we try, for example, to follow Montesquieu's ideas then at some time segment in 1789 we would think that the Revolution had already been won and almost finished. If in the assessment of the same moment in time we wanted to be Rousseau's followers then we would have to accept that the Revolution had not even started at that moment. 1789 was not questioned as the year when the Revolution started.

Among those who participated in the Revolution, there were many ideologists while there were few theoreticians. Sieyes and Condorcet enjoyed great reputation but only the latter one was a theoretician in the real sense of the word. Sieyes was a conservative but in 1789, he played a revolutionary role being guided by Rousseau. Condorcet presented revolutionary teachings but was very critical about Rousseau in his writings. Among those who had not participated in the Revolution Mably was influential but he could not be compared to Rousseau. In moderate circles, Montesquieu's ideas were very influential. However, in the Revolution which occurred, everything was different from what Montesquieu and Rousseau conceived. At that time the very word 'revolution' was used literally and in an out-of-date meaning of the word – as a return to a previous condition after some distance have been covered. It was, actually, assumed that the people (or aristocracy) once had enjoyed the rights which were in the meantime renounced, usurped (For Rousseau like for Locke the end of the usurpation was carried out by raising a rebellion, revolution), and the revolution should return to the previous condition. With the French Revolution, the notion of revolution itself takes a modern sociological and political meaning, but one-sidedness became prominent in this. The French Revolution was and is still taken as a paradigmatic example of a social revolution in general. If we, actually, explore the conception of revolution in the literature of Marxist provenience we will find that a widespread general notion is such that it was made as if by assigning some (thus, assumed) characteristics to the French Revolution or by taking some realistic features and then, by abstracting, this specific case was raised to the level of a general notion and political pattern. What is not emphasised very often is that the French revolution ended by the restoration of monarchy just like the First English (Puritan) Revolution. Some thinkers have pointed out that radicalism almost lawfully made collapse these revolutions regardless of the great significance of some changes and institutions they had brought. The present new assessments of the character and significance of these historical experiences increasingly put more emphasis on their severe and gloomy sides as well as on the social costs of such undertakings. It is within that context that we should consider the role of Montesquieu's liberal-moderate and constitutional doctrine as well as Rousseau's radical-democratic and by many implications totalitarian political doctrine.

If we consider the events from June to September 1789 when the revolutionary course speeded up and the vents spread, this making impossible to control them by

those who had initiated them, we can come to the conclusion that the beginning of the French Revolution should not refer only to one event as was, for example, taking and fall of the Bastille. Within a series of events, this was the act of rebellion which resulted from the justified anger, but which became the symbol of this Revolution. This was also the beginning of the so-called people's revolution or actually the involvement of the masses in the process of dismantling of the symbols and bastions of the old regime, while soon after this also included feudal relations and privileges. The decisions made by the National Assembly in the night between 4 and 5 August were especially important, when under the pressure of the people members of the Assembly took a decision 'On the Final Abolishment of the Feudal Regime'. This decision included by itself the abolishment of privileges and taxes. Then it was also decided that the future adoption of the Constitution should be preceded by the adoption of a declaration on rights. The work of the Assembly and the contents of the speeches had been permeated by Rousseau's ideas. Soon after, there followed the peasants revolts and tearing down of castles as well as the so-called communal revolution, which actually included making communes and towns independent from the central authority.

If the decisions made by members of the Third Estate to proclaim themselves the National Assembly (there was a big debate on whether the Assembly should be called the People's or National and then prevailed some reasons in favour of the latter one) and the important decisions it had made are accepted as a 'legal revolution', then we could say that this culminated by adopting 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) and the decision to draw up a Constitution that would turn France into a constitutional monarchy. Based on what Montesquieu wrote and what his political ideal was we could say that the revolution was carried out by following his teachings and that its values and results should be constitutionalised or shaped in a constitution.

At the beginning, the role of abbot Sieyes was significant and his ideas were permeated by Rousseau's doctrine. He was an unusual kind of anti-religious priest and there were several of them who were under the influence of enlightenment. In the Revolution, he played a significant role in the Third Estate not only at the beginning but later (in the elaboration of several important draft documents such as 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) and 1791 and 1792 draft Constitutions, he was a consul together with Bonaparte, etc.) Famous historian and proponent of the idea of freedom, Lord Action gives a positive assessment on his overall acting (1910). Like Paine in the USA, Sieyes exerted great influence by one pamphlet and was most famous by it. That is the short pamphlet 'What is the Third Estate?' (Sieyes, 1789). It contains the criticism of privileges of some estates demanding and explaining why representatives of the Third Estate as a majority had the right to

constitute themselves into a National Assembly. At the beginning it had been Sieyès and later it was Robespierre who were among those who most contributed to making Rousseau popular in broader circles. They have also made him current at present days. By his theory of the people's sovereignty, he presented the strongest doctrinary argument in the demands of the Third Estate. The general will, which was advocated by Rousseau Sieyes, interpreted as the will of the majority. No reinterpretation of this idea of Rousseau was needed, since he made a difference between the general will and the will of all or the will of parts (particular will) being against any representation. But, Sieyes, like all others, simply did not take into consideration the contradictions in Rousseau's doctrine. Sieyes made use of Rousseau's doctrine on the people's sovereignty supporting in this way his famous and concise formulations on the demands of the Third Estate and they are as follows: 'You have before you three questions: 1) What is the Third Estate? Everything. 2) What has it been in the political life so far? Nothing. 3) What should it be? It should become something.'

The most significant and famous act and document of the French Revolution is 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) adopted on 26 August 1789.[31] The influences of Montesquieu and Rousseau partially put a stamp on its contents. That influence of the ideal of both thinkers can be noticed in the first article proclaiming that all people are born and live free and are equal in their rights. The third article contains Rousseau's ideas but they are corrected in the style of the debates that were conducted in the National Constitutional Assembly – that the nation is a basic source of any sovereignty and that no individual or body can exercise any power which explicitly does not originate from the nation. The formulations in the sixth article that the law is the expression of the general will can be recognised as Rousseauian. The sixteenth article which insists on the fact that there is no constitution in the country where the rights of citizens are not guaranteed and where there is no separation of executive power – discovers by its contents that they come from Montesquieu's and Locke's ideas. This also includes intermediation of the influence through the American experiences and constitutional institutions. 'Virginia Bill of Rights' of 1776 played a particularly great role, what can be easily established by comparing the texts.

However, it would be wrong to conclude that all these influences can be reduced to Montesquieu's and Rousseau's ideas, although these two exerted influence on the Americans in 1776 as well as in the forthcoming years. Apart from the influence of other French thinkers, the ideas of foreign authorities were

[31] See 'Deklaracija o pravima čoveka i građanina od 26. avgusta 1789' (Declaration of the Rights of Man and the Citizen) in (Đorđević, 1968), which includes the so-called Montagne 'Declaration' that was adopted on 24 June 1794. See the French text of these documents and the French Constitution which were adopted then and later: (Duverger, 1957).

also taken over. The French political leaders of that time also wrote works themselves presenting their ideas. Some of them submitted their drafts of 'Declaration of the Rights of Man and the Citizen'. Such drafts were submitted by Sieyes, Mirabeau, Lafayette, Condorcet and many others. The 'Declaration' was a compilation of a number of ideas which circulated at that time. In some articles, which treat freedoms and guarantees, one can notice the obvious influence of the declarations which went along or preceded the adoption of the Constitutions of the American small states. It was also influenced by some foreign thinkers: Italian Cesare Beccaria who became famous by his reformation projects in criminal and penalty law, which were based on the *nullum crimen* principle; English William Blackstone, who in his Commentaries of the Law in England in four volumes in the period from 1765-1769 spread respect of the idea of legality and the presumption of innocence in a criminal proceeding; American federalists, especially Madison, Hamilton and Jay, whose Federalistički spisi (Federalist Papers) (1787-88) had its two French editions and which served as an argument for separation of power and its dispersion in the forms of federalism of decentralisation; Thomas Paine who defended 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) from Burke's and some other criticisms.[32]

The same debate on the nature of the laws which we find in 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) we also find in the debates on the Constitution (from 1791). Here is also present the mixture of influence of Montesquieu and Rousseau. The influence of

[32] We have mentioned above the analyses and studies on the relationships between the American and French Revolution (see also the part of the article 'American and French Revolution' written for the scientific conference dedicated to the two hundredth anniversary of the French Revolution, Belgrade, Institute of International Workers' Movement, June 1989. As the American ambassadors to France, B. Franklin and T. Jefferson promoted the American principles and especially the contents of 'The Declaration of Independence of the USA'. On 3 June 1789 Jefferson prepared for the Third Estate the draft 'A Charter on Rights' which by his opinion should be solemnly made public and signed by King Louis XVI and then by representatives of all three estate (Jefferson, 1984, pp. 954-956); an then 'To Diodati' dated 3 August 1789, Paris pointing to the non-existence of the British Constitution and omnipotence of the Parliament as a defect of the British system, while expressing conviction that for France one should expect a Constitution which could be easily amended; or a letter to Madison from Paris on 6 September 1789, etc. The American influence was exerted through some figures (such as Lafayette who eagerly advocated the principle of separation of powers based on the 'checks and balance' principle – while Mirabeau opposed to it) as well as through some models which served as an example and through some other ways for spreading the influence of ideas, principles and institutions. Feeling that France owed to the American Revolution Lafayette sent the keys of the Bastille as a present to George Washington, while Paine, who was supposed to bring them to him, attached the letter to the present saying 'The American Principles Opened (destroyed) the Bastille'. The Bastille was stormed by crowd on July 14th 1789, and later was demolished and destroyed.

Montesquieu is reflected in the durability and steadiness of connections and relations which are regulated by the law or actually by the Constitution as well by the idea of freedom within the law. The influence of Rousseau is reflected in the idea of proclaiming the people the subject of sovereignty and a source of power which no part of the people or an individual can seize to exercise (although such a formula is also present in Virginia Bill of Rights) as well as in the provision that all city administrations are responsible to the people. Montesquieu and the American ideas on separation of powers also found their expression in this Constitution. Judiciary was separated and its independence from the legislative and executive power or actually the King was emphasised. We could say that in the verbal duels on whether the future legislative body would be unicameral or bicameral the influence of Montesquieu and Rousseau was felt. According to Montesquieu's theory, which favours the British bicameral system, an institutional foundation would be created in order to grant the aristocracy or some other narrower layer, which is selected in some other way, a role to play, too. Rousseau would be against any representation, but the Rousseautists of that time and of the periods that came afterwards advocated unilateral legislature. In 1791, the idea on unicameral legislative body prevailed because it was out of the question that the aristocracy or any other group could be granted privileged positions, and not because Rousseau's doctrine influenced it. Rousseau only encouraged providing arguments to those who preferred the establishment of a unicameral assembly for some other reasons.

Regardless of the fact that this Constitution had been implemented for a rather short time it was pretty hard or rigid, what meant that it was the Constitution that was pretty hard to amend. The legislative body could not amend it since this right allegedly belonged to the Nation. For this reason, it was provided that this could be done by a revision assembly that would be convened for that purpose. The demand for convening it could be accepted only if the legislative assembly, which was elected three times in a row, asked that. In order to keep the Constitution steady and unamended for some time it was out of question that the next assembly could consider the revision of the Constitution. And then it was regulated in detail and again in a complex way that the third, or factually the fifth assembly would take up to the establishment of a unicameral revision assembly, etc. However, all this did not help at all make the French Revolution 'constitutionalise' itself, what actually included turning of some of its principles, objectives and values into lasting and working legal and political institutions as was the case with the American Revolution. Even when they wanted the actors in the French Revolution (what must be concluded from 1791 Constitution and 1793 Girondist draft Constitution that they tried) did not succeed in this.

Headed by Jacobins in the night between 9 and 10 August 1792 the people forced its way into the King's palace, the King was suspended and the Legislative Assembly was forced to make a decision on convening the National Convention.

Jacobins and Girondists both came to power and the struggle between them developed. On 26 August 1792 (the third anniversary since the adoption of the 'Declaration' the Assembly adopted the list of European and American figures who were awarded the honorary French citizenship. Among them were, e.g., Bentham, Schiller, the authors of the Federalist, Hamilton, Madison and Jay and many others. When after the adoption of the decree on the abolishment of monarchy (21-22 September 1792) the National Convention[33] adopted the decree proclaiming a republic as one and indivisible (Decree of 25 September 1792) the situation was similar to the previous Constitutions according to which monarchy was established, what excluded federalism as a form of political system. Later, a decree proclaimed several serious political crimes among which was also proposing the introduction of federalism as a political system. Girondists, actually, advocated federalism under the influence of Montesquieu and the American Constitution, while they referred to Rousseau in advocating decentralisation of making departments independent from the central authority. French historian Jules Michelet presents a detail from the trial to Brissot, a Girondist and a talented journalist who had visited many European countries and the USA and returned to France in 1789. He was the author of the phrase that is ascribed to Proudhon – 'Property is Theft' during the Jacobin terror: the President of the Court told him that he was accused of proposing the federalisation of the republic and referring to the American Constitution (Michelet, 1960, pp. 10-11).

After 1792 which included proclamation of a republic, condemnation of the King and especially during the Jacobin dictatorship, less and less radical movements could and wanted to refer to the ideals similar to those of Montesquieu (although his first ten books, which were assumed to be written before he had left for England, expressed affinity for republic by taking as a model the ancient one), while some movements increasingly used radical Rousseau's ideas. This shows how, for example, the idea of the general will can been interpreted in a way that a small group of people or even an individual knows better what the general interest is than the people itself knows it, especially when people are divided among themselves. Thus, during the Jacobin dictatorship Maximiliene Robespierre stated with great pathos: 'We are all disciples of immortal Jean-Jacques' formulating the decrees which were an expression of the general will upon the groundless assumption.

Some decrees can be considered a typical example how words and conceptions are in practice legally distorted into its opposites. After the proclamation of a republic, the National Convention adopted a decree which proclaimed the following two provisions in only two sentences: first, that there could be no constitution except the one adopted by the people; and second, that the personality and property are protected by the Nation (Duverger, 1957, pp. 29). Thus, it is proclaimed that the

[33] On the so-called French Convention system of government see (Sokol, 1979).

personality and property are protected by the nation at the moment when neither personality nor property means anything any more and they enjoy no security by the authorities who proclaim themselves their protection. The same situation occurred again later, thus, the contents of the following French Constitutions tells us nothing about the genuine rights and freedoms of the citizen.[34] The Constitution, which was adopted on 24 June 1793 (the so-called Montagnard Constitution) nominally, extends rights and freedoms, but they are practically abolished. The Constitution of 22 August 1795 keeps the similar rights and freedoms as the Montagnard Declaration also proclaiming that the law is the expression of the general will (Art. 6), etc., but introducing the charter on duties. However, it is the Constitution only by its name or as it is said, it is a dead letter.

It seems to us that that the last serious attempt to provide France with a Constitution (although with defects) was made by Condorcet before the revolution from May-June 1793. He was a philosopher and mathematician (the mentor of young Condorcet in mathematics was D'Alembert. Very early, he became a member of the Academy of Sciences and of the French Academy and then one of reputable political activists during the Revolution, whose victim he was as many others. During the Revolution, he developed Turgot's idea of achieving progress through the accumulation of human knowledge and wealth into its apology and a developed system of ideas which have kept on exerting their influence up to the present days (Condorcet, 1794).[35]

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[34] Although not directly, by analogy, this is similar to 1936 Soviet Constitution promising broad rights and freedoms to citizens at the moment when started the unparalleled violation of all human rights and abolishment of all freedoms. Considering the sense, which we have in mind, the Russian revolution has failed to constitutionalise itself up to the present days.

[35] Condorcet turned Turgot's idea of progress into a sort of philosophy of history. In his opinion, there were ten stages of development of the human society. The ninth begins with Descartes and ends with the French Revolution. The tenth, however, and in his opinion the last one, begins with the Revolution and lasts forever – what shows his exaggerated and naive optimism. In this last stage, wise people will make ideal laws. Here, with the exception of Montesquieu's and possibly Maureley's ideas of laws as permanent relationships and the Rousseauian expectation of the role of ideal ruler-law-maker one can also notice the presence of a chiliastic belief. In the work mentioned above Condorcet severely criticised the starting points of Jean-Jacques Rousseau himself considering that the human mind and knowledge and not natural simplicity is the key to achieving happiness and morality and that the society is not moving from natural perfection to poverty full of sophistry, but from slavery to the improvement of freedom and reason. It would be worth comparing it with later lectures delivered by Hegel from *Filozofija povijesti* (1966). In spite of Condorcet's criticism of Rousseau in the work mentioned above, he seems to be under his influence or he is at least sharing some of his views on the immeasurable goodness of the man and social institutions that corrupt him. This also includes his ideas of equality of all people (in that regard he refers to Locke and Rousseau). On the other hand, Condorcet rejects the idea of social contract explaining that the man cannot be permanently obliged and that actually, the man cannot be obliged by anything without his own consent.

In 1793 Condorcet as a member of the National Convention was the President of the Committee that was to draw up a draft Constitution, because after the changes from 10 August 1792 the state was supposed to be arranged by the republic principles. Condorcet's draft contained the 'Declaration of Natural, Civil and Political Rights' to be placed at the beginning of the Constitution and which was similar to 1789 'Declaration' by its contents. Although some rights were extended and specified, it provided a unicameral assembly of members to be elected for a year period, general right to vote, three times as many candidates in primary assemblies than members to be elected. Condorcet characterised this Constitution as rigid since the National Convention had no authority to amend it but a special body should be convened while amendments could be made by voting at the people's referendum. While many of his constitutional ideas and formulations (those of natural rights and freedoms, limited duration of mandates, referendum) are similar to Rousseau's views some others are closer to Montesquieu's and views of the American constitution-makers whose experiences, as it is well knows, Condorcet carefully studies, although this cannot be seen in the draft Constitution. Before the draft Constitution was adopted, the uprising broke out from 31 May to 2 June 1793, removing Girondists from power bringing out the Jacobin dictatorship. Radical Jacobins, Montagnards, started to work on their Montagnard Constitution and 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen). That Constitution was based on the Rousseauian ideas and on the unity of power principle.[36] By that conception 'The French people assembles every year on 1 May to go to elections' (Art. 32 of the Montagnard Constitution, 1793). 'The people have the right to amend…. its Constitution. One generation cannot subjugate the future generations by its laws' (Art. 28 of the Montagnard 'Declaration' of 24 June 1793). That 'Declaration' contained some basic ideas from 1789, while it also introduced several new ones which were permeated by Rousseau's ideas and were partly acceptable for the further

[36] Right at the beginning of their rule Jacobins demanded that an arrest warrant should be issued for Condorcet. He hid for nine months working on his work on philosophy of progress. Finally, he was caught after all and that same time when he was arrested his died in prison in an unknown way. Like bolshevist revolutionaries later (Trocki, Tukchasevsky, Zinoviev, Bukharin, etc.) he himself provided justification for the measures that cost him his life. Actually, in 1793 he wrote a short work on the meaning of the word 'revolutionary'. There he says that the world revolutionary can be used only for the revolutions whose goals are freedom. But, similar to Saint Just who had emphasised that 'there is no freedom for the enemies of freedom' Condorcet (referring to the case of emergency and illustrating it by the absurd situations at the time when a big fire had broken out in London in 1666. Then the houses and property of owners who were absent burnt down and no one dared save them because no one had the right to open those houses by force) Condorcet actually justified absolute freedom and arbitrariness of those who on behalf of the people took any measures against those who were thought to want to melt away or jeopardise the Revolution at least by taking insignificant actions (1847–49, v. XII, pp. 615).

development (some provisions were identical to the provisions of the Girondist 'Declaration' that was adopted the same year).

However, the Montagnard 'Declaration' (1793) leaves out the ideas from the Art. 16 of 1789 'Declaration'. That article proclaimed (1) rights and freedoms and (2) introduced separation of powers, what was the pre-condition for the creation of a constitution. By omitting the two principles mentioned above the Constitution is derogated. 1793 Montagnard 'Declaration' introduces many economic-social elements: Article 1 says: 'The objective of the society is to achieve general well-being – The government is established in order to provide a man with his natural rights and rights which are not subject to the statue limitations'. There is also the following provision: 'Law is a free and solemn expression of the general will' (Art. 4). A great principle was introduced in this 'Declaration', which can be an ethic basis of overall human behaviour, the principle that is not only Christian but is also Jewish (3 Moses, 19, 18) and the Confucian Golden Rule and a foundation of Buddha's teachings and its formulation is presented in italics in Article 6 of the 'Declaration': '*Do not do to others* what would anger *you* if done to *you* by *others*'. Concerning the guarantees of property it is said more than in 1789 'Declaration' and in the new one it i said: ….' The society is obliged to support the citizens who are in trouble' (Art. 21), etc. It contains many elements that remind us on Fechte and the socialist movement in the 19th century. Here we can also find Rousseau's ideas from The Social Contract including the ones that 'violence against the social community is present when at least one of its members is oppressed (Art. 34 repeats the words from The Social Contract, and 'When the government violates the rights of the people, an uprising is the most sacred of all rights and the most necessary of all its duties for the people and for any of its parts' (Art. 35). However, what we have already said of the failure of constitutionalisation and discrepancy between the declaration and practice can be also applied to this document.

The preamble of 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) says that 'The French people adopts the 'Declaration' – in the presence of the Supreme Being'. Being aware that we have not exhausted the great topic of Montesquieu's and Rousseau's influence on the French Revolution, we shall finish this part by a short overview of the influence of Rousseau's ideas of civil religion. It was by civil religion that Rousseau wanted to create by basic things the foundations for unity of the people for some kind of ideological-political and patriotic training as well as a means that offered mythology by which those who were not free could be lured (deceived) to access 'freedom' in a Rousseau's sense or to actually participate in the political life of the community. Rousseau makes a difference between the religion of gospel and the 'priests' religion'. He considers the former one a thing of intimate conviction (Faith of a Savoyard Vicar), while he regards the latter one as dangerous for the man and the community. For this reason, civil religion does not

abolish every religion. According to Rousseau, religions should be mutually tolerant to each other; he makes a difference between the religion of the man and the religion of the citizen considering that dangerous religions are those that ask a man to subordinate to them thus disabling him to fulfil his duties as a citizen (here he includes lamaism, religion of the Japanese and Roman Catholicism) (Rousseau, 1978, pp. 171, 173).

As the Revolution developed, Rousseau was coming increasingly popular with some estates. Finally, his popularity was seized and used by Jacobins creating at the same time Rousseau as their idol. His dead body was transferred to Pantheon, while his ideas of civil religion served the newly introduced Supreme Being.

The author of one study on Jacobins, Crane Brinton, not being a proponent of their measures and dictatorship but noticing the significance of Rousseau's ideas for the Revolution, said: 'Whether Rousseau generated the French Revolution or the French Revolution made Rousseau's reputation is as useless to discuss as it would be to debate what older is – chicken or the egg' (Brinton, 1965, p. 49).[37]

Rousseau could be used for various purposes. Chapelier law from 1791 was often presented as a drastic anti-union or anti-worker one because it prohibited all professional organisations in France. The argumentation for this law was drawn from Rousseau's works by whose political philosophy no association was permitted within a nation. On 24 April 1793 Robespierre criticised the agricultural law in the National Convention, which would introduce division of property (as early as on 18 March the National Convention decreed death penalty for proponents of the agricultural law), and then he said that 'equality of possessions is ordinary dreaming' and then he continued stating that 'the extreme inequality of possessions is a source of many evils and crimes.' He manifested a typical ideological opinion (and manipulation) as well as confusion in using Rousseau's ideas for the benefit of redistribution of property. When Jacobins fought against representatives of poor people from Paris, 'the fourth estate' (Hebertists and wild), they could calm their conscience by referring to Rousseau who in *Considérations sur le gouvernement de Pologne* (Considerations on the Government of Poland) denied the right to vote to those who belonged to the fourth estate as a social group.[38] However, with their Constitution Montangnards provided general right to vote (with indirect elections), but they postponed the implementation of its Constitution for the foreign danger and for the

[37] See also other works on the role of Rousseau's ideas: (Cahen, 1912; Champion, 1909; Mercier, 1791; also see: (*Histoire générale des civilisations*, 1959).

[38] In *Considérations sur le gouvernement de Pologne* (Considerations on the Government of Poland) Rousseau was controversial concerning the significance and meaning of the national moment. While, on one hand, he instructs the Poles to accept by no means the foreign language, thus expressing their patriotism, he, on the other hand, writes that…..'Today there are no more French, Germans, Spaniards or even English, there are only Europeans… They feel at home wherever there is money to steal or women to seduce' (Vaughan, 1915, p. 432).

counterrevolution. More or less everybody emphasises that Robespierre was Rousseau's disciple who was terrified by atheistic materialism of philosophers such as Helvetius and he had his bust broken in the Jacobin club. According to Soboul, Robespierre believed in God, the existence of a soul and afterlife. And on 7 May 1794 'The Decree on the Cult of the Supreme Being' (as early as in the previous autumn the Gregorian calendar was replaced by the republican one). In his report on ten-day (instead of weekly) public celebrations (warship of the Supreme Being) he said that their goal was to develop civic virtues and republican morals: 'The only foundation of civil society is morals…Immorality is the foundation of despotism, as virtue is the essence of the Republic' (Soboul, 1966, p. 309).[39] The Jacobin dictatorship and terror were carried out in the name of virtue. Robespierre was an ardent proponent (some would say that he was an archpriest) of the new political religion of the Supreme Being which was supposed to serve the republican doctrine, while it actually served the Jacobin dictatorship. (Hitler planned to introduce a non-Christian God for the Third Reich). The conception of the Supreme Being was a variant of Rousseau's conception which was developed in some parts of Emile or actually in the Profession of Faith of a Savoyard Vicar and in The Social Contract (Ruso, 1957; 1978). Perhaps, Rousseau took the idea of civil religion from Hobbes, but the calvinisic concept of relationship between the church and the state also contributed to this in Geneva as well as it was probably Machiavelli who partly contributed to it and whom Rousseau praised in some things. He pointed to the man's duty to violate religious rule for patriotism and consciously sacrifice one's soul and leave it in hell if it was necessary to fulfil one's political and patriotic obligations. When in the part on civil religion Rousseau praises the Romans, who had added the Gods of the people they conquered to their Pantheon acknowledging them as allies as not the peoples they enslaved, this sounds like retelling Machiavelli's thought from Discourses on the First Ten Books of Titus Livius.

If Montesquieu and Rousseau had lived to see the Revolution both of them would have most likely disowned their interpreters. But, there is no doubt that the thought of these two thinkers contributed a lot to the movement that brought about the Revolution and forming of its objectives, declarations, constitutions and institutions. Montesquieu was aware of that.[40]

We are of the opinion that the most important result of this Revolution and we would say its social contents was its contribution to raising the question of human rights. It would mean that 'Déclaration des Droits de l'Homme et du Citoyen' (Declaration of the Rights of Man and the Citizen) is the document of permanent character and is the culmination of reach of this Revolution.

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[39] Even earlier Robespierre spoke (5 February 1794) of 'virtue, which is actually, love for its homeland and its laws' (p. 308).

[40] It was even Montesquieu that warned of the fact that the constitution could promise freedoms and rights that could not exist in reality and vice versa (Montesquieu, 1758, livre XII).

However, one thing is to draw up and publish and adopt some declaration or a constitution on the part of a revolutionary assembly and another thing is implement ideas provided by the declaration/constitution in the political system and the political life. For this reason, this act and document from 1789 had kept a constitutional or supraconstitutional character after the French Revolution, and even after World War II when it became an integral part of the Constitution from 1946 and 1958 Constitution of the French Fifth Republic. The French Revolution failed to constitutionalise its major ideas as, for example, did the American Revolution. The First English Revolution also failed in spite of the fact that the first and only written constitution of England was adopted – the so-called Instrument of Government, 1653. Radicalism of ideas as were those of Rousseau make difficult or impossible their constitutionalisation, because in order to make it successful the constitution like any other law, or even more, should take a mean value of things. Or, as Aristotle had written advocating the idea of the rule of law – 'The law is a reason with no demands…..the law is a mean value' (Aristotel, 2009, xi,4 i 6 or 1287a-b). The rule of the people, democracy, which would not respect laws but would implement the will of the majority, was considered by Aristotle the worst of all forms of rule. That is his fifth form of democracy where 'the supreme power belongs to the masses and not to the law. Such kind of democracy is the same as tyranny among monarchies….This is caused by demagogues' – says Aristotle (Ibid, IV, iv, 3-6 ili 1292a). Up to the present times, this form has had pejorative names – ochlocracy or mobocracy (mob rule). Montesquieu was pretty familiar with Aristotle and he followed him both methodologically and by contents. It was not only his aristocratic origin that deflected him form the ideas that Rousseau heartily accepted. Montesquieu was aware of the difficulties, but also of the necessity of ensuring freedom and by such structuring of the political system, an authority would limit another one. Rousseau's theory provided neither elaborated institutional obstacles and balances nor appropriate procedures. In France, so many revolutionaries would replace the previous absolute power with another one in which they would participate themselves. However, in the first two or three years since the beginning of the Revolution an influential view had prevailed in France on the constitution as an instrument of limiting the power of every government. Later it was ousted by the idea of creating a new revolutionary absolute power. This is one of the causes of the misfortune, failure and tragedy of the French Revolution.

By building some ideas into European political and legal institutions as well as through new revolutionaries, some ideas of the French Revolution lived exerting their influence. Some institutions it had introduced usually in a transformed or adjusted form became a part of the social systems in several European countries. For this reason, it is not groundless when the effect of powers the French Revolution intiated has been followed thought out the 19th century all until the

present time.[41] As a whole, the French Revolution is a precious experience that shows us how the old regimes, which are no longer capable of meeting the new social needs and expectations and are neither willing to reform themselves, can only lead the society to chaos and troubles.

In the second era, from the French Revolution up to the present days, Montesquieu's and Rousseau's idea have been influential. These were the ideas of the former one who was a thinker among the people of liberal-democratic and of the latter one who was of radical-democratic and socialist orientation. Rousseau's works had not only been 'the gospel of Revolution' in France in the period from 1789-1794 but during the 19th century among European revolutionaries who advocated the national or social liberation. The teachings and contribution of the two thinkers who we have mostly dealt with here should be assessed through the lessons to be drawn from the events, movements and processes they initiated as well through the institutions which were at least partly shaped by their teachings.

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Vojislav STANOVĆIĆ

МОНТЕСКЈЕ, РУСО И ФРАНЦУСКЕ РЕВОЛУЦИЈЕ

Sažetak: Dva velika mislioca XVIII stoleća – Monteskje (1689–1755) i Ruso (1712–1778) – razvijali su nove i specifične ideje i objavljivali književna dela, istorijska, sociološka, politička, pravna, filozofska. Njihova učenja su po razlikama bila dosta suprotstavljena. Oba pisca su preminula, ali kasnije su njihove ideje primenjivane kao ideologije, a vođe postizale različite rezultate. Efikasniji su bili oni koji su primenjivali ideje i angažovali liberalne ideologe, prosvetitelje, pravnike, političare, revolucionare u Francuskoj revoluciji. Ideje sledbenika Monteskjea i Rusoa uspešno su primenjivali kao ideje-vrednosti u 'Deklaraciji prava čoveka i građana'. Žirondisti su prihvatili osnovne ideje iz učenja Monteskjea, a Jakobinci od Rusoa. Dve strane su suprotstavljenih koncepcija, političkih sistema i demokratije. Jedna strana je tražila legalnost i ljudska prava, a druga narodnu suverenost i revoluciju. Umereno liberalne pristaše konstitucionalističkih ideja bili su nadahnuti Monteskjeovim delima sa uspehom i u istoriji postizali rezultate. Ove misli bile su ljudska sloboda. Duh zakona, ustavnost i njeni okviri, razdvajanje grana vlasti, predstavnička demokratija, federalizam, podržavali su Žirondinci kao aktivni u navedenim idejama i u ranim godinama Revolucije. Jakobinci su temeljili na ideološkim programima i na Rusoovim idejama jednakosti, 'insistiranju da narod dbude slobodan', 'opštoj volji', 'narodnom suverenitetu definisanom kao 'apsolutan, nepodeljiv i neotuđiv', na načelima jedinstva vlasti (vlade), 'despotizma vrlina', masovnih političkih akcija. Francuska revolucija je iskusila neke pojave kao one iz Građanskog rata u Engleskoj. Ali, stecište više ideja Monteskjea i Rusoa bilo je u 'Deklaraciji' (1789), i u francuskom Ustavu od 1791. Američki očevi utemeljivači uključili su u svoj Ustav Monteskjeove ideje federalizma, razdvajanja grana vlasti (tj. podele vlasti) i dr. Monteskjeove ideje su bile uspešne paradigme na kojima su se uspostavljale ustanove u više država. Neke Rusoove ideje bile su radikalne, podržane levičarskim pokretima, ali nisu bili uspešni (kao u slučaju Korzike, Poljske i različitih levičara sve do danas).

Ključne reči: konstitucionalizam, duh zakona, podela vlasti, federalizam, apsolutna suverenost naroda, jednakost, despotizam vrline.

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THE SHADOW ECONOMY AND INSTITUTIONAL CHANGES IN TRANSITION COUNTRIES

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Summary: The shadow economy is a challenge for economic and social policy – not only in OECD countries, but also in transition countries. The evolutionary theory of the shadow economy explains its expansion to official institutions and rules – what leads to institutional change. In addition, the causes and effects of the rise of the shadow economy are discussed. Failing economic policy is confirmed to be the most important cause for the strong increase in shadow economic activity. A high tax burden, high regulation density and inadequate supply of public goods (like the guarantee of property rights, the provision of infrastructure) are important reasons for the migration into the shadow economy. In transition countries the lack of stable institutions, inefficient administration and corruption are – in combination with reduced (tax) morality and decreased loyalty to the state – are also driving forces of informal economic activities. The tendency to engage in shadow economic activities should be perceived by the politicians as a warning signal. There is an increased reseed by the adoption of a 'two pillar strategy'. The strategy suggests measures that will help to decrease the attractiveness of the 'Exit option' and to strengthen the 'Voice-Option'.

Key words: shadow economy, transition countries, institutional change.

Introduction

In contemporary conditions, not only in countries in transition but also in the OECD countries the causes, effects and problems caused by the activities of the informal economy are the subject of a lengthy and controversial debate. It is certain that the gray economy is a major challenge for economic and social

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policies in every country. However, a wide range of measures taken at the European Union level (as well as at the level of individual member states) clearly indicates that it is necessary to take an action on the general level to 'settle' this phenomenon. It display characteristics of the informal economy in the popular media or in scientific literature as well as in newspapers ranging between two extremes: the gray economy is either blamed for many problems which economic policy faces (for example: high level of unemployment, high levels of public debt and recession) or such action is considered reasonable behavior in the economic system, which marks high taxes. However, articles and papers on the informal economy in social sciences focus mainly on just one form of this phenomenon, mostly on the difficulties and challenges of measuring the volume of the phenomenon. This also requires a comprehensive overview and a detailed analysis of these complex phenomena. The informal economy has a major impact on the tax erosion and increasing levels of illicit work and jobs. The paper, among other things, indicates the development of theories relating to the informal economy. It, then, points out the causes of growth of the informal economy and a series of measures that should contribute to reducing or stopping it. Economic and social sciences should provide answers to why people are working illegally, why the business is done in the informal economy, which are the effects of such behavior, and more. Today, there are theoretical approaches within different scientific disciplines that analyze certain aspects of this complex phenomenon.

1. The informal economy as a challenge to the economic and social policy

The gray economy attracts attention because of increased unemployment and the problem of financing public expenditures, and because of the increasing levels of confusion and disappointment of economic and social policies. However, the holders of economic and social policies are, almost every day, faced with the dual approach. While the fact that the rich avoid paying taxes causes condemnation by the general public, undue work is often less harshly criticized even though those in powers claim that it is socially unacceptable, and that was the cause of rising unemployment and social injustice. It is widely accepted when it comes to abuses in the system of social security, illegal employment and a very high level of tax evasion (tax evasion)[2]. It is necessary to consider the effects of the informal economy to the official economy, since illicit work can be the reason for allocation distortions due to the fact that the productive potential and factors

[2] In the European Union, much attention is paid to the prevention of illegal work, work outside of working hours and work with fewer hours. The question, therefore, is: should the final work of combating illegal work bring more fines and more frequent monitoring followed by more regulations and restrictions than the undeclared work?

are not used in the most productive way. On the one hand, it is possible that growth of the informal economy attracts (domestic and foreign) workers from the formal labor market and creates competition with companies from the official economy. In addition to the European Union, at least two thirds of the income earned in the shadow economy is spent in the formal economy, which has a positive and stimulating effect on the formal economy.

Then, the progress of the informal economy is a source of serious difficulties for decision-making on economic policy, because the official data on unemployment, labor force, income, GDP, consumption are distorted, and when these decisions are made on inaccurate indicators are unlikely to have positive effects or may be harmful (Schneider and Enste, 2000). It is also necessary to consider and measure the level of feedback effects of the economy to the official unofficial economy, and the interaction between the two sectors.[3] The main direction of interest in the informal economy is focused on three areas:

1) in the economic and social policy, the driving force of action concerning illicit activities is the fact that these shapes are undesirable from the standpoint of official institutions;

- increasing the level of the gray economy can be interpreted as the behavior of individuals who consider themselves overburdened by the state and they choose to opt out than to express their opinion;
- if the economy has caused a general increase in the level of tax burden and social security contributions, with the 'institutional sclerosis' the 'escape' of unregistered activities can undermine the foundations of the system of taxes and social security;
- the result is a vicious circle of further increasing the budget deficit or tax rates, which in turn leads to further growth of the gray economy that is gradually a weak economic activity;

2) in social sciences the gray economy is a major challenge to the economic theory and economic policy;

- empirical studies, using different methods should investigate the problems of measuring the volume and development of the informal economy;
- theoretically established causes and effects of the informal economy should be verified empirically;

3) the most difficult task of economic policy researchers is to present to relevant policymakers the results of the scientific analysis which are not much appreciated, and convince them that the obtained research results are important and correct.

It is important to analyze the causes and consequences of the increase in the informal economy. The analysis of causes and effects of the informal economy

[3] It is assumed that in the European Union such jobs correspond to 10-28 million regular jobs (Commission Undeclared Employment from 04/11/2008).

refers to the allocation of resources, income distribution and stabilization policies, as well as the formal economy in general, what is the basis for proposing the economic policies consider unauthorized work an economic and social challenge.

Economists in the European Union, therefore, propose two pillars of the strategy, in which there are two approaches to the operation of this phenomenon (Enste, 2002):

1) reducing the attractiveness of avoidance (evasion) of the tax and non-compliance (opt-out);
2) improvement of the election and the impact of official institutions (the ability to opt in);

In transition countries, which since 2000 have become EU member states, the initial institutional changes have been made (introduction of VAT legislation), but they should be continued in the future, because it is estimated that about a third of the national wealth comes from the gray zone of operations.

Table 1 The size and movement of the gray economy in Serbia and other countries in transition (in% of GDP)

Country	**2001**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**Average**
Bulgaria	36.2	34.2	33.5	33.0	32.6	32.9	32.3	33.9
Czech Republic	18.4	17.0	16.4	16.1	15.6	15.9	15.2	16.8
Estonia	32.0	30.6	29.9	29.4	29.2	29.6	29.2	30.4
Hungary	24.3	23.0	22.6	22.4	22.0	22.6	22.1	23.0
Latvia	30.0	28.6	27.8	27.3	26.9	27.2	26.6	28.2
Lithuania	33.0	31.4	30.7	29.8	29.4	29.7	29.3	31.0
Poland	27.5	26.7	26.3	26.1	25.8	25.9	25.6	26.5
Romania	33.4	31.8	30.5	30.2	29.6	29.8	29.5	31.3
Serbia	**33.2**	**31.6**	**31.2**	**30.7**	**30.1**	**30.6**	**30.1**	**31.4**
Slovakia	18.8	17.7	17.2	16.6	16.3	16.9	16.2	17.5
Slovenia	26.6	25.7	25.3	24.8	24.3	24.6	24.1	25.4
The annual average of 11 countries	28.5	27.1	26.5	26.0	25.6	26.0	25.5	26.9

Source: 'Politika', 21.03.2013, p. 11)

The economic crisis and a high degree of insolvency are those productive enterprises, which are forced to shift part of their business in the informal sector. For the inefficient mechanism for withdrawal from the market economic factors which carried out all or a part of their activities in the informal sector are encouraged to stay there.

Other causes that significantly affect the participation in the informal economy are a high administrative burden on business, the low quality of regulatory environment and legal uncertainty. In addition to these causes, regulatory business in the informal economy is affected by high levels of corruption and low levels of tax morals. Among the most important factors in the financial area is a significant share of cash transactions of payments, informal sources of financing and unregistered migrant remittances from abroad.

2. The shadow economy, tax evasion and illicit work

The definition of the informal economy has a special importance in its research. Many scientific and technical debates and conflicts arise because of different or inappropriate definitions. However, if you are trying to determine the causes, but more importantly, to predict and assess the consequences of the increasing shadow economy, it is necessary to explain what this term means in a particular environment.

The term underground economy encompasses a number of economic activities and it is difficult to determine its official definition. It should, for example, distinguish goods and services produced and consumed in the household, mild forms of illicit moonlighting (moonlighting), fraud and illegal employment in the social security system, and finally criminal economic activities.

Generally, gray market means abandoning the usual mode of official or non-compliance of norms and institutions for economic activity.[4]

The difference between pure tax evasion and the underground economy is obvious. The gray economy activities almost always involve offer of goods and services, which are produced using resources such as labor, management and production activities and capital. In contrast, pure tax evasion is usually the result of financial transactions to hide income from capital investments such as, for example are profits. These aspects are particularly important for fiscal policy and public finance.

[4] The analysis of (UN) lawfulness of the economic activity and its connection with tax evasion requires a more detailed definition. As tax evasion does not create a new value and it is usually well beyond what is normally considered gray market, it is not included in this analysis.

So, in terms of economic policy particularly important are economic activities in the underground economy, which are associated with the added value as well as their impact on the resource allocation.

When evaluating the activities of the informal economy (in terms of the particular economic order), it is necessary to distinguish between production related to illegal and legal activities, on the one hand, and legal and illegal production and distribution of these activities on the other. However, the categorization of activities in the realm of the gray economy and its sectors in defining the boundaries are not clearly defined. On the contrary, they are changed during the economic development. The best proof of that is our next review.

Viewing No 1 ***Defining the informal economy***

Sectors / Criteria	Household sector	Informal sector	Irregular sector	Criminal sector
production / distribution	legal	legal	illegal	illegal
market transactions	no	yes	yes	yes
output (goods / services)	legal	legal	illegal	illegal

Source: Enste 2008, str. 87.

Thus, the gray economy, in principle, is divided into four sectors. On the other hand, informal economic activities can be defined using two criteria, and namely they are as follows:

– market transactions,

– legal activities.

With this in mind, the informal economy can be logically divided into legal and illegal sectors. In addition to the formal sector, it can be defined as an independent economy, a sector with the illegal underground economy or hidden economy.

Viewing No 2 ***Categorization of the gray economy***

VGR Convention	**Independent industry (legally)**	**Shadow Economy (illegal)**		
Examples	'I do' work at home workshop	Assistance of independent shops, centers for counseling, self-help organizations, honorary activities, support the network	Illegal operation: - Due to violations of individual work and trade - Due to tax evasion - For abuse of supplements;	Trafficking in stolen goods and drugs, prohibited gambling, fraud, smuggling, receiving stolen property

Source: Enste, 2002, p. 88.

Further, the official economy can be distinguished according to whether there is a market transaction (the informal sector, the alternative economy) or not (household sector). The latter, for example, includes activities 'does it yourself'. In developing countries and countries in transition informal sector is dominant, in which small firms produce a large portion of the total added value. The difference between this sector and illegal sector is that informal activities in many countries are not a punishable offense, although they do not comply with any administrative rules or regulations, or they operate on the border of legality. Therefore, the concept of law enforcement is introduced as the border criterion. Thus, it is important for the law but its implementation and monitoring is the responsibility of the state government. It almost does not exist in informal sector, while in the field of criminal activity it needs more intense investigation and control (Thomas, 1999, pp. 381–389). Therefore, the activities carried out in informal sector are often not associated with tax evasion and the usual legal work areas and state authorities tolerate them.

However, by contrast, the activities of the informal economy are particularly associated with paid employment that is related to tax evasion or illegal behavior. The difference between the criminal illicit sector or sectors comes from the fact that production - output and distribution of criminal activities are illegal (drug trafficking, human trafficking, gambling is prohibited). In contrast, work in the

illegal sector becomes part of the informal economy only if distribution and manufacturing output is illegal because it was legal. Most of these irregular activities can be summarized as the unauthorized work.

Irregular operations include production of goods and services, while simultaneously receiving unemployment benefit (without informing the Employment Office) or an individual is self-employed or works in the company for which there are no records and without respect of appropriate regulations.[5] On the other hand, illicit sector is marked by numerous useful market transactions. Production and distribution of such goods and services become illegal, a part of illicit manufacturing or trafficking, which is prohibited, or is connected with tax evasion. Most often, the term illicit work includes a wide range of activities, and they are, for example, as follow: fewer craft services performed outside of regular working hours and organized illegal employment associated with tax evasion. Other forms include disrespect of legal provisions on competition and trade in these rights abuses in the system of social insurance. Irregular sector includes legal activities, but they are considering to be a part of the gray market when they are associated with tax evasion because they have generated income, which has not been reported to the tax authorities.[6]

3. The development of the theory of the shadow economy

The growth of the informal economy may be the reaction of groups and individuals to give the state too much choice and exit options and not able to plea. However, as the increase in the shadow economy is caused by increasing the total burden of taxes and contributions, together with obsolescence institutions, increased unofficial activity leads to erosion of the foundations of the tax system and social security systems. The result is a further increase in the budget deficit or tax rates, an additional impetus for strengthening the informal economy, which gradually weakens the whole economic and social system. Practice has shown that in addition to moving to the informal economy, an important 'exit' represents the migration to third countries. In terms of non-compliance of the system of taxes and social security, it is becoming increasingly emphatic. For example, taxpayers can emigrate if they are dissatisfied with public goods that are available in their country. Ability to work restricts the activities of the underground economy of the state tax authority. The informal economy is an endogenous variable. From the theoretical point of view, in terms of making the analysis of the economy simpler it is divided into three sectors: public sector, official and unofficial economy official large-scale

[5] For example, violation of applicable regulations in Germany is considered a misdemeanor and punishable by the year 2002 with 30,000.

[6] For example, casual work in liberal professions which are normally subject to income tax.

industry cannot be seen without government action. When introduced into the analysis of taxes, positive effects prevail. So, there are positive incentives to move to formal business, provided that the state actually provides the equivalent of property rights as tax.[7] Usually, in order to achieve the highest possible revenue from taxes, to meet budget the increasing requirements, tax rates are increased. The experience has shown that then it leads to the increased levels of public sector employees, which leads to the transition of individuals who worked in the formal sector to the private sector. On the other hand, increased tax burdens create strong incentives for unauthorized work. In a situation where tax yields reached the highest level, the public sector can no longer expand as employees trying to avoid taxes become more and more involved in informal economic activities. However, if the public sector continues to expand, there could be a return to the initial, original, state of the economy, and ultimately this leads to anarchy. Then the company developed a new set of rules because the activities of the state benefit regulations and supply of resources. Certainly, the financing of government functions and actions required, first of all, mastery of economic activities. Part of the activities of the gray economy is moving to the formal sector because they are there, among others, protected by property rights. Consideration of this situation shows that in making decisions on the participation in illegal work is crucial to the environment (public opinion) estimates of tax benefits and uses of the state. This means that if you believe that the state is legitimate, there will be no significant increase in activity in the informal economy. To explain basic economic concepts a suitable model i the relationship of income and leisure time that is most important to avoid mistakes in the allocation of economic resources. However, there are certain features that need to be reviewed. This can be explained by the theory on the effect of taxes on wealth. It is well known that in welfare economics it is assumed that the federal government acts as a benevolent dictator and that it wants the highest possible total welfare. To avoid distorting the allocation and optimal levels of taxation the focus is put on a broad tax base and low marginal tax rates.

The theory of public finance discusses in detail the requirements of taxation and social transfers. However, apart from assumptions about the limitations, a critical review of disregarding the conduct of the government other institutions is given. Representatives of the modern theory of public finance do not support the optimistic view of how state government is not trying to achieve the greatest possible usefulness, but to own it in the interest of society. The modern public finance assumption that seeks to increase the general welfare of the state replaced the viewpoint of a possessive State that seeks to achieve greater influence on the

[7] One cannot generally say where the optimum point because it differs from country to country. One possibility is that the citizens used to the increased use of state resources, so it need not necessarily lead to an increase of the gray economy.

budget thus providing more power. According to the theories of taxation, it is assumed that the state collects more taxes than necessary to provide the optimum level of public good, or the state appropriates the full benefit of tax potential. This means that a taxpayer has no other way to react than to resort to tax evasion. Therefore, many economists refute the theory of optimal taxation even under conditions in which there can be avoided allocate distortions. The broad tax base, with little possibilities of tax evasion, would in the end mean increasing powers of taxation and a taxpayer would be more abandoned (in) such a state of grace. Therefore, it is considered necessary to set clear boundaries taxation or regulate taxation and budget. In modern conditions and the new political theory, there have been developed in a number of approaches that attempt to explain the behavior of the government. Therefore, it is suggested to use democratic elements in limiting the growth of the budget and the unconditional use of tax revenues. This is an alternative to the generally accepted viewpoint on the introduction of constitutional guidelines as the best mechanism of control of state power.

For example, one possibility would be to introduce a referendum on the total budget, or the decisions related to taxes and borrowing. It is believed that this form of control and protection is necessary, especially in volatile economic conditions.

4. Top of Form
The main causes of growth of the informal economy

Growth and development of the informal economy is the result of many and various factors, which in different countries have different scope and intensity. However, the most cited are the following:

- increasing tax burdens and social security contributions, coupled with the increasing number and intensity of regulations in the formal economy, particularly in the labor market;
- increased unemployment, early retirement and reduction of weekly working hours;
- long-term decline of civic virtue and devotion to public institutions, with a decline of tax morals;

Taking into consideration these underlying causes as well as various other it is necessary to do an interdisciplinary analysis because economic factors can only partly explain the cause of the increase in the level of the gray economy. For example, microsociology and psychological approach can provide interesting additional insights into the process of deciding on the activation of working in the informal economy. An interdisciplinary approach (such as in economic

psychology) will include many variables such as tax morale and other factors, as well as acceptance and public attitudes about the fairness of the tax system.

Impact of tax burdens and social security contributions

Almost all studies indicate that the informal economy is the most important cause of rise of the increasing burden of taxes and contributions for social insurance. Bearing in mind that taxes, among other things, affect the decision to work or resort to idleness, and the motive and the supply of labor in the informal economy, the main focus of many economists is the distortion that occurs due to the decision on participation in informal economy. Thus, the greater the difference between total labor costs in the formal economy and earnings after taxation, the greater the incentive for evasion of duties and work in the informal economy. These differences mostly depend on the total burden of taxes and social security contributions and are the key determinants of the existence and increase of the shadow economy. By using a simple macroeconomic endogenous model of growth, some economists have done an analysis of the causes of increase of the informal economy. Here are studied the determinants and effects of excessive taxes and regulations on the informal sector where there is no ability to enforce regulations (Loyaza, 1996). In this approach the informal sector is the variable that is not observed and for which there are several patterns and indicators and an appropriate model is.[8] On the other hand, the strong influence of direct and indirect taxation on the size of the shadow economy can be shown in another way. For example, by using demand function currency as a determinant of the informal economy there can be considered four types of variables (Schneider, 2000): total load of direct taxation, burden of indirect taxation, complexity of the tax system, intensity of government regulation.

In this study, the greatest impact on the size of the shadow economy has a ratio of direct tax burden (including social security contributions) which is followed by the intensity of regulation and complexity of the tax system.

Recent studies provide strong evidence on the impact of income tax on the informal economy (Cebula, 2005). They confirmed the impact of tax rates on income, the likelihood of tax supervision and tax penalties on the relative size of the informal economy. It is concluded that the waiver of further increasing the highest marginal tax rates can at least stop further growth of the informal economy, while increased activity of checking tax returns and penalties can reduce its volume. The results of this study generally confirm the existence of the strong influence of the government activity on the size of the informal economy.

[8] Multiple-Indicator-Multiple-Cause – MIMIC. Loayza assessed the informal sector in 14 countries and at the confidence level of 10% he found the existence of three important determinants: the size of the informal sector positively affect the tax burden and labor market restrictions, while the power and influence of state institutions have a negative impact.

Some researchers have shown that the marginal rate is more important than average tax rates and that the replacement of direct indirect taxes will probably not improve the tax laws and the performance of duties. He has, then, concluded that higher taxes do not themselves increase the informal economy, but it is a consequence of inefficient and arbitrary application of the tax system and state government regulations. Perhaps it is unexpected, but their conclusion is that there is a negative correlation between the size of the informal economy and the highest (marginal) tax rate, but it may not be surprising when one takes into account. The study ignored the tax factors (such as tax deductions, exemptions, exceptions, and different tax system and other features, which allowed reduction in tax liability). Then they have found that higher tax rates are associated with a lower share of informal activities in the GDP. This analysis suggests that entrepreneurs do not report their activities not in order to avoid official taxes but because they want to reduce the burden of bureaucracy and corruption. However, they have not strongly substantiated the position on the connection between higher tax rates and a smaller share of the informal economy, and in most cases by taking a different tax rate do not get statistically reliable indicators. Thus, there is a difference between the effect of tax burden on income and profits compared to the institutional aspects, such as the effects of the administration, the scope of rights (which they are politicians and bureaucrats), the incidence of bribery and corruption. These authors believe that these features in the negotiations (bargaining) government and taxpayers have a greater significance than the level of tax burden.

The intensity of the regulations

Another important factor that reduces the freedom of choice of individuals involved in the formal economy is to increase the intensity of regulations.[9]

We should consider labor market regulations, trade restrictions and prohibition of employment of foreigners. The impact of labor legislation on the informal economy is interpreted and described in detail in several theoretical researches. Regulations cause a significant increase in labor costs in the formal economy. However, as most such expenses may be transferred to those employees they are incited to working activation in the informal economy where they can be avoided. The empirical research suggests that countries with more economic regulation in general have a higher share of the unofficial economy in total GDP. Coercion in the implementation of regulations is a key factor in the burden of companies and citizens, which make them do business in the gray economy, and not the level of regulation, which is generally not respected. Increasing the parameters of legislation

[9] For example, it is often expressed in a number of laws and regulations such as requirements for licensing.

by one degree (ranging from 1 to 5) makes 10% of increase in the shadow economy in 76 developing countries and countries in transition (Johnson, Kaufmann, and Zoido-Lobation, 1998). Basically, the conclusion is as follows: more regulation leads to an increase of the gray economy.

This means that the shows need to go, it is necessary to reduce the number of regulations and laws and carry out their implementation better, not to increase their number. However, some countries in transition, in an effort to reduce the level of the gray economy, however, are more prone to the introduction of more regulations and laws, mostly because it maximizes the power of the bureaucracy and the number of employees in the public sector. In assessing the likelihood of re-election, the decision to respect law and order could be more important than a radical reform of the tax and social security.

The labor market

The driving force of the gray economy has also the extensive regulation of the official labor market and high total labor costs. In this regard, we often discussed the importance of reduction in official working hours and the impact of unemployment on the rise in the informal economy. For example, in most OECD countries, unemployment is largely a consequence of high total labor costs, which can be considered the cause of increase in the informal economy. On the other hand, in order to reduce high unemployment reducing the official working hours was introduced. The assumption is that there is a limited amount of work and the amount was distributed to more people. However, this measure does not take into account the key factor that forced shorter working hours, contrary to the preferences of employees, increases the possibility of working in the informal economy. Earlier retirement may also lead to greater activity in the informal sector, working with a shorter working time than usual (part-time) opportunity to accept another job in the informal economy and tax exempt contributions. Redistribution of work can be successful only if the reduction is in accordance with individual preferences, because people want to maximize their free time or are unable to work. Otherwise, they would choose to work in the gray economy.

Public sector services

Increasing the volume of business unofficial economy leads to lower revenue, and this leads to a reduction in quality and quantity of the given public good. This means an increase in tax rates in the formal economy, with a simultaneous decline in the quality of public goods (such as public infrastructure) and public administration, an additional incentive for participation in the informal economy. Lower volume of informal economy is accompanied by higher tax revenues if

they are generated at low tax rates, smaller loads laws and regulations, and with lower levels of corruption.

The countries with better rule of law, which are funded from tax revenues, have lower levels of the gray economy. Thus, countries in transition have higher tax rates, higher levels of regulation and discretion of public officials as contributing to corruption and a higher level of the informal economy. This means that some East European countries have achieved a balance of relatively low tax burden and tax regulations, while substantial public revenues collected a high level of compliance and low corruption, leading to the relatively small size of the informal economy. In contrast, many countries where the transition took place slowly showed characteristics of imbalance: high taxes and discretion, weak rule of law, widespread corruption, which have led to high levels of the informal economy in the total economic activity. Therefore, many countries in transition were faced with the need to implement a radical reform of the former social security and taxation to at least partially preserve the achievements of the welfare state at risk because of the vicious circle of high taxes and regulation, as it encourages the informal economy. Prevalence of the informal economy can be considered a direct threat to the welfare state. The overall effects of the informal economy can help to ensure that the existing institutions and social norms lose public support. In addition to these reasons, increasing the level of the gray economy in transition countries, contributed to the following factors: Lack of expertise and confidence in official institutions (e.g., legislative, and judiciary, public administration, etc.); Inefficient administration which is often subject to corruption; State does not guarantee property rights, and citizens are looking for other ways to ensure them; Development of non-formal and informal institutions, the negative effect of creating organized crime, but also a positive effect following the creation of informal social rules that support weak formal institutions; Inappropriate enforcement of laws and regulations; High operating costs and administrative burden of entrepreneurs; A high tax burden with inadequate provision of public goods conditions the rejection of formal rules and laws; Small likelihood that persons employed without work permits or a tax evader would be detected permits leads to calculating the costs and benefits what shows that unauthorized work is more attractive than regular official work; Participation in the informal economy is sometimes important for the survival of a business; Wide acceptance of unauthorized work (including the approval of a bank credit to firms in the informal economy) reduces the likelihood of a successful fight against unauthorized work.

5. The effects of the informal economy to the official economy

In a situation where there is no empirical evidence on informal economic activities, it is difficult to analyze the effects of the increased size of the informal

economy. Most research focuses on determining the impact on resource allocation and the loss of revenue, but even more important is the effect on official institutions, norms and rules.

Expanding the informal economy shows serious shortcomings of legitimacy of the existing social order and the applicable rules. Some studies of the informal economic impact on the allocation of resources are classified in the underground economy macroeconomic models. In this way, a theoretical model of the business cycle was developed as well as the relationship of tax and monetary policy to the informal economy. It was concluded that the determination of tax policy and regulations should take into account the effects of the informal economy, and that their existence could lead to overestimation of the inflationary effects of the fiscal and monetary incentive. There is a positive link between growth of the informal economy and the formal economy. This occurs if input costs in the informal economy are small and expansionary fiscal policy and encourage the positive formal and informal economy.

The second hypothesis is that significant reduction of the informal economy provides an increase in tax revenues, leading to a greater quantity and quality of public goods and services, such as the effect may have a higher rate of economic growth (Loyaza, 1996).

On the other hand, it should be noted that the informal economy is highly adaptable to changes in demand for personal services, or products of small and medium sector. In this way, it promotes economic dynamism and encourages the entrepreneurial spirit, and the effects of increased competition, and limits the possibility of action and influence of the government. It is believed that the informal sector can provide a great contribution: emerging markets, increasing the available financial resources, encouraging entrepreneurship, and the necessary transformation rules, social and economic institutions (Asea, 1996). Voluntary choice between formal and informal sectors can ensure safe conditions for possible greater economic growth, so it appears that there is a positive correlation between growth of the informal sector and the overall economy. However, just as the research has shown an increase in the informal economy has a negative effect on the economic growth because it reduces the availability to all citizens and the public sector stipulating the use of public services in a less effective way. In any case, it is necessary to consider the accompanying positive effects of the informal economy. Some researchers say that more than 66% of income earned in the gray sector is spent relatively quickly in the formal sector. This additional expenditure has positive influence on economic growth and the revenue from indirect taxes (Schneider, 1998). On the other hand, there has been a positive impact on the underground economy of consumer non-durable goods, and even stronger positive effect on consumer spending for durable goods. In this regard, it is stressed the close connection between the formal and the informal economy.

Viewing No 3 ***The consequences of growth of the informal economy***

- officially untapped resources are used for production;
- offer additional services and goods;
- increase in public deficits and reduce investment in public infrastructure;
- weakening of formal institutions and state power – high risk for the transformation;
- changes are threatening the welfare state – 'dual economy' in the long run
- more crime and less support from official institutions;

Source: Tanzi, 2010.

6. Two pillars of the strategy

Two pillars of the strategy relating to the informal economy represent a range of behavior that can be divided into the possibility of exit (escape) and the ability to opt. In advanced countries, an individual can to express his preferences in relation to the public good at elections. Any person can vote for a party whose policies best reflect his own opinion. Further impact on the economic system and policy measures can achieve the implementation of direct elections or referenda, or organizing a citizens' initiative. An important role is played by political consultations and discussions. Various expert advice and economic research institutes regularly give their views on various policy decisions, and strive to achieve their impact through a number of publications.

Many people consider the mentioned the possibility of expression unsuccessful and the reaction is an alternative exit (escape). To avoid the adverse economic, tax or social security firms may relocate its headquarters; a household may decide to migrate. An additional possibility is the inclusion of the informal economy.

Viewing No 4 ***The possibility of Conduct***

Possible behavior

the ability to opt	output
- choice	- removal
- direct democracy	- tax evasion
- citizens' initiative	- gray economy
- stakeholder groups	- undeclared work
- mass media	- informal work
- examination of the public	- Work at home
- advisers in economic policy	- criminal activity
- experts	
- more experts	
- research institutes	

The very fact that these possibilities exist suggests that the limitations of the democratic state cannot ignore the preferences of its citizens. This internal pressure to correct economic policy reinforces the external impact of the development of globalization.

Mobility increases, there is also a growing number alternatives. Therefore, if the financial burden becomes too large it exceeds the limits of loyalty. Growth of the informal economy becomes a threat to social stability and the common good, and this can lead to inaction of democratic institutions. The widespread informal economy is a significant indicator of the disorder within the overall regulatory system.

Reducing the attractiveness of exit options

The application of the two pillars of the strategy reduces the level of threats to the society. As the high tax burden is the most important cause for the increase of the informal economy, a major measure in limiting the reduction lies in its tax rate. There is a need to simplify the tax system to achieve greater transparency and less load regulation. Non-transparency of the tax system adversely affects the collection of public revenue, causes the excessive complexity of tax laws, leading to misallocation of resources and distortions in work effort, and impairs the general welfare. The long term undermine the tax morals. At the same time, reducing the burden of contributions is necessary to bring a radical reform of social security.

Viewing No 5 ***Economic policy recommendations for reducing the attractiveness gray economy***

Reducing financial incentives to escape the shadow economy(opt-out)

– Reduction in tax rates
– Simplifying the tax system
– Important reforms of social security
– Greater administrative efficiency and reduction of corruption
– Focus on the transformation – higher rates of growth and social protection reduces the pressure on governments
– Guaranteed property rights and investment in infrastructure (e.g. in form of Public Private Partnership);

Change of official norms and institutions in accordance with the preferences of people

– More flexibility in the use of working time for employees and employers (individual packages);
– Less regulation and less red tape

– Combating the symptoms leads to more actions in hiding the gray economy activities, but also to a considerable reduction of illegal labor
– Orientation to improvement and reform of institutions and systems, and to explanation and communication of the need for reform;

Strengthening' declaration' option allowing a higher level of active participation of people

– Stabilization of society
– Less centralization and more subsidiaries
– The achievement of several forms of direct democracy in some area
– Increase in public participation leads to greater benefits and fewer behavior' free' shooters'

The reactance theory offers some possible ways of reducing resistance to taxes.[10]

On the one hand, by convincing determination of the time setting for a specific tax form reactance may be avoidable as well as negative economic consequences in the area of the gray economy. On the other hand, if you understand the limitations of personal freedom as something reasonable, there will be no reactance. Therefore, the demands for greater transparency of tax and expenditure policies are based on an objective, positive sociopsychological theory. Loyalty to the state can be increased by reducing the corruption and extravagance of the unpredictable behavior of the public administration. More research of social transfers should be done, and it is also expected to introduce the deepest possible time of their income. This means that we should further encourage people to work engagement, thus affecting the mitigation habits. Also, the payment of social transfers is legitimate in the eyes of the public. Reducing the number of laws and regulations (particularly in the labor market) and its simplification, along with their greater respect, is an important determinant of a successful economic policy. Because of the small restriction to the access to the market to competition would be intensified so as to be able to develop its dynamic effects on the economic welfare.

Strengthening the ability to opt

In principle, it is possible to reduce reactance solidarity. In economic policy, it comes down to the notion of moral suasion. This means that if an individual

[10] Psychological reactance theory is a theory according to which stricter laws do not achieve the desired effect because they ignore the right of personal choice. The starting point is the recognition that personalities, if they feel that their freedom of particular behavior is threatened, do things that are unacceptable.

accepts the need to limit his personal freedom, he, thus, shows his solidarity with the company and accepts the reasonable benefit of the state.

However, when requested by the state, the effect may be opposite, because the people who were previously willing to pay taxes will then find out the size of the informal economy and will themselves begin to operate in the gray area. This negative process can be successful only stopped by the active participation of interested individuals. Strengthening the local government and civil initiative, which attempt to influence the decision, could be the key to recovery and retention of public scrutiny in decisions on public revenue and expenditure. Increased participation reduces the impression of being exposed to the unfair restriction of personal freedom. This, at the same time, strengthens morality and loyalty, all of which help in combating the gray economy.

At all levels one should always act in accordance with the principle of subsidiarity, and further centralization should not be allowed.[11] So, in combating the gray economy the increased centralization will not be of use, which is often accompanied by harmonization of tax forms. The increase in fiscal federalism could alleviate the feeling of citizens that the state does not operate in accordance with their wishes.

On the other hand, the increased participation of public encourages the advantage or personal contributions and interest in national affairs encourages commitment and personal contribution and reduces moral hazard. Strengthening the rights of participation can lead to reduction in resistance to covering the cost of appropriate public services, to stronger tax morals to the extent as prevails the view that the costs incurred by the state correspond to the created public good. For a long term it strengthens social capital and sense of community, which together considerably contribute to the successful preservation of social unity and further supply of public goods.

7. The shadow economy in Serbia

For many years, Serbia's economy has been facing one of the greatest challenges and that of the shadow economy. The consequences are visible in many areas such as tax evasion, market distortions, unfair competition, and inefficient allocation of resources. In many transition countries, including Serbia, the gray economy is a significant obstacle to the development of a strong corporate sector and the construction of a functioning market economy.

[11] In public finance and social policy, this principle is considered an axiom of distribution of responsibilities between the private and public sector, utilities and institutions. In accordance with the principle of subsidiarity, some tasks can only be delegated to a higher level of power, and only in the case when the lower level is unable to solve the problem. The state should take social tasks only if individuals or families are not able to do so.

Although the informal economy remains an important 'safety net' for many individuals and households in Serbia, its negative effects on employees, companies and society as a whole far outweigh its benefits. The economic crisis of 2008, the need for in-depth understanding of the gray economy and finding measures for its reduction through formalization becomes acute. In such circumstances apparent that the gray economy may be not only the result, increasing at the same time and cause further reduces gross domestic product and the deepening crisis. Therefore, the main rein is in its development strategies and recommendations to encourage the formalization of informal economy in order to enhance the competitiveness of Serbian economy and contribute to economic development. The shadow economy includes all legal market production activities that are deliberately concealed from public authorities for one or more reasons: to avoid the tax or income tax, value added tax or other taxes, avoidance of social and health insurance, in order to avoid certain legal standards that force in the labor market, such as minimum wages, maximum working hours, safety standards, etc., and to avoid certain administrative procedures, such as completing statistical questionnaires or administrative forms. Market production activities that are deliberately concealed from public authorities for one or more reasons: to avoid tax or income tax, value added tax or other taxes, avoidance of social and health insurance, in order to avoid certain legal standards that apply in the labor market, as minimum wages, maximum working hours, safety standards, etc., and to avoid certain administrative procedures, such as completing statistical questionnaires or administrative forms. In times of crisis, like those – in particular statistical and perceptual – Serbia and continuously since 2008, the need for in-depth understanding of the gray economy and finding measures for its reduction through formalization becomes acute. The crisis is apparent that the gray economy may be not only a consequence but also a cause of further reduction of the gross domestic product and the spread of the crisis. The shadow economy becomes part of a vicious circle in which the recession as one of the consequences is an escape from formal to informal economy, which by reducing tax revenues increased fiscal deficit, increase the deficit requires growth in tax rates, increase in taxes causes a new escape and workers in the informal economy, or, even worse, out of every activity, and a negative spiral repeats itself, always on the lower level of GDP and employment. Of course, the empirical mechanisms of this vicious cycle are complex, and include the effects of inflation, falling real wages and rising unemployment in the growth of the gray economy, and vice versa. On the other hand, in the abstract economic context of shadow economy can be seen as a specific market 'anti-institution. „In this discourse, one can argue that the gray economy is capable of eliminating tax and other formal institutions that insert wedges between supply of and demand for labor, or between product and demand for them, what creates employment and a product that would not be created otherwise, pushing the margin and cost effectiveness for individuals and

businesses (Rao and Hassan, 2012). On a hypothetical market without taxes and other costs associated with the operation of institutions, all economic activity is gray. In reality, the formal and informal economies exist side by side, which creates distortions and suboptimal allocation of resources. Many experts point out that the effects of the informal economy to the formal economy are ambivalent. On the one hand, the informal economy leads to allocated distortions, since resources and factors of production are not used in the most effective way. On the other hand, the income created in the informal sector is mostly spent the in formal economy (according to the opinion polls in Germany, two-thirds), which has a stimulating effect on the formal economy. Formalization of informal measures to boost the economy, to be effective, must be based on knowledge of the causes and structure of informal activities. A particular problem in the design of these measures is the fact that the information about it is necessarily unreliable and incomplete. Also, the gray economy is itself very heterogeneous, and economic policies, in order to be enforceable in practice, should be simple and most universally applicable - in any case, less selective than would be desirable from the point of view of optimal targeting. From the standpoint of economic and social effects, and strategy formulation, formalization of informal economy is very important to have a clear idea about the dominant character of the informal economy in the country - whether it is primarily a result of voluntary or forced exit or exclusion. Voluntary exit means that individuals with specific preferences and psychological complex, such as a strong individualists or people with a higher propensity to risk, decide to carry out their economic activity outside the formal economy, although they have an opportunity to work in it. Voluntary exit from the formal economy with the aim of maximizing profits and personal income can be reinforced by an inadequate penal policy, or non-application of legal sanctions. Being forced out means that for their own market failure, adverse developments in the market environment or because of rigid regulations, individuals or firms were forced to leave the formal economy and and that the informal economy remained as the last resort for any economic activity. Exclusion means that some individuals or groups have never been part of the formal economy and do not have any practical chance to become part of it. Two main groups of economic actors are engaged in the informal economy and these are companies and people. The 'diagnostic' gray economy as a prerequisite for the successful operation means that it is necessary to answer to a number of specific structural questions which are related both to this great group of actors. When it comes to the segment of the population which participates in the informal economy, knowledge of the level of education and human capital of the participants is important, their geographical distribution and the structure of the settlement type (rural / urban population), their age, gender, social structure, and on average, distribution of earnings in the informal economy, as well as working hours and the nature of employment in the informal sector (primary versus auxiliary or

supplementary). Also, it necessary to have detailed structural information on companies and entrepreneurs. They include both general information (the total income, profits, number of employees, branches, status with respect to registration, etc.) and methods of participation in the informal economy, ranging from tax evasion and other financial administrative obligations to avoid non-respect of regulations and standards that require certain costs (FREN, 2013). Information on the participation of the population in the informal sector in Serbia are more accessible and more comprehensive than information on the participation of the company thanks to the regular semi-annual survey on labor force of the Statistical Office. The current research, which deals with companies and entrepreneurs, therefore, fills an important gap in the available informational basis for the conduct of economic and social policies directed towards formalizing the informal economy based on facts. From institutional-economic factors, it is estimated that in Serbia the level of the gray economy is most affected by the following: low productivity, the economic crisis and the high level of liquidity, inefficient market exit mechanism, high administrative burden on business, the low quality of the regulatory environment and legal uncertainty, the issue of legalization of buildings and building permits, the low quality of public services, a large number of small business, income structure of the population, high levels of corruption, high tolerance of the informal economy of the state, a high unemployment rate and the level of tax morals (FREN, 2013, p. 54). According to the World Bank (2011) Serbian companies have much lower productivity (value added per worker), and their unit labor costs are higher than in other countries in the region (World Bank, 2011, pp. 67-69). Low productivity, in conjunction with other causes, triggers a vicious circle, because of the low productivity of the undertakings turning the informal sector, which typically affects the further reduction in productivity. In such circumstances, the business model involves a significant number of companies' profitable business (or survival) only in terms of (partial or complete) failure to pay taxes. When it comes to Serbia, if the structural measures to combat the gray economy are successfully implemented, the fiscal savings in the medium term are estimated to be around 1% of GDP in the coming years. The greatest effect on the increasing revenue would be achieved by increasing the revenue from VAT, income taxes and contributions. It is estimated are that the total impact on government revenues in the three-year period could be their increase from 0.8% to 1.1% of GDP (of which 0.2 percent to 0.5 percent of GDP comes from the increase in VAT revenues and 0.6 percent of GDP increase in revenues from contributions and income tax). Combating the gray economy can obviously exert a significant impact on the field of stabilizing public finances, but one should bear in mind that they could not be expected immediately. However, this should not be an argument for further delay in resolving the problem, but as an additional incentive to create and take appropriate measures as soon as possible (Fiscal Council RS, 2013). In

times of economic crisis and a significant drop in demand some businesses factors were forced to adapt their operations to the new circumstances. Some companies, which operated profitably before the crisis, are now forced to move at least part of their activities in the informal economy in order to keep their business. Other business entities are faced with the problem of insolvency. Due to the high degree of insolvency, being taxpayers in Serbia commercial entities often choose to settle their tax liabilities not regularly and in full, and to prioritize the settlement of liabilities of commercial transactions. Often, to be able to selectively make payments, part of its operations is transferred to the informal economy and their obligations are paid according to the degree of importance of the creditors for their business. According to the survey, the economic crisis has been identified as the single most important cause of the shadow economy. The mentioned problem of inefficiency and high liquidity should lead to the regulated exit from the market by the company - bankruptcy or liquidation. Although the bankruptcy reform has been a shift in terms of duration and cost of the procedure, and in terms of the number of bankruptcy cases (primarily from the use of 'automatic bankruptcy'), and a significant reduction in the number of insolvent companies (with a blocked account) it is still too late to initiate or not bankruptcy proceedings for a number of borrowers whose accounts have been blocked in order to be able to continue to operate and it is largely present in the informal sector. Another problem, which is also present in Serbia, is 'phoenix' companies, i.e. companies that leave the old debts and transfer assets to a new company or temporarily move business activity into the gray economy, which effectively 'turns off' the old company. In practice, as a rule, it occurs without any sanction by the owner. 'Phoenix' companies usually operate with SMEs, which create serious problems of liquidity. Often the victim of 'phoenix' company is the company itself, which in order to survive in the market, resorts to transmigrate part of its business in the gray economy. A high administrative burden on business encourages companies and individuals to carry out their business activities in the informal sector. Empirical findings indicate a significant positive correlation between the regulatory burden on the private sector and the share of informal economy. Some authors even believe that the business decision to include their companies in the informal sector is done rather to avoid the bureaucracy (and corruption), to evade taxes. The administrative burden is usually perceived as an important cause of the high percentage of the gray economy in Serbia. According to the level of administrative costs in Serbia, which totals between 3.8% and 4.2% it, is among the top countries that have carried out similar measurements. Table 3.1 shows the comparison of the participation ratio of administrative costs and the underground economy in GDP.

Table 4 ***A comparison of administrative costs and the informal economy***

State	Administrative Expenses (% of GDP)	informal economy (% of GDP)
Serbia (2010)	4.0%	30.1
Denmark (2006)	2.2%	17.0
Netherlands (2003)	3.6%	13.3
Czech Republic (2005)	3.0%	17.8
Austria (2006)	2.8%	9.6

Sources: www. bradulovic.com/2013/05/20/siva-ekonomija-u-srbiji/

Among the causes of the fiscal gray economy in Serbia, there is a relatively high fiscal burden on labor, complicated and costly tax procedures, complicated and non-transparent tax system, inadequately organized, trained and equipped tax administration, the low quality of public services and a high level of tolerance to the gray economy. Among the market institutions whose specific arrangements affect the growth of the gray economy there are the following: taxation of labor, minimum wages, social benefits system, legislative, employment protection, regulation of working time, unemployment benefits, and retirement policies. Among them, the most important factors are the rules of taxation, especially the high tax burden on low paid work as a result of a small tax-free threshold, high contribution rates and the existence of the minimum contribution base. Since a natural area for the formalization of informal employment is close to the minimum wage, high load at minimum wage implies high costs of formalization, which is discouraging. This effect is further emphasized by the high minimum wage, which now stands at about 50% of the average wage, which is above levels by about 10 percentage points. The existence of the minimum contribution base affects the unpopularity of permanent contracts on part-time work and also effectively prevents introduction of a special working arrangement with more favorable tax rates, such as the 'mini' and 'Midi' jobs that have successfully contributed to the flexibility of the labor market in some European countries. In addition to the causes of the tax system and those related to labor market institutions in Serbia of particular importance are those related to the causes of adverse economic and regulatory environment. Among economic causes, the most prominent are low productivity and a high level of liquidity, which is particularly evident in the economic crisis. While low productivity 'forces' business to move at least a part of it to the informal sector in order to survive in the market, a high degree of insolvency influences the decision to evade taxes in order to settle obligations to the tenderer. Among the causes related to the regulatory environment particularly important are high administrative costs and legal

uncertainty. In addition to these, there are several other factors that are a reflection of weak institutions and disordered systems, such as problems with legalizing facilities and obtaining building permits, an inefficient mechanism for withdrawal from the market and frequent abuse by using 'phoenix' companies. Reflection of poor institutional environment is reflected in the high degree of tolerance for the informal economy of the state, and high levels of corruption, where both factors with low quality public services are very discouraging for the willingness of taxpayers to pay their taxes. Among the major causes in the financial sector that support the presence of shadow economy are a significant share of cash transactions of payments, informal sources of financing and unregistered migrant remittances from abroad. In Serbia, cash payments still make up a significant portion of the total payment, although in recent years it has had a decreasing trend. These circumstances are further complicated by the fact that due to the high level of Euroization moral hazard behavior of transactors is stimulated while transactions are primarily made in foreign currency outside of formal courses. In addition, informal sources of finance are accompanying the appearance of a significant shadow economy. The causes of their existence lie in bad local regulations and poor enforcement proceedings, barriers to market access, expensive formal sources of funding and the lack of adequate financial products to meet the needs of the beneficiaries, and inadequate tax regulations and high taxes. Consequences of their existence are the increased information asymmetry among market participants, the absence of tax revenues on this basis and exclusion of formal financial intermediaries from the process of transfer. It adversely affects the development of the financial sector and the process of efficient allocation of financial resources in the country. Finally, a particularly important source of foreign capital for Serbia is migrants and remittances from abroad, which by the absolute value after the crisis exceed other categories of capital inflows from private and public sources. Given that the dominant part of the proceeds of remittances comes into the country from informal transfer channels, and is often not directed to productive activities, this results in negative repercussions for the economic growth and development of the Serbian economy.

8. Instead of a conclusion

In modern conditions, several research papers have confirmed that the unsuccessful economic policy is the most important reason for the strong growth of informal economic activities. Important reasons for moving into the gray zone economies are not only the increased tax burden and the number of laws and regulations, but also the labor market policies aimed at redistribution of working hours. Additionally, in countries that are still in the transition process and where there is a lack of clear and stable institutions, this is the driving force that pushes to

the informal economic activities. However, these opportunities will be used even more under the conditions of low tax morals and loyalty to the state government. Therefore, it can be concluded that there is a need for the establishment of systemic and systematic relations in the fight against the causes of such behavior.

This demand is supported by the analysis of the causes and effects. The increase in the cost of unauthorized control over frequent and higher level of punishment only will not have a positive effect on the overall social welfare. In transition countries, only the radical tax reform prevents the transition into the gray zone. In addition to the allocation of activities, there are important influences on the stabilization of the overall economy because the gray economy acts for some time as a stabilizer and shock absorber of social difficulties, and reduces to some extent cyclic fluctuations. This is especially true in the present conditions of where prevails the inflexible labor market and excessive state intervention in the economy.

On the other hand, the main arguments of the state in the fight against the informal economy are the budget deficit and avoidance of taxpayers to pay for the pension and health insurance. It is necessary to implement long-term reforms, not only because of globalization and harmonization but also for the increase of the gray economy. However, if one cannot strengthen the components of direct democracy (for example, a referendum on the decisions of government revenues), the participants will often choose the opt-out (exit) than the ability to opt. They will decide either for unauthorized work or to look for a country that suits their preferences.

In this sense, the informal economy can be considered part of the evolutionary process that contributes to the greater dynamics of the economic and social development. At the same time, social pressures for deregulation and tax cuts are increasing, while new forms of coexistence and exemption of confinement are sought.

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Dobrica VESIĆ, Ph.D.

SIVA EKONOMIJA I INSTITUCIONALNE PROMENE U ZEMLJAMA U TRANZICIJI

Rezime: Siva ekonomija predstavlja izazov i za privrednu i za socijalnu politiku ne samo u tranzicionim zemljama nego i u zemljama OECD-a. U radu je prikazana teorija razvoja privrede u senci, koja objašnjava učinak širenja te privrede na službene institucije i pravila – te vodi institucionalnim promenama. Uz to se razmatraju i uzroci i učinci jačanja sive ekonomije. Potvrđuje se da je neuspešna ekonomska politika najvažniji uzrok snažnog jačanja aktivnosti sive ekonomije. Među važnijim razlozima prelaska na sivu ekonomiju je veliko poresko opterećenje, veliki broj propisa i ne odgovarajuća dostupnost javnih dobara, kao što su zajamčena vlasnička prava, raspoloživost infrastrukture. U tranzicionim zemljama nedostatak stabilnih institucija, neefikasna administracija i korupcija, zajedno sa slabijim poreskim moralom i manjom odanošću državnoj vlasti, podstiču širenje neformalnih privrednih aktivnosti. Nastojanje da se učestvuje u aktivnostima sive ekonomije treba da se tretira kao znak upozorenja. Sve jači otpor postojećim normama i institucijama u privredi može da se ublaže primenom „strategije dva stuba'. Ova strategija obuhvata mere kojima se smanjuje privlačnost mogućnosti izlaska, a jača mogućnost izjašnjavanja.

Ključne reči: siva ekonomija, intitucionalne promene, zemlje u tranziciji.

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THE IMPACT OF GLOBAL ECONOMIC CRISES ON THE LEVEL OF EMPLOYMENTIN SERBIA AND MACEDONIA[1]

Nikola POPOVSKI[2]

Abstract: The main goal of this paper is to understand the situation, dynamic and tendencies in active population and employment in Serbia and Macedonia and indicate key problems as a result of impact of the world economic crises on these variables. Employment rate decrees to the levels which are much lower than 50 percent. It endangers the economies of Serbiaand Macedonia in the global economy and in the context of their European integrations. The basic structural characteristics of the active population and employment in both countries were researched. A comparative approach is logical and possible as Serbia and Macedonia has similar levels of economic development, economic structure and problems.They are some of a few European countries with a lowest rate of active population and employment, and highest rate of unemployment. Quantitative changes in the active population and employment in Serbia and Macedonia in the last decade are determined. Their changes are related to ones in the countries of the EU. Those data are used to explore if the world crises contribute to approximation or digression of Serbia and Macedonia to the levels of those indicators in EU. As EU already established a goal to realize the growth of their employment rate to the level of 75 percent by 2020, it becomes extremely important for Serbia and Macedonia to achieve and maintain the growth of employment rate so the EU integration should be effectively possible. Thisis not possible without higher and sustainable growth of those economies in the future.

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Key words: Active population, employment rate, economic crises, Serbia, Macedonia

Introduction

The common economic theory approach and popular way for a snap measuring of the economic situation and perspectives of any country offers a view to a four basic macroeconomic indicators – the level of Gross Domestic Product per capita (GDP/pc); growth rate of GDP; annual inflation rate measured as Consumer Price Index (CPI); and the level of (un)employment of the working force. The internal economic position of the countries is mostly determined by these indicators, as well as its relative economic position compared with other countries in the region or globally. The global economic crises that started in 2008/2009 affects most of the world national economies and its performance related to those indicators. Concerning the levels of (un)employment of the workforce, many countries in recent crises years put more and more parallel attention on a levels of unemployment and level of employment and its rates. Serbia and Macedonia should take this into account and take care of both although their economies are hit by the global economic crises. This come more relevant as the both countries has close EU membership aspirations and since The European Council on 17 June 2010 adopted the Europa 2020 strategy which became EU's common agenda for the current decade. This strategy emphasizes smart, sustainable and inclusive growth as a way to overcome the structural weaknesses in the EU economy, improve its competitiveness and productivity and underpin a sustainable social market economy. (European Commission, 2010). One of the five key objectives expressed in the form of headline targets at the EU-27 level is that 75 percent of the population of EU, aged 20-64 should be employed by year 2020. The both mentioned countries, between others targets, should improve their employment rate if they want to stay on track with further EU integration process and established their own strategies of this problem.

Definitions

The labor contained in the labor force or within the human, combined with natural resources and physical capital for a long time was consider as most important production and development factors of the economy. The modern economy no longer consider working force as a sole factor, but as dual economic and development factor which contains of labor, understand as manual, physical labor and knowledge, including the skills of the working force, as relatively new economic and development factor. Productive usage of the labor force in the

economy is obtained by the process of its 'employment' or its involvement and usage in wider sense of that word. As the number of total employed and employment rate is higher, the level of development of a country should be higher. Employment and unemployment persons and rates are in direct economic and mathematic correlation. On the other hand, the dynamic and sectorial direction of changes of the absolute number of employed persons and employment rate shows the ability of the economy to develop and to create new jobs for the current and next generations. Even more, the new tendencies of the economic theory and practice refer to an insufficiency of obtaining enough new and well-paid jobs, but creating of more decent jobs as well.

Prior to defining the 'employment' it is necessary to define the term 'labor force'. Within the national economy the basic source for a recruiting of the labor force is the *total population* with its natural, economic, educational and other characteristics. The totalsize of the population and its dynamic, basically depend of two factors: 1. natural growth rate, as a difference of rates of birth and death on 1,000 inhabitants; and 2. net migrations as a difference between the number of registered emigrants and immigrants.

The category '*labor force*' is quantitatively lower than total population, and the theory defined it on a relatively unified way. According to one, widely accepted definition 'the labor force is composed of all individuals who have a job, who are registered that want to work or who are on disposal for a work.' (Begg et al. 2000, p. 449).The official definition of the International Labor Organization (ILO) which is accepted by the Serbian and Macedonian state official statistical organizations define that 'the labor force is active population (employed and unemployed persons) and inactive population' (State Statistical Office of Macedonia, 2011b, p. 253).

The group of '*active population*' is quantitatively lower than that of labor force and according to the definition of Bureau international du travail from 1982 it 'consist of persons in working age who are employed and persons who are not, but look for a job.'(Фити, 2008, p. 199).The State Statistical Office of Serbia (SSOS) defines the active population more practically as 'all employed and unemployed persons' (Републички завод за статистику Србије, 2012, p. 2). That is the base to introduce the 'participation rate' or 'activity rate' of the population which shows 'the percent of the population in working age which declare as a part of a labor force' (Begg et al. 2000, p. 450). It is calculated 'when the total active population is related to the total population in a working age, and it is over the age of 16 years'.(Фити, 2008, p. 199).SSSO defines it as 'the percent of active population of the total working age population.'(Републички завод за статистикуСрбије, 2012, p. 2).

The category *'employed persons'* is statistically lower category than active population and it represents only a part of the active population.In the economy theory and statistics it is defined uniformly with small but necessary differences depending on practical approach in its defining from some institution or a country. For example in the theory 'employed persons consider those who execute paid job and those who have a job but temporarily are absent from the job due to an illness, vacation, strike and similar.' (Фити, 2008, p. 381). According to ILO 'persons of working age are classified as employed if, during a short referenceperiod such as a day or a week, (i) they did some work (even for just one hour) for pay, profitor family gain, in cash or in kind; or (ii) they were attached to a job or had an enterprise fromwhich they were 'temporarily' absent during this period (for such reasons as illness, maternity, parental leave, holiday, training, industrial dispute). Employed persons include those persons ofworking age who worked for at least one hour during the reference period as contributing familyworkers (formerly referred to as unpaid family workers) working in a family business.'(ILO, May 2012, p. 23). Basically the same, although adjusted definition use the State Statistical Office of Macedonia (SSOM) according to which 'as employed are regarded persons aged from 15 to 79 (including those with 79) years whom: 1. worked for wage (in cash or in kind) or income at least one hour during the reference week; 2. were temporary absent from work (due to illness, vacation, training, end of the activity of the legal entity, etc.) with formal job attachment; 3. were helping on the family property or enterprise without wages.' (State Statistical Office of Macedonia, 2011b, p. 253). SSOS use more precise definition according to which 'Employed persons are persons who execute paid job (in cash or in kind) at least one hour in the reference week, and persons who have job but being absent in that week. Along with the persons with formal job who work in the enterprise, institution or other type of organization or work as private entrepreneurs in employed persons are include private farmers, persons helping the household, as well as persons who execute some job they find by themselves and contract (oral or formal) without formal job contract if that job was their only source of income for living. According to this, the Survey does not take into account the formal status of the person, but its working status is determined on the basis of de facto activity it executes in the reference week.' (Републички завод за статистику Србије, 2012, p. 2).

According to the economic status employed persons are classified as: 1. employer – person who operates his or her own legal entity or engages independently in a profession or trade, or owns a farm and employees other persons; 2. employee-person who works for state institutions, legal entities in public, mixed, collective and undefined ownership, public or private employer; 3. self-employed – person who operates his or her own legal entity or engages independently in a profession or trade, but does not employ other persons; 4.

unpaid family worker – persons who work without pay in legal entity, trade or on a farm in ownership of another member of his or her household.

Employment rate shows the participation of the number of employed persons in the total population in the working age, and that is over 15 years (definition that use SSOS and SSOM), or number of employed persons ata certain age in the total population at thatcertain age (Eurostat, for example,use the age of 20 to 64 years and calculate the employment rateby dividing the number of persons aged 20 to 64 in employment by the total population of the same age group). Some organizations or institutions use other terms and definition to show the same thing. World Bank definition refers to *employment to population ratio* and it 'is the proportion of a country's population that is employed. People ages 15 or older are generally considered the working population.' (IBRD/WB, 2012a, p. 57).

Finally, the economy science and statistics defines category of *'employees'* is quantitatively lower than that of employed persons. By the SSOS definition 'Employees are persons who work for an employer inall sectors of ownership, no matter if they have formal employment contract or if they work on the bases of oral agreement. Members of the households who are paid for helping family business are also considered as employees' (Републички завод за статистику Србије, 2012, p. 2). SSOM use similar definition according to which 'employees are considered to be anyone officially employed by legal entity, as their single and main occupation, regardless of whether the position is for a limited or indefinite period, and regardless of whether the individual is employed full or part-time.' (State Statistical Office of Macedonia, 2003b, p. 242).

Situation in EU and its agenda for high level of employment

The global situation with the level of employment is not rosy. The 29 million net jobs lost duringthe global economic crisis since its beginning in 2008 (13 million women, and 16 million men) have not been recovered yet is pointed out in the latest ILO report, while the gender gaps in employment increased. Prior to 2008, the global gender gap in employment was constant but increased with the crisis. Globally, between 2002 and 2007, women's employment-to-population ratio remained constant at about 49 percent or 24 percentage points lower compared toabout 73 percent for men. In the run up to the crisis, the gender gap in the employment-to-populationratio inched down to 24.6 percentage points (ILO, Dec. 2012, p. 3 and 12).

The situation with the employment in EU is similar to the global and that is why the actions have been taken. The current EU agenda for high level of employment is established by the Commission document 'Europe 2020 – A strategy for smart, sustainable and inclusive growth'. The starting point for the European idea for an inclusive growth which enables a *high-employment economy*

delivering economic, social and territorialcohesion is that 'inclusive growth means empowering people through *high levels of employment*, investing inskills, fighting poverty and modernizing labor markets, training and social protectionsystems so as to help people anticipate and manage change, and build a cohesive society. Europe needs to make full use of its laborpotential to face the challenges of an ageing population and rising global competition. Policiesto promote gender equality will be needed to increase labor force participation thus adding togrowth and social cohesion. Due to demographic change, our (means: EU) workforce is about to shrink. Only two-thirds of our (EU) working age population is currently employed, compared to over 70 percent in the US and Japan. The employment rate of women and older workers are particularly low. Young people have been severely hit by the crisis, with an unemployment rate over 21 percent. There is a strong risk that people away or poorlyattached to the world of work lose ground from the labor market.' (EU Commission, 2010, p. 17–18).

EU set a target to raise the employment rate of the EU population aged 20–64 from 68. 6 percent in 2010 to at least 75 percent in 2020 and for that purpose EU is willing 'to modernize labor markets byfacilitating labor mobility and the development of skills throughout the life cycle with a view to increase labor participation and better match labor supply and demand.' (EU Commission, 2010, Annex 1, p. 32).

An action was needed to be taken because the levels of the employment in the last 15 years in EU varied up and down. The employment rate among 20 to 64 year olds was 65.1 percent in 1997, and then between 2000 and 2008 it rose from 66.6 to 70.3 percent.[3] The economic crisis had a pronounced effect as in 2009 the employment rate fell by 1.3 percentage points to 69.0 percent – the level of 2006. It continued to fall in 2010 to 68.6 percent, where it remained in 2011 with differences between the member states which are large – highest rate are in Sweden 80.0; Netherlands 77.0; and Germany 76.3 and lowest rates in Italy 61.1; Hungary 60.7 and Greece 59.9 (http://epp.eurostat.ec.europa.eu/tgm/table.). 'The economic crisis hit men harder than women – they experienced a fall in employment of 2.9 percent age points in 2011 compared with 2008. The employment rate for women fell with 0.5 percent age points over the same period.' (Savova, 2012, p. 2). The strategy established the EU and national targets and in addition to the national targets and in order to make real progress towards the common goal it focus on the most vulnerable labor market groups such as

[3] Eurostat is calculating the employment rate by dividing the number of persons aged 20 to 64 in employment by the total population of the same age group. The indicator is based on the EU Labor Force Survey. The survey covers the entire population living in private households and excludes those in collective householdssuch as boarding houses, halls of residence and hospitals. Employed population consists of those persons who during the reference week did any work for pay or profit for at least one hour, or were not working but had jobs from which they were temporarily absent.

women, older workers, non-EU citizens, young people and persons who are not in employment, education or training. As is seen from the cited Eurostat data the actions didn't give results in the first few years of the implementation of the strategy and currently the employment rate in EU is even weaker than in the moment of adopting of the strategy.

The further danger for EU-27 countries arise from the fact that within the Union the old dependency ratio (persons aged 65 or older as percentage of persons in the working age of 15-64)was 21.1percent in 1992 and increase to 26.8percentin 2012 which is very high with projection to be 50.2 percent in 2050 without calculating the migration flows. The records high are Italy and Germany with 31.6 percent and 31.2 percent in 2012 and projected around 58.1 percent in 2050. Total age dependency ratio in EU-27, calculated as the ratio of the sum of persons aged below 15 and 65 or older to the working age population of 15-64 years, in 2012 was 50.2 percent and was nearly the same compared to 49.5 percent back to 1992. (Eurostat, 26 March 2013).

Levels of employment in Serbia and Macedonia

The absolute and relative levels of employment in Serbia and Macedonia are much lower than those of EU-27 and especially of those of EU-15. It gives no good perspective for further EU integration processes of these two countries.

The case of Serbia

Serbia is one of the countries in the region and in Europe where the employment levels of the population were severely changed since the beginning of the global economic crises in 2008 and didn't recover yet. Since then the absolute number of employed persons shows the decreasing tendency and in

Table 1: ***Employed persons and employment rate in Serbia 2002-2012***
(aged 15+)

	2002	2004	2006	2008	2009	2010	2011	2012
employed persons (in 000)	/	/	/	2,821.7	2,616.4	2,396.2	2,253.2	2,299.1
employmentrate (%)	48.6	45.2	40.4	44.4	41.2	37.7	35.8	36.7

Source: Републички завод за статистику, Србија, 2012.

October 2012 it reach 2,299,068 compared with 2,396,244 in 2010 and 2,821,724 in 2008 or some 522,600 jobs was lost. It is close to 1/5 of previously total employed persons. Due to this the employment rate importantly decrease to a level of 36.7 percent in October 2012 compared with 44.4 percent in 2008 and 48.6 percent in 2002 (Table 1).

This impact of the global economic crises in Serbia was combined with a 'heavy inheritance on the labor market additionally worsened by the effects of the transition and economic restructuring, as well as lack of adequate institutional measures.'(Beraha, 2011, p. 62).That reduces the employment rate on a historically lowest rate and increases the unemployment rate in the country on a historically

Table 2: Employment rate in Serbia 2008-2012 (persons aged 15-64)

year	2008	2009	2010	2011	2012
employment rate (%)	53.7	50.4	47.2	45.4	45.3

Source: Републички завод за статистику Србије, (15. 10. 2013).

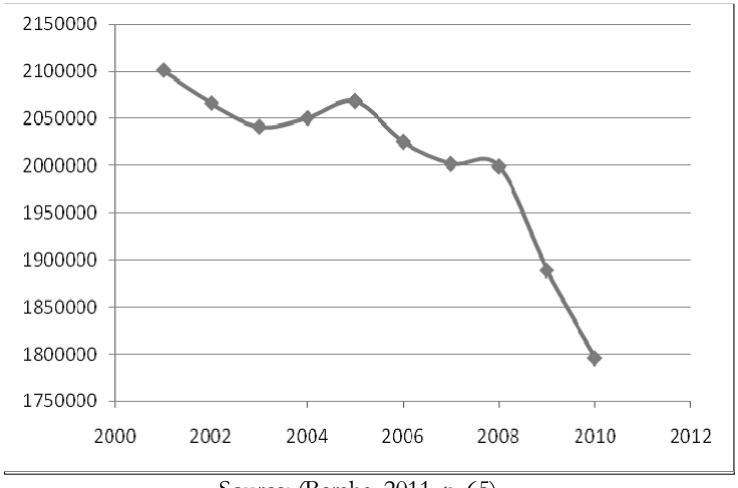
highest rate. It shows how unrealistic for Serbia is expectations that the country can reach the targets set up with the strategy 'Europa 2020'. If the employment rate is calculated only on a population in working age (15-64) which is methodologically closer to those applied by Eurostat in case of strategy 'Europa 2020' (persons aged 20-64) than the rates are as follows in Table 2.

Figures on employment rate of a population in working age (15-64) in Serbia shows some 10 percentage points higher value than those of employment rate of a population aged 15 or older, but it is still well below the targets defined in strategy 'Europa 2020'.

Similar to previous are the tendencies with the number of employees in Serbia which also decline systematically in the last decade which is shown in Figure 1.

Besides the low level of employment and decreasing number of employees, the gender gap in employment in Serbia also exists, so the employment rate for men in 2010 was 45.0percent and for women was about 1/3 lower to 30.9percent. On the other hand educational gap exists too, so the employment rate of high educated persons in 2010 is 56.7percent, compared to 43.4percent of those with secondary education and extremely low rate of only 11.7percent of those with no any completed education (Radovic-Markovic, 2011, p. 29). Obviously, education levels matter the employment in Serbia.

Figure 1: ***Dynamic of decreasing of the number of employees in Serbia 2001-2010***



Source: (Beraha, 2011, p. 65).

The case of Macedonia

Macedonian economy traditionally is suffering of relatively low employment rates and extraordinary high unemployment rates which are persistent. The period of long and exhausted transition combined with serious domestic and foreign political problems additionally worsen the problem. During the years of the world economic crises the country, as many others, experienced low or negative annual growth rates of GDP and sharp decline of the value volume of foreign trade

Table 3: ***Employment statistics in Macedonia 1996–2012*** (population aged 15+)

year	1996	1998	2000	2002	2007	2009	2011	2012
employed persons (000)	537.6	539.8	549.8	561.3	558.7	629.9	645.1	652.5
employmentrates (%)	37.4	35.9	35.8	35.8	36.2	38.4	38.9	39.1
unemployment rates (%)	31.9	34.5	32.2	31,9	34.9	32.2	31.4	30.6

Source: State Statistical Office of Macedonia, Skopje, Macedonia, (1996-2013).

including decline in exports, but performances in employment unexpectedly stay stableand even improve (Table 3).

The data shows that number of employed persons, although relatively low, in the last 15-20 years slowly but constantly increases and it also happens during the period of world economic crises (2008-2012) when the number of employed was increased for nearly 100 thousand persons or about 1/5 of its number in the beginning of the crises in 2008. Consequently the employment rate calculated on a base of number of employed persons in a population aged 15 and over, slowly

Table 4: ***Employment rate in Macedonia 2006–2012*** (persons aged 15-64)

year	2006	2007	2008	2009	2010	2012
employment rate (%)	43.9	45.0	46.3	47.9	48.1	48.4

Source: Eurostat, (26.02. 2013).

increased from 36.2 percent in 2007 to 39.1percent in 2012. This is still one of the lowest rates in Europe.

If the employment rate calculation is appliedon a population in working age (15-64) which, as we have seen is methodologically close to those applied by Eurostat, the rates are higher but still very low compared with the needs of Macedonian economy and situation in the other countries in the region and Europe (Table 4).

Macedonian employment rates compared with those in Serbia is very similar andcurrently both stand at a margin of about 45–48 percent, but employment rates in western and north countries of EU are about 25 percent age points higher (about 50 percent higher than Macedonian and Serbian) which is shown in Table 5. The rates in central and southern countries of EU are some 10–15 percent age points higher and they still look far away from the rates in Macedonia and Serbia.

Conclusion

The levels of employment in Serbia and Macedonia are low, so the employment rates are too. In 2012 Serbian employment rate for population aged 15–64 was very low with 'only' 45.3 percent, and Macedonian was also very low with rate of 48.4 percent. Both are well below the levels in EU-27 (68.6 percent)

Table 5: ***Employment rates in selected countries from EU and the world 2006-2012*** (persons aged 15-64)

country/year	2006	2007	2008	2009	2010	2012
Belgium	66.5	67.7	68.0	67.1	67.6	67.3
Bulgaria	65.1	68,4	70.7	68.8	65.4	63.9
Czech	71.2	72.0	72.4	70.9	70.4	70.9
Denmark	79.4	79.0	79.7	77.5	75.8	75.7
Germany	71.1	72.9	74.0	74.2	74.9	76.3
Greece	65.7	66.0	66.5	65.8	64.0	59.9
Spain	68.7	69.5	68.3	63.7	62.5	61.6
Hungary	62.6	62.6	61.9	60.5	60.4	60.7
Italy	62.5	62,8	63.0	61.7	61.1	61.2
Lithuania	71.6	72.9	72.0	67.2	64.4	67.0
Austria	73.2	74.4	75.1	74.7	74.9	75.2
Poland	60.1	62.7	65.0	64.9	64.6	64.8
Slovenia	71.5	72,4	73.0	71.9	70.3	68.4
Sweden	78.8	80.1	80.4	78.3	78.7	80.0
UK	75.2	75.2	75.2	73.9	73.6	73.6
Romania	64.8	64.4	64.4	63.5	63.3	62.8
Swiss	80.5	81.3	82.3	81.7	81.1	81.8
Croatia	60.6	62.3	62.9	61.7	58.7	57.0
Japan	74.5	75.3	75.3	74.5	74.7	74.9
Macedonia	**43.9**	**45.0**	**46.3**	**47.9**	**48.1**	**48.4**
Serbia	**/**	**/**	**53.7**	**50.4**	**47.2**	**45.3**
Turkey	48.2	48,2	48.4	47.8	50.0	52.2
USA	75.3	75.3	74.5	71.3	70.5	70.4
EU-27	69.0	69.9	70.3	69.0	68.6	68.6

Source: Eurostat, (26.02. 2013).

and the countries in the region. If the two countries want to speed up their EU integration it isneeded to establish and implements their own strategies for increasing the employment rates to at least 65–68 percent by year 2020, similar to those of EU strategy 'Europa 2020' which set a target of at least 75 percent employment rate in the EU by year 2020. Otherwise Serbia and Macedonia will not be in position to fully integrate in EU and to improve its position in the

international economic and political relations. From the point of view of the employment rate of its population, the world economic crises worsen the international position of Serbia which rates relatively decline. It was not a case in Macedonia which rates slowly increase. Still, adequate job creation should be a key policy priority in the both countries. But if their economic growth stays anemic as is now or as is projected in their midterm forecasts, employment rates will not increase to a needed levels for improving its economic and international positions.

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UTICAJ GLOBALNE EKONOMSKE KRIZE NA NIVO ZAPOSLENOSTI U SRBIJI I MAKEDONIJI

Apstrakt: Glavni cilj ovog članka je analiza situacije, dinamike i tendencija vezanih za aktivnu populaciju i zapošljavanje u Srbiji i Makedoniji i ukazivanje na ključne probleme zbog uticaja svetske ekonomske krize na ove promeniljive kategorije. Stopa zaposlenosti je pala na nivo koji je mnogo niži od 50 procenata. To ugrožava privrede Srbije i Makedonije u svetskoj privredi kao i u kontekstu njihovih evropskih integracija. Istražene su osnovne strukturne karakteristike aktivnog stanovništva i zapošljavanja u obe zemlje. Komparativan pristup je logičan i moguć pošto Srbija i Makedonija beleže slične nivoe ekonomskog razvoja, privredne strukture i problema. Ovo su neke od nekoliko evropskih zemalja sa najnižim stopama aktivnog stanovništva i zapošljavanja i najvišim stopama nezaposlenosti. Utvrđene su kvantitavne promene na planu aktivne populacije i zapošljavanja u Srbiji i Makedoniji u poslednjoj deceniji. Izvršeno je poređenje ovih promena sa onim u zemljama EU. Ovi podaci su iskorišćeni da se istraži da li svetska ekonomska kriza doprinosi približavanju ili odstupanju od pokazatelja zabeleženih u EU. Pošto je EU već postavila cilj postizanja rasta stope zapošljavanja do 75 procenata do 2020. postaje izuzetno je važno za Srbiju i Makedoniju da ostvare i održe rast stope zapošljavanja kako bi integracija u EU bila efektivno moguća. To neće biti moguće bez višeg i održivog rasta ovih privreda u budućnosti.

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TERRITORIAL DISPUTES IN THE SOUTH CHINA SEA AND REGIONAL SECURITY

Duško DIMITRIJEVIĆ[1]

Abstract: In recent years, the South China Sea area has been increasingly struck by the territorial disputes between China and Taiwan on one side, and Brunei, Malaysia, Philippines and Vietnam, on the other side. These disputes are the causes of the turbulences that jeopardise peace and security in South-East Asia. The territories over which the states mentioned above dispute against each other are the islands of Spartly, Paracel and Pratas and Macclesfield Bank. Although the specific conditions are different concerning the territorial disputes, all the states see a chance to ensure their economic interests in the global competition for natural resources above all, in the field of energy supply and fishing. As the territorial disputes concern sovereignty, which is by the rule related to psychological factors (nationalistic feelings and dignity of the people) and historical heritage (that not in a small number of cases is coloured by a heavy colonial past) no party to the dispute is willing to make any concession to the other party. This shows that the dispute could not be settled so easily and overcome by peaceful means without the interference of foreign factors. In the study that follows the author does an international legal analysis of the disputes in the South China Sea explaining their impact on the regional security.

Key words: Territorial disputes, South China Sea, International law of the sea, UNCLOS, regional security, South-East Asia.

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Geographic position of disputed islands in the South China Sea

The South China Sea is a marginal sea encompassing the area of 3.5 million square kilometres (China's Ocean Development Report, 2011).The Sea is encircled by China, Brunei, Indonesia, Malaysia, Philippines and Vietnam (Djalal, 2001). For its irregular form, the South China Sea is often called 'cow tongue' by the coastal states. It encompasses the area from Singapore and MalaccaStraits to the Strait of Taiwan, western coast of Philippines, and northern coast of Indonesia to the eastern part of Vietnam. The distance from the north to the south is about 1,800 kilometres, while from the east to the west it is approximately 900 kilometres. The South China Sea contains over 250 small islands, atolls, cays, reefs, sandbars androcks, most of which have no indigenous people. They are grouped in four separate entities which are in English and Chinese speaking areas called as follows: *Paracel/Xisha Islands, Spratly/Nansha Islands, Pratas/Dongsha Island, Macclesfield Bank/ZongshaIslands and Scarborough Shoal/Huang Yan*. The islands mentioned above and stacks are situated within the areas which are marked in the sea maps by the coordinates from 3°57' to 21°N (north latitude) and 109°30' to 117°50'E (east latitude). The South China Sea has an extraordinarygeopolitical importance since some significant sea routes go through it connecting the Indian Ocean with South-East Asia including important ports in China, Japan, Korea and Russia (Schofield, 2009). The international sea routes are going through the Malacca and Singapore Straits (between Indonesia, Malaysia and Singapore), the SundaStrait(between the Indonesian islands of Java and Sumatra) crossing each other towards the direction of the Taiwan Strait (between China and Taiwan) or towards the LuzonStrait (between Taiwan and Philippines). It is estimated that half of the trade of East and South-East Asian countries is annually done along these routes.[2] It is believed that there are rich deposits of oil and gas in the seabed of the South China Sea.[3] Based on the preliminary explorations it is estimated that the South China Sea contains one third of the world sea biodiversity.

[2] As an illustration, through the Malacca Strait three times as many tankers sail as those sailing through the Suez Canal annually, or actually five times as many as those passing through the Panama Canal (UCLMUN, 2012).

[3] According to some estimates, there are 1.1 billion tons of oil in the South China Sea, while according to some Chinese sources there are deposits of 17.7 million tons (as an illustration, Kuwait has some 13 billion tons of oil. As for natural gas reserves the US Energy Information Administration – EIA has estimated that they amount to 25 trillion cube metres, what is equal to the reserves of Qatar. (UCLMUN, 2012).

Map 1: The South China Sea

Source: (UCLMUN, 2012)

The evolution of disputes in the South China Sea

From the historical point of view, until recently, most coastal states of the South China Sea, with the exception of China and Taiwan, only sporadically claimed sovereignty over their sea areas. Thus, China, as the biggest power in the region, has considered the South China Sea 'a natural sphere of its interests' (Neuman, 2012).

In the latest Chinese historiography the South China Sea area has beenmentioned as the territory which had served various Chinese dynasties to collect tributes all until the 3rd century A.D. when the area was taken over by 'the barbarians from the south seas'. The term 'South Sea' *(NanHai)* was mentioned in the book 'Classic of Poetry' (Shi Jing), which had been published in the period from 475-221 B.C. (Shen, 2002). At the time when the Jin and Han dynasties had ruled (from 618-1279 A.D.) the term 'maritime silk route' through the South China Sea was first mentioned. 'The maritime silk route' was a match for the silk route which passed across the Chinese land all to the coasts of the Mediterranean. The term had been used all until the late period of rule of the Ming dynasty and

the early period of reign of the Qing dynasty (from 1474-1551 A.D.). After the outbreak of the First Opium War between China and Great Britain in 1840 the use of the maritime routes that designated the 'maritime silk route) ceased. In the early 20th century in its sea maps and atlases,China presented the largest part of the South China Sea as a part of its territory. In 1935, China officially announced the delineation line in the South China Sea, which encompassed four groups of islands, and stacks and they are as follows: Paracel/Xisha Islands, Spratly/Nansha Islands, Pratas/Dongsha Island, Macclesfield Bank/ZongshaIslands and Scarborough Shoal/Huang Yan.After World War II referring to the Cairo Declaration and the Potsdam Proclamation of the Allies China reclaimed rights over the Paracel/Xisha and Spratly/Nansha Islands, which had been occupied by Japan. No coastal state in the South China Sea reacted to the Japanese dereliction and in order to establish effective control China sent troop shipments, which set stone border markerson the Young Xing/Woody Islands, the Paracel/Xisha Islands as well as on Tai Ping/Itu Aba. In 1947, the Chinese Government internally distributed the sea atlas, which contained the borders of the Chinese territory that were drawn with eleven dotted lines in the area of the South China Sea. That same year the Ministry of Internal Affairs of China published the list of 172 Chinese islands in Chinese and English languages. In May 1949, the four groups of islands mentioned above were already brought under control of the Henan district within GuangdongProvince in China.

After gaining its independence in 1946 thePhilippines started to show its aspirations towards the establishment of a new balance of powers in theSouth China Sea. As early as in 1949 the small islands in the Spratly/Nansha archipelago were claimed by thePhilippines. China responded by issuing a statement repeating the claims of Chinese Minister of Foreign Affairs Zhou Enlai of August 1951 saying that the Xisha, Nansha, Dongsha and Zongsha Islands were 'an inherent part of the Chinese territory' which Japan had returned to the Chinese control after it had unconditionally surrendered after the end of World War II.

With warming up of China-Vietnam relations in 1953,China had deleted two out of eleven dotted borderlines in its sea maps and sea atlases. Since that moment, the Chinese territorial positioning in the South China Sea encompassed the territory that was marked with a 'nine-dash line'. According to the Chinese point of view the delimitation with a 'nine-dash line' was based on the codified international law, but also on the rules that remained beyond the official codification of the 1982 Convention on the Law of the Sea. This includes customary rules resulting from discoveries, occupation and 'historical rights' over territories (Zhiguo, Bing Bing, 2013; Jinming, Dexia, 2003, pp. 287-295).

In order to consolidate its population on 4 September 1958 China unilaterally proclaimed the Declaration on China's TerritorialSea, thus confirming its sovereignty over the mentioned groups of islands in the South China Sea. For the purpose of implementing the provisions of the 1982 Convention on the Law of

the Sea on 7 July 1996, China deposited the instrument of ratification to the United Nations. The instrument confirmed the sovereign rights over the islands and archipelagos which were included in the Chinese Law on TerritorialSea and Continental Shelf that was adopted on 25 February 1992. Thus, China, included in its sea area, *inter alia*, Xisha, Nansha, Dongsha and ZongshaIslands. For the purpose of affirmation of its sovereign rights over the sea, underwater and underground which encircling the islands mentioned above, on 26 June 1998 China also promulgated the Law on Exclusive Economic Zone and Continental Shelf, which was denied by the coastal states and especially by Vietnam that issued official protest (Hong Thao, 1998, p. 21).

In the analysis, it is significant to note that since the late 1960s big deposits of oil and gas have been discovered in the South China Sea area. This made the Philippines claim the KalayaanIslands and the western sector of the Spratly/Nansha Islands. AfterVietnam had occupied the group of the Paracel/Xisha Islands together with dozen of islands from the group of Spratly/Nansha Islands China responded by using force. After a short war in 1974, it managed to bring back these islands under its control.[4] By signing the Agreement on Delimitation Boundary of Maritime Territorial Sea, Exclusive Economic Zones and Continental Shelf in the Bac Bo Gulf/Tonkin Gulf on 25 December 2000, the two parties regulated their open border issues and problems of fishing rights(Keyuan, 2005, p. 13).

In the latest period, the disputes between the coastal states of the South China Sea have been intensified. Actually, a true 'verbal war' started between China, on one side, and the other coastal states, on the other.

On 6 May 2009,Malaysia and Vietnam had jointly submitted a request to the Commission on Limits of Continental Shelf. A day after attaching the sea map of the South China Sea with the 'nine-dash line' borderChina reacted severely by delivering a verbal note against the unilateral expansion of their continental shelves up to 200 nautical miles in width. China emphasised that by taking the act its sovereignty over the islands was violated including its rights in the seabed and underwater. Then Vietnam responded that it had sovereign rights over the HoangSeIslands, the Paracel/Xisha Islands as well as over the Truong Sa Islands and the Spratly/Nansha Islands.

Malaysia also responded to the Chinese verbal note in the way that it stated on 20 May 2009 that its request it had jointly submitted with Vietnam did not prejudice drawing of the border between the continental shelves of the neighbouring states. However, Malaysia submitted territorial claims similar to those of Vietnam, which concerned the parts of the Spratly/Nansha Islands.

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[4] Until 2004, Vietnam took over by force 29 islands from the group of Spratly/Nansha Islands (Zhiguo, 1994, pp. 345–348).

The Philippines soon joined the debate mentioned above by making a conclusion on 18 August 2009 that the territorial claims of Malaysia and Vietnam were groundless.

In July 2010,Indonesia delivered a verbal note to the United Nations emphasising that the Chinese 'nine-dash line' sea map was unfounded in international law.

Then, in April 2011 responding to the Chinese note delivered in 2009 the Philippines openly claimed sovereignty over the Kalayaan Islands and relevant sea shelves in accordance with the 1982 UN Convention on the Law of the Sea. At the same time it denied China enjoying of sovereign and jurisdiction rights in the undersea areas and underground within the 'nine-dash line' territory. China responded to the citations mentioned above by delivering a new verbal note on 14 April 2011 rejecting all claims made by the Philippines considering them veryunacceptable from the aspect of historical facts and legal arguments. China pointed out that no instrument of agreement regulating the borders of the Philippines had included the KalayaanIslands within its territory. Those islands were a part of the Spratly/Nansha Islands, which belonged to China, while the invasion and occupation, which had been carried out by the Philippines in the 1970s, was a violation of the Chinese sovereignty that had been publicly proclaimed forty years before. In early May 2011,Vietnam responded to China and the Philippines by delivering a verbal note reaffirming its rights over the Paracel/Xisha and Spratly/Nansha Islands (Zhiguo, Bing Bing, 2013, pp. 105-108).

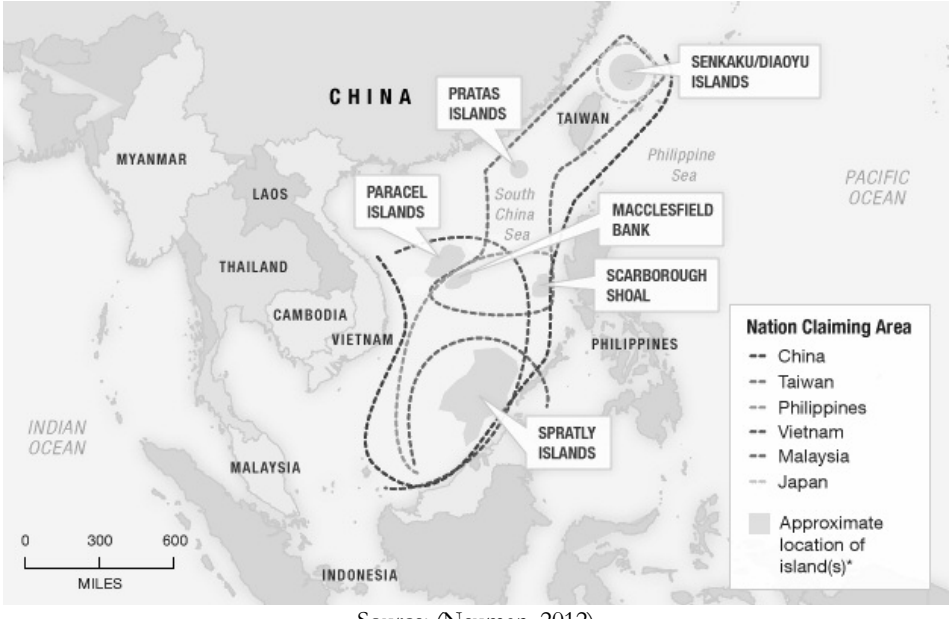
Territorial claims of coastal states and a possibility of implementation of international law in settlement of disputes in the South China Sea

Based on the considerations mentioned above it is clear that the disputes in the South China Seaarelong historical phenomena, which escalated with the development of international relations and international law. In the 20th century, the world was taken by surprise by the dialectics of changes that were characterised by the lasting antagonism of individual and general interests. The South China Sea area reflects itself a reality since it is in this area that individual territorial claims of the coastal states overlap as well as the needs for the development of regional co-operation. Within the context of exercising the state sovereigntyover the sea area the two coastal states, China and Taiwan, have made their maximalist claims for the islands and stacks in the South China Sea and these are as follows: Paracel/Xisha Islands, Spratly/Nansha Islands, Pratas/Dongsha Island, Macclesfield Bank/Zongsha Islands and Scarborough Shoal/Huang Yan.[5]

[5] China claims sovereignty over the Pratas/Dongsha Island which is under the Taiwanese rule.

On the other hand, however, the territorial claims mentioned above are opposed to the claims of other coastal states of the South China Sea. In this way, Vietnamclaims the Hoang Sa (Paracel/Xisha) Island, then the Truong Sa (Spratly/Nansha) Islands and the Macclesfield Bank/Zongsha Islands. The Philippines claims sovereignty over the western sector of the Spratly/Nansha Islands, which it calls the KalayaanIslands. Malaysia has some similar claims, which include the parts of the Macclesfield Bank/Zongsha Islands and the Scarborough Shoal/Huang Yan sandbank. Brunei claims the parts of the Spratly/Nansha Islands which are situated in the vicinity of its coast (Dupy, 2013, p. 125). The overlapping territorial claims mentioned above do not include only the islands and stacks but also some sea areas around those islands such as exclusive economic zones and continental shelves.

Map 2: Disputed territories in the South China Sea



Source: (Neuman, 2012)

We have already mentioned that the Chinese territorial claims include the unilaterally drawn 'nine-dash line' border. According to China, this border is founded on international law and above all,on therules of customary law which include the acquired 'historical rights'. China takes as a starting point the fact that it had acquired before other coastal states the historical title for the islands and sea areas in the South China Sea. China derives the sovereignty over the islands and

stacks from the rules of traditional international law which regulates acquiring of territories on the basis of discovery, peaceful occupation and prescription. If one assumes the hypothesis that in the past, China was the first that discovered the islands and sea areas mentioned above, then it is not quite clear whether China has managed to expand its sovereignty over all islands and sea areas in the South China Sea which until then belonged to no other state (*terra nullius*)? Although it is not disputable that by the 'nine-dash line' border China publicly notified that it intended to beowner (*animus domini*) of the islands and sea areas in the South China Sea, it is disputable whether it fulfilled the second condition which is required by international law and this includes peaceful, continuous and effective exercise of power over the occupied territory?[6] This even more, because for the change in the level of the South China Sea (hide tide and ebb tide) and the inaccessibility resulting from the configuration of the coast exercising of effective power over some islands and stacks by any state is factually not possible to achieve in any way but through the adoption of symbolic state legal acts.

Concerning what has been said above there is also an open issue of public exercise of authority *(à titre de souverain)* over the islands on the basis of prescription. The factual state of affairs, which has been established by prescription or acquisition of the right of ownership, could be consolidated only if it is established that China has exercised peaceful and effective power over time, which has not been expressly denied or hindered by the other coastal states.[7] The evidence on tacit or implicitacquiescence of exercising effective power over the islands and stacks or actually the sea areas as well as the recognition of the unilaterally proclaimed sovereignty based on discoveries, occupation or prescription would be an evidence for China on convalescence of its territorial claims in the South China Sea. However, this has not been the case so far.

Also, the Chinese territorial claims based on discoveries, occupation or prescription or actually on the acquired 'historical rights' are not compatible with the

[6] As for the dispute over the Palmas Island between the United States of America and The Netherlands in 1928, famous judge May Huber pointed out that … 'Acquisition of title to territory in international law is based on the conception of effectivity whose core lies in the lasting power which has been established peacefully. At the same time, effectiveness is an integral part of territorial sovereignty and the condition to be fulfilled for the establishment of an independent state. Before the establishment of international law, borders had been defined on the basis of exercise of territorial power. After the establishment of international law, the fact of peaceful and continuous display of territorial sovereignty was and still is one of the reasons for defining international borders' (Island of Palmas Case, 1928, p. 867). In several cases, the International Court of Justice has confirmed the relevance of effectivity. For example, in the French-British dispute on determining which party was the owner of the Minquires-Ecrehos canal islands the Court found that the British effectivity was the basis for ownership since the Middle Ages. (Minquiers and Ecrehos Case, 1953, pp. 47-72).

[7] Land, Island and Maritime Frontier Case, 1992, p. 351.

implementation of the codified rules of the UN Convention on the Law of the Sea (UNCLOS). This does not mean that China has renounced their implementation but on the contrary, the rules from the Convention are applicable in parallel with the customary rules in international legal practice. For China, the 'nine-dash line' means confirmation of its 'historical title' concerning fishing, navigation, exploration and exploitation of natural resources, by which China does not prejudice the final delineation in the South China Sea (Zhiguo, Bing Bing,, 2013, p. 124). The approach mentioned above has, as has already been said, brought about confusion and mutual disputes and incidents which occur not so seldom.

Most claims made by the coastal states of the South China Sea are based on the provisions of the UN Convention on the Law of the Sea. According to the provision of Article 2 of the Convention, the sovereignty of a coastal State extends, beyond its land territory and internal waters, to an adjacent belt of sea, described as the territorial sea, and then, this sovereignty extends to the air space over the territorial sea aswell as to its bed and subsoil.[8] The adopted solution confirms that sovereignty over sea areas depends on sovereignty over land, according to which sea is its part or accessorium *(mare estejus, cujusest terra)*. At the same time, this is the international legal foundation upon which all claims of coastal states for defining of states borders are based. Since parties to the dispute, which have made their claims, have not specified what stacks in the South China Sea they regard as island or natural parts of their land in accordance with the provisions of Article 121 of the Convention and what they regard as other kinds of sea forms (for example, rocks, cliffs, riffs or elevations that remain dry during the low waters, etc.) the borders of their sea shelves keep on being unclearly limited. This is even more, because rocks and other stacks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf. The establishment of sovereignty over islands is therefore, a preceding legal question in delimitation (Beckman, 2013, p. 150; Smith, 2010, p. 227). Concerning the things that have been mentioned above it is important to note that according to the Convention there are special rules regulating the rights of archipelagic states. Actually, by their interpretation one could conclude that the general rule of the codified law of the sea could not be applied to the archipelagic states of the South China Sea (Taiwan, the Philippines,

[8] Sovereignty over the territorial sea is yet limited by the rule on the right of innocent passage through the territorial sea. According to the international law codified by the 1982 UN Convention on the Law of the Sea ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea for traversing, proceeding to and from internal waters, this also including stopping and anchoring but only in exceptional cases. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. The legal regime of the territorial sea must be in conformity with the Convention and the so called right of innocent passage.

Indonesia) and the power of coastal states reduces successfully in every next lane going from land to high seas. Sovereignty of archipelagic states over the sea area, which is called 'archipelagic sea' in the Convention, together with sovereignty over land makes the territory of the archipelagic state.[9] The conception of 'archipelagic state', which is incorporated in the provisions of the Chapter IV of the UN Convention on the Law of the Sea, emerged as a result of the progressive development of international law in the 20th century. It includes states constituted wholly by one or more archipelagos and may include other islands, by which 'archipelago' means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

The collision of territorial claims of China (and Taiwan) on one side, and of other coastal states, on the other, points to the fact that as basis of international law of the sea the UN Convention on the Law of the Sea can serve as an appropriate framework for the regulation of the open territorial issues in the South China Sea. However, the particular way of their settlement will depend on the agreement of the parties concerned, what does not exclude the possibility of applying the rules of general international law, which are also contained in other documents besides the Convention mentioned above. They are generally mentioned in Article 38 of the Statute of the International Court of Justice in The Hague (Oda, 1969, pp. 373-401). Until some concrete agreement is reached, the parties to the disputes can make additional efforts in the spirit of understanding and co-operation in order to reach temporary arrangements that would be practical and would imply the so-called joint development arrangements.[10]

The impact of disputes in the South China Sea on regional security

The territorial disputes in the South China Seaare related to the fight for natural resources. The existing political ferments are an unavoidable consequence of 'the

[9] Sovereignty over the archipelagic sea is considerably more limited than sovereignty over the territorial sea. Here, the right of innocent passage is extended to warships of foreign states, then to the possibility of defining the navigation routes (as well as air routes), then the possibility of establishing special systems of separate traffic (with the agreement of the International Maritime Organization) where analogous rules are applied on transit passage through international straits as well as some rights of the neighbouring states.

[10] According to the 1982 UN Convention on the Law of the Sea for the delineation of continental shelves and exclusive economic zones the neighbouring states are obliged in parallel to fulfil some obligations, which should, within a reasonable deadline, reach a particular agreement or at least a temporary practical agreement without detriment to the final drawing of borders on the sea. (Davenport, 2011, p. 7).

Asian industrial revolution' (Rosenberg, 2010). According to the data of the *World Bank*, there are at least 9 billion barrels of oil in South China Sea and about 900 trillion cube feet of natural gas, what creates undreamed-of possibilities for the economic development of small states such as Malaysia, the Philippines and Vietnam, while for China, too, the deposits of oil quite certainly mean a secure energy future. However, in spite of the fact that the coastal states are above all, most interested in the settlement of the territorial disputes, the possibilities of exploitation of some of numerous resources in the South China Sea have not passed unnoticed by some big world powers. For this fact, the participation of big powers in the settlement of the territorial disputes in the South China Sea is imposed as 'a natural necessity', although, at first sight, big powers have not direct interests because they are not parties to the dispute. This is supported by the fact that by its protector role and engagement in the defence alliances which were created after World War II with some states that have been involved in the disputes the United States of America has decided to build a quite new network of partnerships in order to avert China. This is because it dislikes its increasingly prominent influence in the world since it is an obstacle for achieving the US strategic interests.[11]

The United States of America defined its policy towards the existing disputes in the South China Sea in the mid-1990s (Neuman, 2012). The framework of this policy included peaceful settlement of disputes, respect of international law, ensuring of free navigation, neutrality as well as peace and stability. In 2010, as a response to more and more frequent conflicts of the parties to the disputes (for example, the conflict between Vietnam and China for the exploitation of oil and gas, then the conflict for the fishing in the Paracel/Xisha waters, the dispute on the unilateral drawing of the 'nine-dash line' border, etc.) the United States announced the implementation of a new, improved policy in East Asia.[12] Simultaneously with the new foreign policy approach, the United States of America has strengthenedits military presence in the region by making stronger the alliance relations with the Philippines and Vietnam, thus encouraging these countries in achieving their territorial aspirations. Formulating its interests in the region by offering assistance to its allies and by controlling the most important and the most frequent sea routes the United States of America has made it clear that the Chinese foreign policy undermines the American influence in the region (for example, in case of Vietnam) and that it does not take a benevolent position to

[11] In 1951, the United States of America concluded the Mutual Defense Treaty with Japan, South Korea and with the Philippines (Lum, 2012).

[12] Taking part in the regional forum of ASEAN member states Secretary of State, Hillary Clinton announced that in the forthcoming period the United States of America would shift its focus from the Middle East to the Far East and that it would impartially support a peaceful settlement of the existing disputes, with no coercion and under the auspices of multilateral fora (Bower, 2010).

the outstandingly pragmatic Chinese foreign policy which endeavours to settle all open territorial issues bilaterally.[13]

For China, the influence of the United States of America in the South China Sea region is a factor of instability. According to the Chinese point of view, the American military presence and strengthening of the alliances with the states in the region (with the Philippines and Vietnam) is the continuance of the previous policy of 'subduing' China. By the approach mentioned above, the United States of America strives towards limiting further economic prosperity of China by exerting a direct political influence and interfering in its internal affairs, considerably influencing its trade with the countries in the region. By all this, it ignores the fact that China is a regional rising power whose 'soft power' is increasingly turning into 'hard power' on a daily basis. Under the conditions mentioned above, it cannot be expected that China will take an indifferent position on the protection of its vital interests, which certainly includethe protection of sovereignty over the island areas in the South China Sea. Its policy of competition with the United States of America in this regionis based on the knowledge that the USA does not ignore the fact that China has a significant influence on the world economic trends and that its political influence is constantly growing in international relations. Also, China's influence in the most important international organisations and regional fora is not negligible, and it seems especially dangerous for the protection of the American interests, which were established after World War II, and especially under the conditions when the United States of America lacks economic potential for a long-term and more powerful military engagement in the region. China possesses the largest army in the world and it continuously invests in the development of the space programme.[14] The results of the investment are reflected in the application of the latest technologies in the military and defence industry.[15] China strengthens its influence in the region and in the world, too, in a subtle way – through various kinds of assistance and support, which are not a blind for a conditionality policy. Maybe the best illustration for this was the statement of Xi Jinping at the time when he had not yet taken the post of President of the Communist Party of China. During his visit to Mexico in 2009, Jinping regarded the growing concern over the rising Chinese power saying the following: 'China does not, first, export revolution; second, export poverty and hunger; or third, cause unnecessary trouble for you' (*China Daily*, 29.11.2012). By

[13] In 2011, Vietnam and China signed *the Agreement on Basic Principles for the Settlement of Border Territory Issues between the Socialist Republic of Vietnam and the People's Republic of China (1993*) (Vietnamplus, 12.10.2011).

[14] According to the data presented by SIPRI, in 2000, China's military budget had amounted to $30 billion, while in 2012, it amounted to $160 billion. (*Economist,* 7.4.2012).

[15] For example, China possesses Dong Feng 2ID missiles, which are popularly called 'carrier killers'. (Office of the Secretary of Defense, 2012).

broadening of the network of states which are willing to co-operate, then by acquiring their support for resolving of open issues, by the consolidation of co-operation with the leadership of Taiwan in resolving the territorial disputes, by permanent insisting on the implementation and respect of principles of international law China's position in the world is progressively becoming stronger.

Although China suffered a lot from its political opponents, which consider that after a long time of 'smile diplomacy' it has started to use its superior military and economic power for achieving of its strategic targets, it has remained determined to keep on pursuing the way of peace, development and co-operation which is not only in its interests but also in the interests of the states in the region. In this way, its approach is substantially different from the approach of some other great powers. China's encroaching on the exclusive economic zones and continental shelves of the neighbouring states which undermines the cohesiveness of ten member states of the Association of the Southeast Asian Nations (ASEAN) could be observed as the accelerated positioning of this state as the leading country in Asia.[16] This is even more, because China, too, considers itself a dominant regional power of the Eastern hemisphere. In this regard, it reminds a lot of the United States of America which, during the rule of American President James Monroe and his famous foreign policy doctrine from 1823, proclaimed itself the leading power of the Western hemisphere. The Chinese wish to achieve domination in the South China Sea region is primarily founded on economic reasons. Regarding the expansion of the Chinese economy, which is followed by the increasing consumption of sources of energy, China's efforts to achieve its territorial claims are politically understandable. Finally, in spite of the fact that the United States of America has remained the most powerful world power after the end of the Cold War period, China has certainly become its biggest political rival, but also its creditor in the field of global finances.[17]

Instead of a conclusion

All the disputes mentioned above point to the fact that achieving of the regional stability in the South China Sea has become too much a big and difficult task. The settlement of the territorial disputes is *per se*, the issue of the greatest

[16] China as a regional power, which has direct territorial claims in the states to which the United States of America offers its assistance, makes great efforts to shows that it advocates reaching of a solution that would be in accordance with international law and would considerably contribute to peace and security in Asia. By all this, China also demonstrates its growing power in the routine operations of limiting the freedom of navigation to warships of other states and freedom of flight of their reconnoitring planes in the disputed areas (Cronin, Dubel, 2013, p. 6).

[17] China possesses the biggest financial reserves in the world and the most of these reserves are American securities. (Van Ness, 2013).

significance for the security of South East Asia. The settlement of the dispute over the sovereignty of the disputed islands and of the delimitation of the sea shelves in the South China Sea would not only make resolve an open territorial issue between China and Taiwan, on one side, and Brunei, Malaysia, the Philippines and Vietnam, on the other, but it would resolve numerous and accumulated problems of the exploitation of fishing and mineral resources and sources of oil and gas, whatexerts a direct impact on the regional stability. Therefore, judging by all things, the resolution of the open issues in the South China Sea should be done as soon as possible through consultations and with the agreement of the parties concerned. This would particularly mean that in establishing the sea border the wills of the parties to the dispute should be considered, which should be manifested in reaching of an agreement by which the states concerned would be free to draw the delineation lines of their exclusive economic zones and continental shelves in the South China Sea on the basis of the rules of international law. If in drawing of borders between them the states assumed the basic rule according to which land prevails over sea, then they would be free to point to the criteria that should be applied in the delineation of the inherent sea areas. Actually, this would mean that the parties to the dispute would be obliged to establish all relevant facts based on the international law which is codified by the 1982 United Nations Convention on the Law of the Sea that offers a basis for drawing of borders in the South China Sea. Apart from what has been said above, the coastal states should comprehensively consider all principles and rules of customary international law which is not included in the Convention mentioned above. The international law of the sea provides the application of the equidistance principle and various 'just principles' of delineation (for example, delineations based on 'historically acquired rights' or thosebased on some other particular conditions such as geographic configuration, geomorphological and geological factors of the seabed and underworld, economic factors, political and security factors, environment, presence of third states, etc.). In the near future, the states concerned should make more efforts in order to reach a solution on the sovereignty over the disputed islands by negotiations. If they do not reach an agreement on the delineation and sovereignty over the disputed islands, the states should resort to applying one of the procedures for the peaceful settlement of disputes provided by the Charter XV of the 1982 United Nations Convention on the Law of the Sea. Each state could present the dispute to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration.

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Duško DIMITRIJEVIĆ, P.h.D.

TERITORIJALNI SPOROVI U JUŽNOM KINESKOM MORU I REGIONALNA BEZBEDNOST

Apstrakt: Područje Južnog kineskog mora, poslednjih godina, sve više potresaju teritorijalne razmirice između Kine i Tajvana s jedne, i Bruneja, Malezije, Filipina i Vijetnama sa druge strane. Ove razmirice predstavljaju uzrok nemira koji ugrožava mir i bezbednost u jugoistočnoj Aziji. Teritorije oko kojih se navedene države međusobno spore obuhvataju ostrva Spratli, Parasel i Prata, te sprud Maklesfild. Iako se konkretne okolnosti u vezi teritorijalnih sporova razlikuju, sve države u njima vide šansu za osiguranjem svojih ekonomskih interesa u globalnoj utakmici za prirodnim resursima, pre svega u oblasti energetike i ribarstva. Pošto se teritorijalni sporovi tiču pitanja državnog suvereniteta koje je po pravilu vezano sa psihološkim činiocima (nacionalističkim osećanjima i dostojanstvom naroda) i istorijskim nasleđem (koje je u ne malom broju slučajeva obojeno teškom kolonijalnom prošlošću), nijedna strana u sporu ne želi da napravi ustupke drugoj strani. To ukazuje da se sporovi neće moći tako lako rešiti i prevazići mirnim putem bez infiltracije spoljnjeg faktora. U studiji autor iznosi međunarodnopravnu analizu sporova u Južnom kineskom moru sa objašnjenjima o njihovom uticaju na regionalnu bezbednost.

Ključne reči: Teritorijalni sporovi, Južno kinesko more, međunarodno pravo mora, UNCLOS, regionalna bezbednost, jugoistočna Azija.

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Review Article

SERBIA AND ITS NEIGHBORS: CONTINUITY OF OLD AND/OR NEW POLICY?[1]

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Abstract: The authors of this paper analyze the progress made in relations with the countries surrounding Serbia – in the regions of South East Europe and the Western Balkans, and upon the formation of the new government of Serbia (27th July 2012). In this regard, they point out the improvement of bilateral relations with the countries of the so-called old neighborhood (Hungary, Romania, Bulgaria, Italy, Albania and Greece), as well as the 'new' neighbors (Macedonia, Montenegro, Bosnia and Herzegovina and Croatia). Therefore, the authors emphasize that it is not only the continuity of the policy of improving relations in the region, but some concrete actions to advance a good-neighborly relations have been taken as well.

According to the authors resolution of many accumulated problems with neighbors will result in acceleration of the process of European integration of Serbia and the rest of the Western Balkans. This will prove to be a significant benefit to citizens of all countries in this part of Europe. Serbia has thus positioned itself as a reliable regional partner for its immediate environment, as well as to the leading factors of world politics, the authors conclude.

Key words: Serbia, neighbors, bilateral relations, Hungary, Romania, Bulgaria, Albania, Macedonia, Montenegro, Bosnia and Herzegovina, Croatia

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Introduction

Over the past decade Serbia has faced with the necessity of resolving many outstanding issues in its immediate neighborhood (Đukanović, 2008, pp. 85-105). These problems have represented the results of conflicts in the former Socialist Federal Republic of Yugoslavia, as well as almost a decade of international isolation. Redefining its status of a country in the Western Balkans and Eastern Europe did not go easy. On the contrary, the consequences of the Yugoslav wars have left unresolved a number of aspects of life of the citizens of Serbia and emerged countries.

However, over the past decade a gradual stabilization of the situation in South East Europe and the Western Balkans took place, followed by accelerated integration of the countries in this part of Europe in the Euro-Atlantic integration (Đukanović, 2009, pp. 497-508). Firstly, Hungary, Romania and Bulgaria become new member states of the European Union in 2004 and 2007, which has drastically changed the geo-strategic importance and position of Serbia and the other countries of the region. Croatia has been the most successful in the process of all the post-Yugoslav states, accessing to the European Union on July 1st 2013. Montenegro and Serbia have accelerated the process of joining the EU, while Macedonia, Bosnia and Herzegovina and Albania are significantly behind (Đukanović, 2011, pp. 225-236).

– Political elite from the October 5th onwards gave much importance to the improvement of relations with the 'new' and 'old' neighbors (Miljuš, Đukanović, 2011, pp. 178-181). In this sense, at least two periods could be identified. The first period falls between October 5th 2000 and the beginning of negotiations on Kosovo's status in end of 2005. In this phase, Serbia then a part of the State Union of Serbia and Montenegro, established full diplomatic relations with all countries in the region and concluded a number of bilateral agreements. The second period, which is related to the placement of the Kosovo issue to the forefront of foreign policy activities of Serbia, started at the end of 2005 and lasted until mid-2012. During this period, Kosovo unilaterally declared independence from Serbia (in 2008), a considerable number of states recognized this act. Serbia's response to these circumstances showed a different conduct toward countries in the region. While relations with Croatia, Albania, Bulgaria and Hungary, which have all recognized Kosovo's independence, were only temporarily frozen at this stage, diplomats from Montenegro and Macedonia were proclaimed *non grata* in Belgrade. During this time Serbia failed to get a positive advisory opinion of the International Court of Justice on the illegality of the act of declaration of Kosovo's independence, which essentially added to weakening of capacity of the country's foreign policy.

Therefore, the new government of the Republic of Serbia, formed on July 27th 2012 was forced to find different responses related to foreign policy positioning towards the countries of the region, the European Union and global actors.[5] In this sense, there some progress has been made; firstly relations were improved with the old neighbors (Hungary, Bulgaria and Romania), and then with some of the new (Macedonia and Montenegro). On the other hand, relations between Serbia and Croatia were initially quite 'chilly' until the last few months when both countries showed their readiness to improve their mutual relations. Similarly, in the relations between Serbia and Bosnia and Herzegovina, there has been a symbolic, yet noticeable move towards.

Important to point out, Serbia has managed to intensify relations with the Federal Republic of Germany, which is significant given the role and place of latter in the European Union (Radio-televizija Srbije, 2013a). Furthermore, over the past year Serbia's relations with the United States improved to a certain extent, after the visit of the former U.S. Secretary of State, Mrs. Hillary Clinton to Belgrade on October 30th 2012 (Simić, 2012). In this way, the gradually changed concept of foreign policy of the country can be deemed more realistic than in the past, having in mind the well balanced liaison Serbia-Washington-Moscow-Brussels-Beijing.

Serbia and the Old Neighborhood – Detection and Removal of Problems and Promotion of Cooperation

Serbia, like most states formed on the territory the former Yugoslavia, has over the past decade had some problems with the 'old' neighbors.[6] In this sense, Serbia has had very poor bilateral relations with Albania; much better with Hungary, Romania and Bulgaria. However, these countries have joined the North Atlantic Treaty Organization (NATO) over the past decade, and with the exception of Albania, the European Union. This has changed the situation in the region and contributed to the stabilization of the political and security situation in South East Europe. At the same time, Serbia has collaborated extensively with the old neighbours trough the regional initiatives, giving encouragement to better climate of understanding and cooperation in this part of Europe.

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[5] Upon last year's parliamentary election (May 6th 2012), new ruling elite was introduced in Serbia comprising of Serbian Progressive Party, Socialist Party of Serbia, United Regions of Serbia, Social Democratic Party of Serbia, and Party of Democratic Action. Tomislav Nikolić, candidate of Serbian Progressive Party and its coalition partners, won the second round of the presidential elections (May 20th 2012).

[6] The old neighbors include countries bordering the Socialist Federal Republic of Yugoslavia – Italy, Austria, Bulgaria, Romania, Hungary, Albania, and Greece.

In the past, problems in relations between Serbia and *Hungary* have been mainly relating to the firmness of the authorities in Budapest to establish all the facts about the suffering of Hungarians in Vojvodina after the end of the World War II. The official Budapest insisted on the return of the property to its pre-war owners of Hungarian nationality in Vojvodina, regardless whether they have been convicted for crimes committed against non-Hungarians. At the same time, Hungary indicated support for the official Belgrade in respect to Serbia's membership in the European Union. Moreover, the issue of the status of Hungarians living in the Autonomous Province of Vojvodina and broader Serbia has not added significantly to deterioration of bilateral relations, despite the occasional inter-ethnic incidents. Hungary though has stated its opposition towards the abolition or reduction of the scope of the autonomy of Vojvodina after last year's change of government in Belgrade. (Vesti, 2012) However, Hungary according to their officials sees Serbia as one of the most important partners in the southeast of Europe and therefore supports its European integration. Significant progress is visible over the past year in the negotiations on cooperation between Hungary and Serbia in the fields of tourism, infrastructure and culture.

Given the resolve of Hungary to determine the facts of the suffering of the Hungarians in Vojvodina after 1944, a mixed Hungarian-Serbian group of experts and historians was formed to deal with this issue in February 2011. The National Assembly of Serbia adopted a special declaration on June 21st 2013 expressing condemnation of indiscriminate retaliation against the Hungarians in Vojvodina between 1944 and 1945. (Narodna skupština Republike Srbije, 2013) This document specifically condemned the introduction of the principle of collective guilt of Hungarians in some municipalities of Bačka (settlements of Žabalj, Čurug and Mošorin) for crimes committed by representatives of the occupying Hungarian forces. Adoption of the abovementioned declaration was welcomed in Budapest, and the President of Serbia, Mr. Tomislav Nikolić, and the President of the Republic of Hungary, Mr. János Áder have jointly visited the monument to Hungarian victims in Čurug on June 26th this year (Radio televizija Vojvodine, 2013).

Serbia and Romania had very good bilateral relations by 2012 when the official Bucharest tried to block granting Serbia the status of candidate for membership in the European Union (Aljazeera Balkans, 2012). The reason, as quoted by the government officials in Romania, had been inadequate treatment of Vlach minority living in the eastern part of Serbia and down the banks of Morava River. However, due to insistence of Germany this problem was successfully resolved by granting candidate status to Serbia, nevertheless the issues related to the position of Vlachs in Serbia remain to burden the relations between the two countries. The new Serbian government is trying to improve the status of the community in some aspects (cultural rights), but holds that Bucharest's pressing on this issue is not desirable.

An additional problem, however, may represent the fact that the number of Vlachs in Serbia according to the 2011 census decreased significantly in comparison to census held nine years earlier. There are 35,330 members of the Vlach community now and the previous census counted 40,054 (Makroekonomija (2013a). In addition, the relationship between the Serbian Orthodox Church and the Romanian Orthodox Church is burdened with the problem related to holding service in Romanian language in Vlach and Romanian communities, which is often emphasized by the official Bucharest. On the other hand, Romania evidently supports Serbia's European path, and is together with Greece the state of the old neighborhood which did not recognize the unilateral declaration of independence of Kosovo in 2008.

Given the scale and consequences of the economic crisis in Romania and the focus of the current government on turbulent political spectrum, it is not realistic to expect that the issue of the status of the Vlachs in Serbia will be found at the top of the agenda of the foreign policy priorities of Romania.

Relations between Serbia and Bulgaria have not experienced significant changes over the past year of the term of the new Serbian government. There has been some progress in the cooperation in the field of internal affairs, and there are plans for joint infrastructure projects in the future. However, the relationship between Sofia and Belgrade are latently loaded with the problem of the status of the Bulgarian ethnic communities in southeastern Serbia, namely in the municipalities of Dimitrovgrad and Bosilegrad. At the same time, the number of members of the Bulgarian minority in Serbia decreased from 20,279 (2002) to 18,543 in the census of 2011 (Makroekonomija, 2013b). Reason can be found in economic migration of Bulgarian population of Bosilegrad and Dimitrovgrad to their home country. Bulgarians are provided with all cultural rights in Serbia and the two municipalities in which they represent an ethnic Majority, but there is an issue of the relations of the Serbian Orthodox Church and the Bulgarian Orthodox Church in the said areas.

After the spring parliamentary elections new government was established in Bulgaria, which unlike the previous one led by the nationalist *Gerb* of the former Prime Minister Boiko Borisov *(Бойко Борисов)*, is not preoccupied with the status of Bulgarian diaspora. In this respect, one can expect the official Sophia to press for fully implementation of the constitutional and legal framework in relation to the position of minorities, and thus the Bulgarians in Serbia.

Relations between Serbia and Albania have been since the eighties of the last century burdened by the differences in visions of Kosovo status and there settled Albanians. However, it is evident that the Serbs in Albania are insufficiently exercising their collective rights. In addition, certain statements of Mr. Sali Berisha, Albanian Prime Minister, on the creation of the Great Albania and the unification of ethnic areas settled by Albanians in the Balkans do create some tensions.

(Tanjug, 2012) In conversation with the Serbian Foreign Minister, Mr. Ivan Mrkić, on October 23rd 2012, Mr. Sali Berisha said that both countries can work together towards the European Union, and that cultural, educational, and economic and tourism cooperation could be developed between the two countries (Akter magazin, 2013b).

As for the other countries of the old neighborhood of the SFR Yugoslavia, Serbia has maintained a decades-long good relation with Greece. However, the statement of Mr. Tomislav Nikolić given to the Macedonian media about two decades long dispute between Greece and Macedonia over the name Macedonia, and the support stated to this former Yugoslav republic, has prompted reactions from the Greek Ministry of Foreign Affairs (Beta, October 25th 2012). Nevertheless Nikolić's visit to Athens and the meeting with Mr. Karolos Papoulias, President of Greece on November 10th 2012, contributed to quick overcoming of the misunderstanding, and which was confirmed by Mr. Papoulias' visit to Belgrade on June 19th this year. Serbia has managed to promote bilateral cooperation and relations with Italy and Austria as well. When it comes to Italy, this country made very large investments in the field of economy (automotive industry – *Fiat* in Kragujevac), and the progress in the field of cultural cooperation and the fight against organized crime is rather significant.

Serbia and the New Neighborhood - the Legacy of War, Stabilization, European Integration...

Except the issue of succession of property of the Former Socialist Federal Republic of Yugoslavia, no other issue is open on a bilateral level with Slovenia, the only Yugoslav republic that Serbia never shared a border with. Moreover, there is a significant portion of the country's investments in Serbian economy (estimates are about a billion and a half Euros) (RTV B92. 2013).

After the establishing of the new Government of the Republic of Serbia relations with neighboring Macedonia have improved particularly. During the visit of Serbian President to Macedonia at the end of October 2012, it was stated that the all outstanding issues between the two countries will soon be resolved. (Dnevnik, 2012) Presidents of Serbia and Macedonia, Mr. Tomislav Nikolić and Mr. Djordje Ivanov (Ѓорге Иванов), offered their mediation in resolving problems that exist between the Macedonian Orthodox and Serbian Orthodox Church.[7]

The President Nikolić attended the celebration of the centenary of the Battle of Kumanovo, however the ruling VMRO-DPMNE party officially stated that it

[7] Dnevnik, 2012, quot: 'The two presidents called for dialog between the SOC and the MOC in order to settle the dispute between the two religious communities, and added that they themselves in their presidential capacities will help bring this process to succes.'

had not been ready to support this event, but it had been allowed in 'spirit of Europe'. (Mondo, 2012) In fact, this political party believes that the military actions of the Army of the Kingdom of Serbia on the territory of Macedonia in 1912 represented 'occupation', despite the liberation of the region from the Ottoman Empire.

The question of Macedonia's recognition of Kosovo, which followed eight months after its proclamation of independence (October 2008), does not burden the relations between the authorities in Belgrade and Skopje at the moment.

Montenegro is the only country in the Western Balkans which immediately welcomed the change of government in Belgrade in 2012. The reason for this was constant stands of Podgorica that Serbian authorities intervene in the local internal political situation by supporting the pro-Serbian opposition forces. Among the important problems of Serbia and Montenegro there are unresolved border issues and the introduction of dual nationality for the citizens of both countries. Also, one of the hitches is the status of Serbs in Montenegro, and *vice versa* (Montenegrins in Serbia). While no significant progress was made in the past year regarding above-mentioned issues, it is clear that Belgrade withdrew from the media and any other kind of support for the opposition candidates in the recent presidential election. (Tanjug, 2013) At the same time, rhetoric of some state officials in Montenegro of Serbia being a kind of hegemon that could endanger the statehood and national identity of Montenegro lost on its intensity (Diković, 2013).

The visit of Serbian President Mr. Tomislav Nikolić to Montenegro in mid-January and his meeting with President Vujanović did not bring about tangible results; despite the fact that both parties stressed a willingness to further improve relations between the two countries (Janković, 2013). Minority issues, dual citizenship and establishing state border were not discussed. However, it is not to be expected that these burning issues in the relations between Serbia and Montenegro will be resolved easily and quickly due to their sensitivity. This should certainly happen gradually in the course of the European integration process of the two countries.

Montenegro is interested in the revitalization of the railway Belgrade-Bar and Corridor XI (Belgrade-Čačak-Užice Montenegrin border-Podgorica), while at the same time Serbian businessmen are interested in the potentials associated with the use of the Montenegrin port of Bar (Radeka, 2013). It should be emphasized that extensive and very useful forms of cooperation between Serbia and Montenegro have been established in the areas of health, education, justice, home affairs, tourism, economy, culture, etc. Serbia continued to make a significant surplus in economic exchange with its southwestern neighbor, as well.

Over the past few years Bosnia and Herzegovina has essentially been gridlocked state, due to the permanent division of local ethnic leaders. Moreover,

Bosnia and Herzegovina has had its road to the European Union slowed down and its future is uncertain. The state is at the moment burdened by, most of all constant tension between the Muslim and Croat politicians in the Federation of Bosnia and Herzegovina, as well as local intra-Bosniak political clashes between the Social Democratic Party of BH and the Party of Democratic Action. At the same time, the leadership of the Republika Srpska often spears discussions on the status of this entity, which adds to tensions. All of this is transferred to the state level of government in Bosnia and Herzegovina where certain paralysis of democratic institutions can be seen.

In the past decade Serbia has under the instrument of special parallel relations intensively cooperated with entity authorities in Republika Srpska and not with the central authorities in Sarajevo. This disproportion in the relationship has not yet been substantially overcome, but it seems that Serbia seeks ways to strengthen relations with the central authorities of BH as well. Issues relating the disintegration of SFR Yugoslavia and the war in Bosnia (borders, prosecution of war criminals, status of refugees and succession of SFR Yugoslavia) stand out as the most significant problems in the relations between Serbia and Bosnia and Herzegovina (Kronja, Đukanović, 2013, pp. 27-42). Also, the absence of adequate institutional cooperation between the two countries through the former Interstate Council for Cooperation between BH and the former Federal Republic of Yugoslavia upon 'freezing' of its operation in 2005 leaves basic and profound traces on inter-state relations (Kronja, Đukanović, 2013, p. 31).

Over the past year, some statements made in the media by President of Serbia, Mr. Tomislav Nikolić, and the Chairman of the Presidency of Bosnia and Herzegovina, Mr. Bakir Izetbegović, were followed by certain cooling off in relations between the two countries. What triggered it were qualifications made by President Nikolić on the 'unsustainability' of Bosnia and Herzegovina, and the nature of the crimes committed in Srebrenica in 1995.[8] However, on April 24th 2013 two of the three members of the Presidency of Bosnia and Herzegovina (Mr. Bakir Izetbegović and Mr. Nebojša Radmanović) made a visit to Belgrade, preceded by a separate visit of the President of the Council of Ministers, Mr. Vjekoslav Bevanda, and Minister of Foreign Affairs, Mr Zlatko Lagumdžija. President of Serbia, Mr. Tomislav Nikolić made an apology on behalf of the citizens of Serbia for the crimes committed in Srebrenica in 1995 in an interview

[8] President Nikolić stated in the interview given to the Macedonian television SITEL that: 'Bosnia is slowly disappearing before our eyes'. See the video of this interview – http://www.youtube.com/watch?v=0zywkqZFRHU. See also: interview of Tomislav Nikolić given to Radio Television of Montenegro, May 31st 2012 – quote: 'There was no genocide in Srebrenica, There was a great crime in Srebrenica...'. See the video of this interview – http://www.youtube.com/watch?v=nlZEbviwXBQ.

given to the Radio-Television of Bosnia and Herzegovina, which was met with a favorable response in this neighboring country (Danas, 2013).

Particularly important is the continuation of the trilateral initiative of the Turkey-Serbia-Bosnia and Herzegovina, launched in 2009 with the aim of improving relations in the region of Southeast Europe, with special emphasis on bilateral relations between Belgrade and Sarajevo. In this regard a meeting at the top level was held in Ankara on May 14th – 15th 2013, when the declaration on relations between these countries and an agreement to boost economic cooperation were signed (See more: Akter magazin, 2013a). Bosnia and Herzegovina is certainly one of the most important trade partners of Serbia, with which it achieves a significant surplus. With this in mind, it is important to encourage the development of transport and railway infrastructure between Serbia and Bosnia and Herzegovina, which would economically revive boarder regions in the two countries. There is potential for strengthening bilateral relations between Serbia and Bosnia and Herzegovina in other areas as well, particularly in the fields of culture and tourism (potential of coastal area of Drina river).

In addition to the initial cooling in relations between BH and Serbia mid-last year, they nevertheless intensified in April and May of 2013. Moreover, it seems that in the next few months, relations between the two countries will gradually improve and upgrade, which is vital to acceleration of the EU accession process of Serbia and Bosnia and Herzegovina.

Relations between Serbia and Croatia were on the rise after the 2008. However, the mutual legal actions before the International Court of Justice in The Hague for crimes of genocide, the issues of demarcation, prosecution of persons suspected of war crimes, the status of Serbian refugees from Croatia, and Serbian capital investment opportunities in Croatia were the central problems. The official Croatia was quite restrained and cold in accepting the change of government in Belgrade in mid- last year. An unauthorized statement of Mr. Tomislav Nikolić, president-elect of the Republic of Serbia on Vukovar as predominantly Serbian town, just added to it.[9] All this generated numerous disapprovals in Zagreb. Bilateral relations between Serbia and Croatia has been indirectly influenced by the acquittal before the International Criminal Tribunal for the Former Yugoslavia, of Croatian army generals, Mr. Ante Gotovina and his associate, Mr. Mladen Markač for the operation 'Storm' and 'Flash' in the course of 1995. These actions in fact resulted in mass banishment of Croatia by local Serbs. Acquittal of generals Gotovina and Markać was entered on November 16th 2012.

[9] The disputed and unauthorized interview of Mr. Tomislav Nikolić given to the journalist of Frankfurter Allgemeine Zeitunga, Michael Marchens, published on May 24th 2012. See the interpretation of it in Croatian Jutarnjem listu – (Jutarnji list, 2012).

Earlier in 2013., meeting of Prime Ministers of Serbia and Croatia, Mr. Ivica Dačić and Mr. Zoran Milanović took place in Belgrade and showed the first sign of normalization of relations and the gradual return to previous dynamics of the relationship (Aljazeera Balkans, 2013). It was followed by a meeting of Ministers of Justice of Serbia and Croatia in March, and by the end of April a quite noticeable first visit of Deputy Prime Minister of the Republic of Serbia, Mr. Aleksandar Vučić was organized in Zagreb (Radio Television of Serbia, 2013b). Croatian Foreign Minister, Mrs. Vesna Pusić, was in Belgrade in mid-June and on that occasion an announcement for the solution of the problem of mutual claims before the International Court of Justice was made (Večernji list, 2013). In this regard, there have been talks of the possibility of a common and synchronized withdrawal of claims in the future.

Croatia's entry into the European Union on July 1st 2013 presented also an opportunity for Serbian President, Mr. Tomislav Nikolić, to visit Zagreb the day before the celebration of the occasion, and for the first time talk with Mr. Ivo Josipovic, President of Croatia (Dnevnik, 2013). The visit of President Josipović to Belgrade on October 16th–18th this year did not bring about significant results, however both presidents concluded that gradual resolving of present problems is to be introduced. At the same occasion, president Josipović stated that there will be no withdrawal of Croatian claim before the International Court of Justice (Laloš, 2013).

Conclusion

Contrary to some predictions made by majority of analysts that the relations with Serbia's neighbors will worsen due to the change of government in Belgrade, that is, the structure of the ruling coalition mid last year, however it did not occur. It is in fact, the first few months of the new Government of Serbia that showed improvement of relations with Macedonia, Hungary and Bulgaria, at least at first glance. The same intensity in relations with its neighbors Serbia showed over the past year with Albania and Romania, with some announcements of meetings at the top.

Initial coldness in relations between Serbia, on the one hand, and Bosnia and Herzegovina and Croatia, on the other, generated by different interpretations of statements made by new president of Serbia, Mr. Tomislav Nikolić, has been gradually overcome. In this sense, as of the beginning of this year there has been a large number of meetings held with the leaders of the Serbs in BH, and the visit of two members of the Presidency of this country to Belgrade at the end of April is particularly significant. Regarding the relations between Serbia and BH, it can be expected they are to be gradually improved and deepened in many areas.

Serbo-Croatian relations, critical to stabilization of the Western Balkans, have once again intensified since the beginning of 2013. In the framework of bilateral cooperation between Serbia and Croatia are therefore discernible certain advances, particularly regarding the possibilities of both countries withdrawing their genocide claims before the International Court of Justice. Aside from this certainly the most important problem in relations, it can be expected other sensitive issues to be solved successively. A large number of mutual visits of government officials of the two countries in the past six months, as well as the visit of Croatian President Josipović to Belgrade from 16th to 18th of October 2013., suggests that the relations between the two countries returned to the level before the election of the current Government of the Republic of Serbia, and they can be considered to be good.

When we look at the current foreign policy of Serbia towards immediate neighborhood, it can be concluded that not only it is a continuation of the policy, which had previously been maintained by the government led by the Democratic Party and its Foreign Minister, Mr. Vuk Jeremić, but it has been improved. According to some critics during the mandate of former Government foreign policy of Serbia with neighboring countries was mainly driven by purely declarative commitment to improving relations, while on the other hand, outstanding issues were only detected, but not resolved.

The new Serbian policy towards neighbors should therefore reflect not only the needs of the citizens of our country, but of all citizens in the region, in order to solve their problems, often vital. The continuation of European integration of all countries of the Western Balkans, as seen in previous course, depend exactly on further improvement of bilateral and multilateral relations in the region. It is through this process that Serbia can build a new image of a credible, predictable and reliable partner within the regional framework. This, of course, should not be linked only to 'euro pragmatism', i.e. the formula meaning the resolution of problems with the neighbors will accelerate accession to the European Union; this process is in the best interest of the citizens of all countries in the region and of overcoming many consequences of the pat conflicts.

Strengthening the regional component of the foreign policy of Serbia will result in the improvement of the role and position of Serbia in wider, i.e. European and global scale. It is therefore important that the advancement of relations in the Western Balkans and Southeastern Europe is followed simultaneously by connecting of Serbia with the key actors in international relations, primarily the United States and the Federal Republic of Germany.

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SRBIJA I SUSEDI: KONTINUITET STARE I ILI NOVA POLITIKA?

Sažetak: Autori u ovom radu analiziraju napredak u odnosima Srbije sa državama okruženja – Jugoistočne Evrope i Zapadnog Balkana, a nakon formiranja nove Vlade Srbije (27. jul 2012). U tom smislu oni su ukazali na unapređenje bilateralnih odnosa sa državama takozvanog starog susedstva (Mađarska, Rumunija, Bugarska i Albanija), kao i sa 'novim' susedima (Makedonija, Crna Gora, Bosna i Hercegovina i Hrvatska). Zato autori naglašavaju da se ne radi samo o kontinuitetu dosadašnje politike poboljšanja odnosa u regionu, već i da su preduzete određene konkretne aktivnosti kako bi se dobrosusedski odnosi unapredili.

Regulisanje brojnih i nagomilanih problema sa susedima rezultiraće, navode autori, ubrzanjem procesa evropskih integracija Srbije, kao i ostatka Zapadnog Balkana. Od navedenog rešavanja bilateralnih pitanja značajnu korist će imati i građani svih država ovog dela Evrope. Srbija se tako, zaključuju autori, pozicionirala kao pouzdan regionalni partner za svoje neposredno okruženje, ali i vodeće faktore svetske politike.

Ključne reči: Srbija, susedi, bilateralni odnosi, Mađarska, Rumunija, Bugarska, Albanija, Makedonija, Crna Gora, Bosna i Hercegovina, Hrvatska

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Review Article

LEGAL RULES OF EUROPEAN COUNTRIES IN MINORITY PROTECTION – TRACING THE DOUBLE STANDARD

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Abstract: The article explores the contentional notion of 'double standard' in minority protection in the original European Union (EU) member states and those that have joined it later, or are still wishing to join it. It starts by citing the authors that speak about the double standard, and it shows that no matter what the ideological position of the author is (whether he defends it or attacks) they all agree that the double standard exists. Then, the article concentrates on some exemplary practices of states towards their minorities and asymmetric reactions of the main actors such as the EU and the Organization for Security and Cooperation in Europe (OSCE) towards those practices. It is shown that the reactions tended to be criticism for ones, and indulgence for the others. The article goes on showing that with some notable exceptions, which in the opinion of the authors just enforce the argument that there exist no unified criteria for minorities protection across Europe, minorities legislation in the countries that acceded later in time, or are still awaiting the accession, are much more in-depth and extensive in view of the types of rights they include in their provisions than the original members. In addition to it, they tend to cover those communities that do not enjoy the status of national minorities in original member states. This state of affairs puts minorities across what should be a common standard European legal system in a rather fragmented and disbalanced situation. This situation can, however, lead to very similar social problems, such as the social discontent of the unprotected minorities in original members and disintegration of unstable and young societies in newer members or candidates for membership.

Key words: minorities, international law protection, minority rights, human rights, double standard, EU, national legal systems.

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1. DEFINING THE DOUBLE STANDARD

1.1 Legal Theorists on the Existence of the Double Standard

The question of double standards in minority protection resounds with some clamour when it relates to the European Union. It is really difficult to accept that an organization with such undisputed legitimacy in the field of human rights protection can show itself behaving in a twofold manner towards the national legislation of countries on which it exerts influence when it comes to the regulation of the status of national minorities.[2] Consequentially, it is even more dubious that the ambidextrous behaviour can be traced most obviously when the differences in treatment of original members on the one side, and more newly accepted and those still in the process of accession on the other, are analysed.

However, the differences are often indicated in legal theory. As Bruno de Witte puts it, for the EU the concept of minority protection appears to be 'primarily an export article and not one for domestic consumption' (De Witte, 2002, p. 467). Moravcsik and Vachudova go even further, stating that they believe that many of the changes the East (meaning the new members) has been forced to make do not reflect the laws of the West. They believe that the accession process 'imposes something of a double standard in a handful of areas, chiefly the protection of ethnic minority rights, where candidates are asked to meet standards that the EU-15 have never set for themselves'(Moravscik & Vachudova, 2003, p.684). One can also hear authors commenting that 'there exists a contextual discrepancy between the internal non-discrimination approach and the external promotion of special minority rights beyond and in addition to this standard' (Schwellnus, 2006, p. 187).

Such allegations are sometimes received by the EU with arguments of necessity and exceptionality of cases. For example, the EU has indicated that the reason it has emphasized rights of minority groups is to prevent the type of violence seen in the former Yugoslavia. There was always the constant fear for endangered democracy, as it can be perceived in some of the writings from that era (e.g. Mullerson in his article, 1993).This attitude has, in turn, prompted some authors to come forward with some provocative conclusions based on theories not far from pure racism. In the words of Matti Jutila, policymakers and analysts used an old theory of nationalism to explain the complex situation in Europe during the post-Cold War years of rapid and radical changes. This theory, known as the Kohn dichotomy, claims that nationalisms in the East are essentially different from those in the West. According to this dichotomy, Western forms of nationalism are based on the concept of a civic nation that is constituted by a

[2] This especially bearing in mind, such practices are unidentifiable when it comes to other important international organizations, such as the UN, (see more in Kymlicka, 2008, p. 4).

rational association of people, whereas Eastern variants are based on ethnicity and culture, and therefore tend to be more xenophobic, illiberal and aggressive. Minority situations in the West are considered unthreatening because Western nationalisms are colour-blind, benign and civic in nature. Although this theory has created criticism for a number of reasons, it was used in the construction of a minority protection system that suspects some countries of minority rights violations and considers others not guilty, based on their position in the dichotomy (Jutila, 2009, p. 627). But, as one author notes, what is of importance is that the rules designed to prevent an ethnic conflict within the potential members are not being enforced in the West, and therefore there is still the potential for continuing ethnic unrest within EU countries such as Spain and Northern Ireland and future unrest in other EU countries that contain unhappy ethnic groups (Johns, 2003, p. 687). Obviously, the EU has decided how the states of Eastern Europe should deal with their minority issues and how their laws and constitutions should be structured. The failure to comply has serious repercussions. As Adam Burgess states in regard to the Slovak government's willingness to change its laws concerning the Hungarian minority, 'until they are judged to have shown enough willingness in this regard they are likely to remain marginalized. Perceived attentiveness to the wishes of minorities is deciding the fate of states and not simply that of non-titular national minorities' (Burgess, 1994, p. 54). The question must be asked: are the fates of Western states affected the same way?

1.2 Double Standard in Factual Examples

It appears that the Western states have chosen to ignore the regulations as opposed to adapting to them. Due to a technical loophole, Germany does not include the Turkish minority as a national minority in the country. They claim that they are a new minority and should not count (Chandler, 1994, p.68). Other countries, such as Sweden and Denmark, have also specified what minority groups they would provide cultural rights for. Austria has limited protection to citizens, and Luxembourg, France and Greece claim to have no minorities. Even those minorities that are so widespread that they represent some kind of European common concern, namely the Roma population, fail to be protected under some uniform standard. It is a well-known fact that the EU was concerned with the treatment of the Roma population in Slovakia and it made an end to the discrimination by the Slovaks as a key element of accession. Although it did at some point praise the efforts of the Slovakian government on the Roma issue, in 2000 it stated in the Progress Report that 'tangible improvement of the situation of the Roma minority in particular by implementing specific measures, a short term priority of the 1999 Accession Partnership, has…not been achieved to a large extent' (EU, 2000, p.65). Similar were the cases of other candidates (Rechel, 2009, p. 171, Heintze, 2008).

Regarding 'respect for and protection of minorities', in its 1997 Opinions, the Commission pointed out that the integration of minorities in Bulgaria was in general satisfactory 'except for the situation of the Roma minority in a number of applicants, which gives cause for concern' (EU Commission, 1999, p. 3). The Opinion on Bulgaria noted that the Roma minority suffered from discrimination and social hardship, as did the Opinions on the Czech Republic, Hungary, Poland, Romania, and Slovakia (EU Commission, 1999, pp. 8–18). On the other side of medal, the Roma in Italy, for example, faced severe discrimination at the very same time. The ERRC has documented cases of abuse by the police, including torture and sexual assaults on women by police during searches. The Italian Roma have faced restrictions on education, employment both in and out of the public sector, and mobility, with many Roma confined to 'camps'. The Roma also faced the threats of violence by non-state actors (ERRC, 2000).

The paradox of the EU attempting to enforce minority rights protection on states outside the EU, while foregoing it for its member states raises commitment and compliance dilemmas of three main types.

Firstly, of all the 'Copenhagen criteria', minority rights protection was the most weakly defined by the EU, as it lacked a clear foundation in law. With the ratification of the Lisbon Agreement in 2009, the term minority has been introduced for the first time in the EU primary legislation (TEU, 2007, article 2). However, this is the only thing that changed, since this article was constructed as the basis upon which the further legal structure would be built by the European Court of Justice jurisprudence and the future EU legislation. This absence of content is the essence of the EU's policy commitment problem. The enlargement of 2004 incorporated into the EU's territory many countries with a multitude of minorities. Consequentially, for the rest of candidates such as Turkey, Macedonia or Croatia, the accession conditions for minorities gained in rigour (Hillion, 2008).

Secondly, the EU's priorities are evident from the fact that its own mechanisms for enforcing and monitoring compliance on minority protection in the candidate countries are very weakly developed compared with other areas of the *acquis*. Consequently, the EU tends to rely on proxies (primarily external bodies such as the Council of Europe, the OSCE, and NGOs) to perform the monitoring functions. Candidates according to the Copenhagen criteria were a grand EU double standard (Hughes & Sasse, 2003, pp. 11–12). The OSCE is especially important because of the mechanism impersonated in the office of the High Commissioner. His primary role is to solve the disputes on minorities before they escalate into critical conflicts (CSCE, 1992). The activities of the High Commissioner is some kind of a legitimized intervention in the internal affairs of the OSCE member states, which aroused some resistance in the past (for example in the case of Russia and the Chechnya crisis) (Bloed & Rianne, 2009, p. 98). When the influence of the High Commissioner is examined, an interesting pattern

emerges. While the entire OSCE region is open for analysis, the Western countries have historically not been examined equally with the East. While some reports are made for the entire region, on general issues such as linguistic rights of national minorities when specific countries are targeted for analysis, all 14 of the recommendations have been countries in Eastern Europe (OSCE 2013).[3] There are 55 participating states in the OSCE (all of Europe and the United States and Canada), and yet all of the country recommendations are from one area of Europe, the East. How can this be? Is it possible that only in Eastern Europe there are national minorities that are potentially ready for militant activity and as a result need OSCE recommendations to avoid such conflict? This seems unlikely. Another possibility is to make recommendations on the relationship between the state and the minority group, particularly as an insider third party, the OSCE needs to have permanent missions on the ground for long periods of time to collect information and survey the situation. These are large operations that are funded mainly by the richer countries of the OSCE (the West); therefore, the Commission has avoided criticizing the 'hand that feeds it'. As a result, according to David Chandler, there has been a 'qualitatively different level of intrusiveness into the affairs of the states of Eastern Europe' (Chandler, 1994, p. 68). At the end, the most likely of all would be as one author crisply states, that the High Commissioner knows that 'any recommendation given to Western countries would be summarily ignored, and therefore it is more productive (both in appearance and in reality) to concentrate on the newly democratic countries of Eastern Europe. It is more productive because the OSCE has influence on these groups compared to the West' (Johns, 2003, p. 682).

Thirdly, the commitment to minority rights is weakened by the fact that it is a concept that is deeply disputed in international politics, with few generally accepted standards, and even, as will be noted later in the text, confusion over the very definition of the term 'minority'. Within the EU itself, the practices of member states vary widely ranging from elaborate constitutional and legal means for minority protection and political participation, such as language rights, autonomy or consociational quota arrangements, to constitutional unitarism and denial that national minorities exist. The combined effects of the vague and contested international standards, the diverse approaches of member states, and the weak influence of the Commission and the Court in this policy area, strengthen the perception on the part of the candidates that the Copenhagen criteria were a grand EU double standard.

[3] It contains all of the recommendations produced by the High Commission on National Minorities. The country reports are available for Albania, Croatia, Estonia, the Former Yugoslav Republic of Macedonia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Romania, the Russian Federation, the Slovak Republic, and the Ukraine.

All these arguments can, of course, be seen in a more agreeable light, if it is imagined that the established democracies of Western Europe are providing helpful advice to the newly democratic states of Eastern Europe as they prepare to join the European community. However, this would be the case if the laws that are found to be unacceptable in Eastern European countries were also found to be the same in Western Europe. However, exactly at this point, as this article will show, the defensive arguments ultimately crumble upon the weight of pure fact-finding. This article shows exactly the failure of defensive arguments. Its research was conducted with the idea of showing these differences' reflection on the national constitutional and legislative provisions of the EU member states and those wishing to become the same. But before we pass on the overview of the overview of numerous and various examples of differences in minority protection across European states in support of this thesis, it is necessary to define the terms national minorities and national minority rights respectively, as key terms for the purpose of the debate.

2. DEFINING THE NATIONAL MINORITY

The protection of the rights of national, religious, language and similar minorities is one of the contemporary questions which has its history (see Krivokapić, 2006, pp. 13–30) and which represents a part of a wider batch of various legal, historical, political and philosophic questions.

One of the specific questions, which has its (not only) methodological aspects, is the question of problem which stems from the need to define precisely the meaning of the term 'national minorities' and other similar terms. There were several attempts to define this term.[4] Even the only legally obliging international instrument in this field, the Council of Europe's Framework Convention for the Protection of National Minorities (Council of Europe 1995), fails to define the term of national minority. Recently, in legal literature it is often cited the definition suggested on one of the UN conferences which under the term national minority supposes 'Group numerically inferior to the rest of the population of the State, in a non-dominant position, whose members being nationals of the State possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language' (Ahmed, 2010, p. 268, see also Craig, 2010, p. 342).

[4] For the suggestion of the International Court of Justice, see, for example, Devetak, 1989, p. 201. For the suggestion of the Subcomission on the Prevention of Discrimination and the Protection of Minorities (1985) see Obradović, 2003, p. 166. See also Paunović et al, 2010, p. 314.

Besides the term minority, for the purpose of researching the state of protection of their rights in a more detailed analysis, it is necessary to delineate the terms of personal and collective rights. This is especially being the case, since the focus of the care for the rights of minorities in the international community is on categories of people (Smith, 2007, p. 317).[5] In the words of John Rolls, it is justifiable to alleviate life conditions for those social groups, which have found themselves in difficult situation against their own will, (Pavlović, 2004, p. 139). The collective rights cannot be looked upon as simple collection of the personal rights of individual group members. These rights are spread to the individual on the basis of his allegiance to the identified group.

As for some commonly accepted standards as to what minority legislation must require, most states usually adopt models that address and incorporate, at least, the following areas: (1) identity; (2) language; (3) employment; (4) education; (5) media; and (6) participation in public life (IILHR, 2008, p.12).

3. COMPARATIVE VIEW OF THE MINORITIES LEGISLATION

3.1 Original Members

Out of the original 12 members, France, Belgium, Luxembourg and Greece do not acknowledge the existence of minorities in their territories. UK, Ireland and Portugal do not have any provisions which deal explicitly with national minorities, but follow some other concepts. The three countries that joined EU in 1995 (Austria, Finland and Sweden) have somewhat specific situation but will be included in the analysis with the original members.

In Austria, the legal system acknowledges the Croatian minority in Burgenland, but also the Slovenian, Hungarian, Czech, Slovak and Roma minority. The Federal Constitutional Law, the highest legal act of the Republic, guarantees in Article 1 equality to all citizens under the law with no privileges upon birth (Austria (a)). In Article 8, German language is proclaimed as state language but with no prejudice to rights of linguistic minorities envisaged by federal laws. The Federal Law on the Legal Status of People Groups of 1976 (Austria (b)), uses the term people groups (volksgruppen) for Austrian citizens whose mother tongue is not German, and who have their own national characteristics (Article 1(1)). It is not intended to cover immigrants. In view of electoral rights, the Law envisages the establishment of people groups councils with advisory function on the federal and local level (Articles 3(1) and 3(2)). This law also regulates activities of the federal government towards the protection of the current composition of people groups, through plans and

[5] The good example is language. The use of language is dependent upon the institutional framework which is based on the collectivity, since the language cannot be reduced to a personal right.

measures which do not prejudice general development (Article 8). It sets the one-quarter condition on the composition of the local populace for the bilingual toponyms in the area (Article 12) and obligates all public services and institutions to ensure the possibility of communication in people groups languages. The newer legislation has included the anti-discrimination clause on the basis of ethnic origin (Austria (c) Article 8) and obligatory proportional emission time for programmes in languages of minorities (FCPNM Reports Austria, 4th).

The Italian Constitution ensures rights of local autonomy and in Article 6, it expressly states that linguistic minorities are protected by special provisions. Article 116 envisages special forms of autonomy for certain Italian regions. The Act on the Protection of Linguistic Minorities of 1999 (Italy (b)) states that the official language of the Republic is Italian, but the Republic supports also other cultures and languages and encourage their usage. (Article 1). These are languages of the Albanian, Catalan, German, Greek, Slovenian and Croatian population as well as some regional Francophone languages (Article 2). This Act and articles set therein are applied to districts and territories where it has been approved by the District Council based on a request of minimum 15 per cent of citizens enlisted in the electoral roll for these regions, or of one third of the Council members. (Article 3 (1)). The Law regulates in detail the use of these languages in education and official communication in municipalities (Articles 4-8), public administration except army and police (Article 9), toponyms and personal names, radio and TV programme, publishing and printing houses. In Article 15, maximum annual limit is set in the state budget for the execution of this Act. On their own expense, regions and provinces may establish additional institutions, or departments of the existing institutions, focusing on the protection of minority languages and cultural heritage. In regions with a special status, if they have adopted conditions that are more advantageous as set forth in this Act, these may abide in effectivity. (Articles 16 and 18). As for the regional autonomies, a special system is created which envisages that legal regulations are created mutually between the State and the linguistic minority. These regulations are autonomous and have stronger legal power than ordinary laws. The Constitutional Court of Italy regards them as 'separate and special in their field of application' (FCPNM Reports Italy, 1st, p. 9).

In Germany, especially protected as national minorities are those ethnic communities which traditionally inhabit the German state territory. Only the Danish population, therefore, has the status of national minority with its own sovereign state abroad. These minorities live in various German federal units, and their status is regulated mostly by the legislation of these lands, but there exist some provisions on federal level which benefit them. The basic law guarantees non-discrimination in Article 3(3) (Germany (a)). Even the Protocol Note on the Unification Treaty between East and West Germany of 1990 states the importance of the traditional minority protection (FMI, 2010, p. 40). The German

Federal Electoral Law (Germany (b)), removes the 5% threshold for entrance into the Parliament for national minorities parties. It also offers state financing to these parties even though they have not received the required percentage of votes under the Act on Political Parties (Section 18(3)). These parties also enjoy privileges in their financing arrangements coming from abroad (FMI, 2010, p. 47).

The Constitution of the Netherlands (Netherlands) guarantees general equality to all citizens under all conditions (Article 1), but it does not mention national minorities as particular object of protection. The only national minority acknowledged by the law is the Frisian population (FCPNM Reports Netherlands, 1st, p.3). It lives almost entirely in the province of Fryslân and their status is regulated by the Law on the Usage of Frisian Language which regulates usage of Frisian in legal proceedings in the province, but also by some general laws, as is the Law on General Administrative Procedure, which guarantees adequate linguistic rights in communications with local and provincial authorities in the province (FCPNM Reports Netherlands, pp. 20–21). Only with some institutions of general importance for the protection of rights of citizens, as the ombudsman, is it allowed to use the Frisian language at the state level (FCPNM Reports Netherlands,p. 28).

The Spanish legislation on national minorities is concerned with the Roma population. They were accepted as full citizens as late as in 1978 by the new Constitution (Spain). However, the Constitution does not protect national minorities, but acknowledges various Spanish peoples and their institutions.

The Constitutional Act of Denmark of 1953 (Denmark) acknowledges and protects in Article 70 only the German national minority. It is through laws on general and local elections to the German minority that equality is guaranteed for the majority of people in relation to electoral rights (FCPNM Denmark, 1st, p. 15). A party of the German national minority can enjoy the right of parliamentary representation, although it has not scored the required result in the elections (Justesen & Rowlett, 2009). Furthermore, this party can compete at the elections through informing the Minister of Interior, while other parties have to collect minimum 20,000 voter signatures to candidate. The German National Minority Party has the exclusive right to use its separate list of candidates (FCPNM Denmark, 1st, p. 40–41).

Finland is one of the ethnically most homogenous European countries. It has the special situation with the Swedish population. The Swedish language is national, besides Finnish under Article 14(1) of the Constitutional Act (Krivokapić, 2004, p. 92). Therefore, in Finland, in formal legal terms the Swedes are designated not as minority but as the populace which speaks Swedish' (Ibid, p. 94). As for other ethnic groups, the Constitutional Act enumerates the Sami and the Roma people, and other minorities are defined as 'other groups' (Krivokapić, 2004, p. 104). The Sami people are protected under Article 14(3) of the Constitutional Act and the special Law on the Sami Language. They enjoy advisory rights in matters that influence them under Article 52/a of the Law on

Parliament. They enjoy cultural autonomy under Article 51/a of the Constitutional Act in territories where they live. Under the law, they are enabled to attend schools in their language in their territories during primary and secondary education. There also exist quotas for Sami students in faculties which condition existence of subject-lecturers in the Sami language (Krivokapić, 2004, p. 105).

As it is shown, in all countries analysed, with a slight exception of Austria, only minorities which enjoy special protection under the legislation on national minorities are traditional ones, and even to them it is not afforded the same measure of protection which exists in Eastern bloc countries that joined the EU after the end of the Cold War.

3.2 Countries that Joined the EU in 2004

Of these countries, Malta and Cyprus do not have specific provisions on minorities. Other eight legal systems are all part of former communist block (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia, respectively).

The Constitution of the Slovak Republic has a separate section on the rights of minorities under the title 'Rights of national minorities and ethnic groups' (Articles 33 and 34, Slovakia, (a)). However, in other Articles there exist provisions of importance for national minorities as well. Article 12(1) guarantees liberty and equality for everyone, and paragraph 2 of the same Article provides the anti-discrimination clause. In the next sentence it is stated that everyone has the right to freely decide on his nationality, and that any influence on this decision and any form of pressure aimed at assimilation are forbidden. Article 33 continues in the same manner when it claims that membership of any national minority or ethnic group must not be to anyone's detriment. Article 34 guarantees the comprehensive development of citizens representing national minorities or ethnic groups, particularly the right to develop their own culture, together with other members of the minority or ethnic group, the right to disseminate and receive information in their mother tongue, the right to associate in national minority associations, and the right to set up and maintain educational and cultural institutions. In the second paragraph of this article, minorities are guaranteed the right to education in their own language, the right to use their language in dealings with the authorities, and the right to participate in the regulation of affairs concerning national minorities and ethnic groups. The Law on the State Language of the Slovak Republic (Slovakia (b)), provides for the official usage of languages of national minorities if members of the given minority compose minimum of 20% of the population of a city or a local community. The Slovak Republic has adopted specific provisions on the usage of national minority languages in its judiciary laws, the Law on Name and Family name, and the Law on Registers. The same situation is in the laws on

political parties and movements, TV and Radio, special education for minorities. The only field of minority rights not regulated by the Slovak legal system is the electoral rights field, but as we shall see further in the analysis this is an occurrence known to other legal systems of this group of countries as well.

The Czech Republic acknowledges the existence of several larger (Slovakian, Polish, German and Roma) and smaller national minorities (Bulgarian, Russian, Ruthenian, Ukrainian, Greek, Romanian, Serb, Croatian and Jewish) (Minority Rights Group International, 2013). The basic acts which protect national minorities are the Constitution and the Charter on Basic Rights and Liberties (Czech Republic (a)), both dating from 1992. In June 2001, the Act on Rights of Members of National Minorities was adopted (Minority Act, Czech Republic (b)). It is based on the Framework Convention of the Council of Europe, but it differs in essence from it. Although being detailed, this Act was criticized by minorities themselves, especially by the Roma because they think it is hardly applicable to them, but also by numerous NGOs and the UN Commission on the Elimination of All Forms of Racial Discrimination (Zwilling, 2013, p. 3). These deficiencies were amended with the adoption of the Law on the Equal Treatment and the Protection from Discrimination (FCPNM Reports Czech Republic, 3rd). Officially acknowledged minority languages are German, Polish Ukrainian and Hungarian. The right of minorities to use their native languages in communications with public authorities is guaranteed by Article 25 (2b) of the Constitution. Article 7 of the Minority Act provides that members of minorities can use their native language when they write their name and family name. Bilingual toponyms can be used on the basis of Article 29(2) if in the given local community 10% of the population register themselves as members of the given minority, and 40% of those petition for this option. Article 25 of the Charter on Basic Rights and Liberties regulates education on minority languages. Special laws exist on the TV, radio and press programmes and publications for minorities. As for voting rights, in Article 15 of the Minority Act the Czech Republic provides the institution of minority councils in local communities where they constitute minimum of 10% of the population.

The Republic of Poland has 13 officially acknowledged national and ethnic minorities which represent around 3% of the population. The Belarus are the largest with around 200-300 thousand members (FCPNM Reports, Poland, 1st). In Poland, equality before law of national minorities is the constitutional principle (Article 6, Poland (a)). Ban on discrimination is also the subject of Article 113 of the Labour Law (FCPNM Reports, Poland, 1st). Article 35 of the Constitution is of key importance for the interests of minorities. It ensures to Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture. In the same Article, national and ethnic minorities are provided with the

right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity. The Act on National and Ethnic Minorities and Regional Languages (Poland (b)) provides the right of every citizen to freely decide on his nationality and that membership of any national minority or ethnic group must not be to anyone's detriment (Article 4(1)). This act defines national and ethnic minority, it differentiates between them but provides identical legal protection (FCPNM Reports, Poland, 2nd, p. 40). Article 27 of the Constitution states that the state language is Polish. However, by Article 35 mentioned above, and through provisions of the Polish Language Act of 1999, minority languages are protected. Also, in Article 18 of the Minorities Act an obligation on the part of Polish public authorities is created to support by suitable measures activities which are directed to the protection, preservation and development of the cultural identity of minorities (FCPNM Reports, Poland, p. 47). Under Article 9, languages of minorities can be used in relations with public authorities if in the given local community the number of their members is minimum of 20% of the population. As for voting rights, in accordance with the Law on the Elections for the Parliament and the Senate, electoral lists are freed from the 5% minimum of gained votes (FCPNM Reports Poland 1st, p. 5).

In Article 49, the Constitution of Estonia (Estonia (a)) protects everyone's right to preserve his or her ethnic identity. Article 50 says that national minorities have the right, in the interests of their culture, to establish self-governing agencies under such conditions and pursuant to such procedure as are provided in the National Minorities Cultural Autonomy Act (Estonia (b)). This law was adopted in 1993. It is based on the ideas of the acknowledgment of rights of national minorities to preserve their ethnic identity, culture and language. It defines the national minority in accordance with the general definition mentioned earlier. Under the section 2 of the same law, the right of establishing institutions of cultural autonomy is granted to all those national minority groups that enjoyed the same right under the Law of 1925 (German, Russian, Swedish, Jewish) and other ethnic groups that number more than 3,000 citizens. In article 12, the Constitution bans the discrimination on any ground. The same ban is provided in judiciary laws and Act on Equal Treatment (FCPNM Reports, Estonia, 3rd). In its section 3 the Law on Education of 1992 (Estonia (c)) and other specific laws in the field protect the right to education of the members of national minorities in their native languages, and the already mentioned Cultural Autonomy Act regulates minorities rights in relation to TV, radio and press (FCPNM Reports, Estonia, 3rd). As for language, in their relations with public authorities all minorities can use their native languages, if according to Article 51(2) of the Constitution in local communities at least one half of the permanent residents belong to a national minority. Article 52 says that in localities where the language of the majority of residents is not

Estonian, local authorities may, to the extent and pursuant to a procedure provided by the law, use the language of the majority of permanent residents of the locality as their internal working language. The use of foreign languages, including the languages of national minorities, in government agencies, in courts and in pre-trial procedure is provided by the law. The Act on Languages of 1995 regulates these questions, providing broad rights of the native language usage in relations with public authorities in local communities with the one-half condition mentioned above, and the exclusive right of usage in the organs of cultural autonomies (Ibid, page 43). The Law on Cultural Autonomies provides the right to minorities to establish institutions of cultural self-government and to decide on questions connected to their cultural needs and to enjoy their cultural rights according to the Constitution. So far, the Swedish and Finnish minorities have exerted this right (Ibid, page 58). Estonia does not have a specific legislation on voting rights.

There is no definition of national minority in the Lithuanian legal system. The largest minorities are Russian and Polish, but there are also the German, Belarus, Ukrainian, Jewish, Roma and Tatar minorities (Kallonen, 2004, p.2). In Article 37, the Constitution of Lithuania guarantees that citizens belonging to ethnic communities shall have the right to foster their language, culture, and customs. Lithuania adopted the Law on National Minorities even before gaining independence in 1989 (Lithuania (a)). It forbids discrimination on ethnic or racial grounds. The Law regulates the right to equal treatment, the right to acquire support from the state for the development of culture and education, establishment of media, freedom of religion, establishment of cultural institutions and contact with persons of the same ethnic origin abroad, equality in political representation (Article 3). The status of members of national minorities that have not acquired Lithuanian citizenship is somewhat unclear, especially in relation to the Roma (For more information see Hollstein, 1999, pp. 377–388). As for language, the Law on Minorities states that in densely populated areas with members of the given minority, other languages, except Lithuanian will be in usage in various administrative institutions. However, the Law does not define the term 'densely populated' (Kallonen, 2004, p. 5). Article 45 of the Constitution guarantees to national minorities the right to education in their mother tongue. State finances preliminary and basic education under the Law on Education (Kallonen, 2004, p. 7). Political parties of minorities in Lithuania do not enjoy special privileges in the elections for parliament and local councils. All minorities are represented in the Council of National Minorities. Its most important function is to 'analyse legal acts that regulate the condition of national communities and minorities, suggests the regulation of questions that are connected with minorities and to strengthen relations of Lithuanian communities with foreign countries' (Kallonen, 2004, p. 8).

Latvia is the independent democratic republic in which sovereignty is vested in the people (Latvia (a), Chapter 1, Articles 1 and 2). Article 114 of the

Constitution guarantees linguistic, ethnical and cultural identity. In 1991, the Law on the Unrestricted Development and Cultural Autonomy Rights for Cultural Autonomy of Ethnic and National Groups was adopted (Latvia (b)). In this law, all human rights are guaranteed equally to all citizens of Latvia without discrimination and in accordance with international standards. The Law has provisions on some specific nationalities (Article 4) and general provisions on the right of establishment of national organizations and societies (Article 5). It envisages budget finances for its purposes (Article 10) and contains a non-discrimination clause (Article 16). In 1995, The Law on Religious Organizations was adopted, which guarantees equal treatment for all citizens of Latvia regardless of their religious convictions (Latvia (c)). Latvia has recently adopted laws in the field of labour (2005), consumer protection (2008) and social security (2008) which envisage non-discrimination clause on the basis of ethnicity of the person (FCPNM Reports Latvia 2nd, p. 16-17). The Law on Education (2009) guarantees the right to education on the languages of seven national minorities (Latvia (d)). Under the Law on Mass Electronic Media (2010) minimum of 35% of the national and regional TV broadcast time is accorded to programmes on the languages of minorities (FCPNM Reports Latvia 2nd, p. 38).

The basic law of Hungary, which came into power on 1 January 2012, does not provide specific provisions on national minorities. Indeed, it does not mention the term national minorities (Hungary (a)). The status of minorities is regulated by the special Law dating from 1993, which was amended and supplemented in 2005 (Hungary (b)). It recognizes 13 national minorities (Armenian, Bulgarian, Croat, German, Greek, Polish, Roma, Romanian, Serbian, Slovakian, Slovenian and Ukrainian). It specifically regulates individual rights of minorities (Articles 7-14) and minority communities (15-20), the right to establish minority authorities (21-39), the status of the local representative of minorities (40-41), cultural and educational autonomy (42-50), the use of language (51-54). Article 5 of the Law states that minorities have the right to establish local, regional and national self-governments which are included in the national minority election register (Article 22).

The Constitution of the Republic of Slovenia (Slovenia (a)) defines Slovenia as the country of all its citizens (Article 3). In Article 5, it guarantees the protection for the autochthonous Italian and Hungarian minorities. Every citizen is guaranteed the right to freely pronounce his/her nationality and culture and use his/her mother tongue and scripture (Articles 61-62). Any discrimination on the basis of race, religion or nationality is prohibited (Article 63). National minorities have the right of self-government in the territories where they live. They freely elect members of the Parliament and local councils which will represent them. State or local organs cannot decide on matters of importance to life and status of autochthonous minorities if the opinion of representatives of these minorities has not been previously acquired. The Law on Self-Government of Ethnic

Communities (Slovenia (b)) defines more closely the modality of the activities of ethnic communities on the territories where the Italian and Hungarian national minorities are autochthonous. Electoral rights are universal and equal (Article 43 of the Constitution), but Article 80 envisages special treatment of the Italian and Hungarian national minorities by guaranteeing them double representation in the National Parliament, actually the right of 'double vote'.[6]

It can be seen that all the above analysed countries have detailed and extensive legislations concerning national minorities. They acknowledge as national minorities all the ethnic communities that inhabit their territories which fulfil very low-set numerical threshold. They all have separate laws on minorities which specify constitutional provisions and they look upon minorities as communities, which have all kinds of identity, not only linguistic, but also ethnic, religious and racial. Except electoral rights in some cases, all other fundamental rights of minorities are envisaged by their legal systems.

3.3 The Newest Wave-Members and Candidates After 2004

Among these countries, the analysis will first start with Romania and Bulgaria which joined the EU in 2007, and then it will cover Croatia, Macedonia and Montenegro, which are still in the process of accession.

In Article 6, the Constitution of Romania (1991) explicitly guarantees the right to preservation, development and expression of identity (Romania). Section 32 of the Constitution guarantees the right of persons belonging to national minorities to learn their mother tongue and to be educated in their language (paragraph 3). The right of national minorities' freedom of thought, conscience and religion and the right to manifest one's religion or belief are protected by the Constitution of Romania in Article 29. The right to establish religious institutions, organizations and associations is regulated by Article 40. Speaking of specific rights for minorities in connection with their participation in public life, the Constitution of Romania has defined in Article 59 that 'In case that in elections they do not reach a sufficient number of votes for representation in the Parliament organizations of citizens belonging to national minorities shall be entitled to one representative under rules of the election law. Citizens of a national minority can be represented by only one organization'. According to the Law on Elections, 20 groups are officially recognized as national minorities, and the definition of this term is linked to the groups that are represented in the Council for National Minorities, a governmental advisory body. The largest groups are the Hungarians and the Roma. Organizations of citizens which belong to national minorities, except those

[6] This rule was criticised in OSCR report on elections in Slovenia, (OSCE/ODIHR, 2012, p. 7).

which are already represented in the Parliament, must collect signatures of 15% of this group (according to the last census) in order to have the opportunity to submit their nomination for their candidates (For more information on this topic see OSCE /ODIHR, 2013a p. 18-20).

Article 2 of the Constitution of the Republic of Bulgaria (1991), which was amended in 2003, 2005 and 2006, states that Bulgaria is a unitary state with local self-governance (Bulgaria). However, none of the territorial autonomy units are permitted (paragraph 1). The use of the Bulgarian language is the right and duty of all Bulgarian citizens and citizens whose mother tongue is not Bulgarian shall have the right to use their own language in addition to the Bulgarian language, which is regulated by a special law (Article 36 of the Constitution). Expression and practice of any religion is free (Article 13). Everyone has the right to develop his own culture in harmony with his 'ethnic self-identification' in accordance with the law (Article 54). The Bulgarian Constitution prohibits the formation of political parties on ethnic, racial or religious grounds (Article 11(4)), but in practice they do exist (Petrusevska, 2009, p. 45)[9] The Anti-Discrimination Law (2003) prohibits discrimination based on sex, race, ethnic origin, nationality, ethnic origin, religion or belief, or on any other basis (Article 4) (see more at Human Rights Council, 2012).

The Constitution of the Republic of Croatia of 1990 (Croatia (a)), establishes Croatia as '(...) the national state of the Croatian people and the state of indigenous national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians and Ruthenians, which are its nationals, and are guaranteed equality with citizens of Croatian nationality and the realization of national rights in accordance with the democratic norms of the UN and the countries of the free world (...)'. The 2002 Constitutional Law on National Minorities gives a definition of minority (Croatia (b), Article 5). Some of the guaranteed rights include: use and official use of minority languages and alphabets; education in the language and script used; use of signs and symbols; cultural autonomy and preservation and protection of cultural heritage and traditions; practice of religion and establishment of religious communities, access to media and means of dealing with the media in minority languages and scripts; self-organization and conspiracy to achieve common interests; representation in elected bodies at the state and local level, and in administrative and judicial bodies; participation of national minorities in public life and local affairs through councils and representatives of national minorities, and protection from any activity which endangers or may endanger their existence, rights and freedoms. According to the Law on Election of Representatives of the

[9] In the opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities of which Bulgaria is a member, this provision of the Constitution may unduly restrict the right to peaceful assembly and association under Article 7 of the Convention. See: OSCE / ODIHR, 2013b, p. 5.

Croatian Parliament, national minorities are granted the opportunity to be represented in the Parliament by a precisely determined key. Members of national minorities in the Republic of Croatia have the right to choose eight Members of Parliament who are elected in a special election constituency that includes the whole territory of the Republic of Croatia.

The Constitution of The Former Yugoslav Republic of Macedonia defines the position of national minorities in Article 48, using the specific term 'nationality' as neutral and equal for all ethnic communities, given the commitment to the concept of a civil state. They are guaranteed the right of linguistic, ethnic, religious and cultural identities, as well as expression of their identity and mother tongue education (Macedonia (a), Article 48). However, in Macedonia, in addition to the Constitution, the Ohrid Peace Agreement, adopted as a solution of the conflict with the ethnic Albanians in 2001, also has the highest legal force and modifies the position of minorities, putting the principles of civil government ineffective in real life. This agreement favours the Albanian minority by providing a high level of collective rights to the communities that exceed 20% of the population, which is only the case with Albanians. In Article 19, the Constitution prescribes that the church is separated from the state, but at the same time, a special status is given to the Macedonian Orthodox Church (MOC). The law for the election of representatives for the Macedonian Parliament does not mention the issue of election of national minority representatives.

According to Article 1 the Constitution of the Republic of Montenegro (Montenegro (a)), the Republic of Montenegro is a 'civic, democratic, ecological state of social justice based on the rule of law'. The provisions of 'special – minority rights' are in the second part of the Constitution devoted to 'human rights and freedoms'. Article 79 of the Constitution guarantees the rights and freedoms of minority nations and other minority ethnic groups that can be used 'individually or in community with others', and Article 80 of the Constitution 'prohibits ... forced assimilation of minorities and other minority communities'. The principal legislation related to minorities includes the Law on Minority Rights and Freedoms (Montenegro (b)) and the use of national symbols (Montenegro (c)). The Law on Minority Rights and Freedoms has a definition of minority (Article 2). The law guarantees a number of rights of minorities (Art. 8-36). Article 23 of the Law stipulates that 'the electoral legislation, applying the principles of affirmative action serves to ensure ... an additional number of mandates for minorities. Minorities, which in the total population consist of 1% to 5% according to the latest census, will be represented in the Parliament with an MP's mandate, through representatives chosen from the list of minority candidates. Minorities in the total population that consist of more than 5% according to the latest census, will have three guaranteed seats in the Parliament of Montenegro, through representatives elected from the minority electoral list, again taking into

account the linguistic and ethnic characteristics, and on completion of the electoral law of the Albanians in the Republic. The assembly of local self-governance representatives elected by a minority representative in the local population participate from 1% to 5%, 5% and above in accordance with the electoral law (Article 24). Montenegro also adopted a Strategy of Minority Policy (Montenegro (d)), which defines measures for the law enforcement and improvement of the living conditions of minority communities.

This group of countries, with the exception of Bulgaria, sets even higher standards in the protection of minorities than the previous two groups. In comparison with the group of countries that joined in 2004, these countries have adopted extensive legislation on electoral rights of minorities which is generally favourable. As for the other types of rights, they are all in accordance with the accepted international standards.

4. CONCLUSION

The double standard in national minority protection across Europe is a well-known, although controversial notion in legal circles, as it has been shown in the first part of this article. Most critics attack it and cite evidence of different factual treatment of minorities in every European country (the best example is the status of the Roma population, but there are others as well, and no single country is immune from them). On the other hand, there are still the authors who justify it on various bases, which can be reduced to the explanations of the necessary historical prejudice towards the countries in whose political instability this caused danger for democracy and human rights. With ideological explanations put aside, this article was written with the intention of finding the expressions of the double standard where it should be objectively easy to ascertain it, in the form of legislation related to minority protection. Through comparative analysis of these legislative discrepancies, the authors have shown that what should be a common standard European legal system, there is a rather fragmented and disbalanced picture. The lack of unified approach of the EU towards the states that fall under its legal influence is one of the main factors behind it. Of course, minority protection varies across the European continent for reasons of more specific nature, such as the historical and social conditions of a particular country, but notwithstanding these notable exceptions, one line of difference can be clearly traced. Minority legislation in countries that have acceded later in time, or are still awaiting the accession to the EU are much more in-depth and extensive in view of the types of rights they include in their provisions than the original members. In addition to it, they tend to cover those communities that do not enjoy the status of national minorities in original member states, since the practice in original members is to treat these communities as immigrants who fall under the

integrationist legislation, while autochthonous communities which enjoy special minorities protection do not stand in numbers as a significant percentage of the real minorities population. Even when there exists the extensive legislation which covers the most important minorities in a particular country, it is based on the notions of language (linguistic minorities and not national such as in Italy), therefore stripping the minorities in question of any other rights than those related to the language. In the article, it is also shown that the standards for protection are becoming even higher in the legislation of the current candidates for accession then they were in the legislation of the last wave of members (2004). Thus, it can be said that the more one moves from the EU core, the stricter legislation one finds concerning minority rights and their protection. Two consequences arise from this state of affairs. The first is that in the original member states, which are the most economically developed and thus attract a large influx of immigrants, those masses stay unprotected by the advanced legislation on national minorities, although they have very strong numbers and a sense of national identity, a fact which can create (and indeed it creates already) friction and discontent in these societies, whenever economic welfare on which they found all their rights as separate social groups, becomes endangered. Secondly, stricter conditions, which are imposed upon new members and candidates relating to minority legislation, can lead to failure of the successful integration of these relatively young and unstable societies, which, in the effort to keep on the accession track, create legislation, which is not in accord with real social conditions. It seems that the double standard leads to a double flaw in both groups of societies, in each for its own particular reasons. The solution to such a situation might be to finally create minority legislation on the level of the EU as a whole, which will provide for a unified approach and eliminate these negative discrepancies. Otherwise, if minority protection continues to be a part of the field of external policy instrument and not a general and *erga omnes* legal requirement, social turmoil can be expected on both ends of the spectre.

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Mihajlo VUČIĆ
Miloš JONČIĆ

PRAVNA PRAVILA EVROPSKIH ZEMALJA O ZAŠTITI MANJINA – NA TRAGU DVOSTRUKOG STANDARDA

Apstrakt: Članak se bavi spornim pitanjem 'dvostrukog standarda' u zaštiti manjina u originalnim članicama Evropske Unije (EU) kao i onim koje su se pridružile kasnije ili su žele da se pridruže. U članku se najpre govori o dvostrukom standardu i ukazuje se da se nezavisno od ideološkog stanovišta autora (bilo da se napada ili brani), svi slažu oko njegovog postojanja. Zatim članak pokazuje da je uz izvesne izuzetke, koji po mišljenju autora samo osnažuju argument da ne postoje jedinstveni kriterijumi u zaštiti manjina na evropskom području, zakonodavstvo o manjinama u zemljama koje su se pridružile u kasnijem vremenskom periodu, ili tek očekuju pridruživanje,

daleko obuhvatnije i detaljnije u pogledu vrsta prava koje predviđa svojim odredbama nego što je to slučaj u 'starim' zemljama članicama. Ovakva situacija stvara jedan fragmentisan i neuravnotežen sistem zaštite manjina, naspram onog poželjnog koji bi se zasnivao na zajedničkim standardima. Isto tako, iz ove situacije mogu nastati društveni problemi, kao što je socijalno nezadovoljstvo nezaštićenih manjina u originalnim zemljama članicama i dezintegracija nestabilnih društava u povoju koja postoje u novim članicama ili kandidatima za članstvo.

Ključne reči: manjine, međunarodno-pravna zaštita, manjinska prava, ljudska prava, dvostruki standard, EU, nacionalni pravni poreci.

BOOK REVIEWS

INTER-PARLIAMENTARY UNION—PARLIAMENTARY UNITED NATIONS

Milivojević Dr Zoran. (2013). *Interparlamentarna unija—Parlamentarne Ujedinjene nacije* [*Inter-Parliamentary Union—Parliamentary United Nations*], Beograd: Službeni Glasnik.

The Inter-Parliamentary Union (IPU) is the focal point for worldwide parliamentary dialogue and works for peace and co-operation among peoples and for the firm establishment of representative democracy. It was established in 1889 on the hundredth anniversary of the French Revolution, which can be understood as a specific symbol of the place and role that the IPU holds in international relations.

Today, the IPU is one of the oldest international organizations consisting of 165 national parliaments and 10 associate members (European Parliament, Parliamentary Assembly of the Council of Europe, etc.). The Republic of Serbia has participated in the work of IPU since 1891 and in 1928, it became a full member as the Kingdom of Serbs, Croats and Slovenes. In 2011, the National Assembly of the Republic of Serbia celebrated 120 years of successful and continuous membership in this organization.

The book '*Inter-Parliamentary Union–Parliamentary United Nations'* by the author Mr. Zoran Milivojević (PhD), gives an overview of the historical and political context in which IPU was created as well as the explanation of the specific objectives of the organization and its functioning, especially in answering the new challenges coming from the globalized world.

The complexity of the subject of the analysis required a comprehensive approach bearing in mind the place and role of the IPU in the system of international relations. Through the overview of the scope of activities and contents of the work of the IPU, the author gives us a broader picture of the functioning of the IPU and stresses the need for further development of relations among its members in order to improve the existing system of representative democracy. The author is trying to give an answer to the question in which direction the IPU will move in the future.

The whole book is divided into eight different thematic chapters: 1)The explanation of the term and its legal nature in the system of international law;

2)The position of the IPU in the system of international law; 3)The main bodies of the IPU; 4)Areas of activity; 5) Concrete forms of effective engagement in the areas of international law, global international relations and parliamentary diplomacy; 6) The Parliamentary Assembly of the Mediterranean (PAM) – 'the daughter organization' of IPU; 7) The place and role of the IPU in the system of international relations; 8) Relations between the IPU and the Republic of Serbia. At the end, the author gives us an overview of the most important supporting documents whose consideration is necessary for understanding of the environment in which the IPU was established as well as the context in which the IPU is developing and functioning today.

The author emphasizes that in exercising its statutory objectives and competencies, the IPU undertakes a significant action on the international scene. It has achieved international recognition through concrete and verified results so far. Using relevant mechanisms and methodologies the IPU has succeeded in improving the system of representative democracy and developing inter-parliamentary cooperation.

Mr. Milivojević stresses out that the Inter-Parliamentary Union, as a subject of international law and international relations, has a corresponding position in the international community. At the same time, the status of the only global inter-parliamentary organization determines the specific role of the IPU in the system of international relations.

Starting from the specific character of contemporary international relations and the perception of the role of the IPU, the author is especially focused on analyzing the following terms and practices: 1) globalization; 2) the processes that determine the character of the transition and the key changes in the international community; 3) multilateralism, and 4) parliamentary diplomacy as a form of diplomacy whose role is growing and which the IPU is exercising in practice.

The book '*Inter-Parliamentary Union–Parliamentary United Nations'* by Mr. Zoran Milivojević is at the same time a significant contribution to the field of political science and the field of law. A reason for that could be found in the fact that Mr. Milivojevic has a significant scientific experience in this two fields and a decades-long experience in diplomacy including different forms of inter-parliamentary cooperation.

With this work, the author expresses the need for reaffirmation of the IPU and its role. In that sense, his work at the theoretical level could contribute to the expansion and deepening of the existing knowledge in this field. Bearing in mind that the subject of the analysis has only partially and sporadically been explored so far, this book could have a particular scientific importance in answering the open questions in the field of inter-parliamentary cooperation. It is important to be mentioned that the book '*Inter-Parliamentary Union–Parliamentary United Nations'*

by Mr. Zoran Milivojević is the only work on this topic written in one of the South Slavic languages.

At first place, this book should help parliamentarians to manage successfully in parliamentary diplomacy, especially bearing in mind the fact that it represents an important segment of international relations. But, this book is not only addressed to parliamentarians. It has an educative character and can be useful for all other relevant actors (decision-makers, CSOs, representatives of political parties, etc.). This book paves the way to consolidated democracy and inter-parliamentary dialogue.

Mr. Milivojević has opened some new questions for future researchers. This work gives an open space and a good basis for further analysis and new findings in the field of inter-parliamentary cooperation and more effective exercising of representative democracy.

Dr Marko NIKOLIĆ

EUROPEAN CHURCHES ENGAGING IN HUMAN RIGHTS—PRESENT CHALLENGES AND TRAINING MATERIAL

Mag. Elizabeta Kitanović. (2012). *European churches engaging in human rights—present challenges and training material* [*Angažovanje evropskih crkava u oblasti ljudskih prava—postojeći izazovi i material za obuku*], Bruxelles: Church and Society Commission of CEC.

The twentieth century was a century of human rights. The international community adopted the Universal Declaration of Human Rights in 1948, International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights in 1966 and many other important acts. In the latest theories of social development, human rights are among the most important values of modern civilization and the object of international responsibility. Their protection is becoming a universal interest protected by the states, international organizations, individuals and churches.

The Conference of European Churches (CEC) has a long tradition of promoting human rights. The beginnings date back to mid-1970s.

The manual 'European churches engaging in human rights - Present challenges and training materials' is edited by Mag. Elizabeta Kitanović and published by the Church and Society Commission of the Conference of European Churches in 2012 in Brussels. It has two specificities. First, it draws on the wealth of knowledge and experience accumulated by European churches in order to make it available as a source of inspiration for others. Second, it is written for churches, which want to involve more people in the active promotion of human rights through training.

The manual is divided to two main chapters. The first chapter entitled 'Making the World a Better Place - The churches Approach to Human Rights' contains 18 short scientific articles addressing various aspects of present human rights discourse from a fair-based perspective. It explores relations between the church and the state, church law and personal rights, church attitude on discrimination and anti-discrimination as well as the legislation of the Church of Scotland. The articles emphasize the importance of the Bible as some kind of a codified human rights doctrine and importance of research of human rights for the church and the church engagement in the area of human rights.

An important place is given to the publishing engagement of the church. A significant role of the Lutheran Federation and the World Council of Churches, which have published various works related to the theological position in the field of human rights, is noticed. The Lutheran World Federation and the World Council of Churches have documented various theological perspectives about human rights.

An important part of the first chapter is dedicated to the future of human rights after 9/11, politicisation and the double standards. It is truth that the events after 9/11 have brought serious changes to the world politics, but national security cannot be a pretext for serious violations of human rights. The authors send a clear message of indivisibility and equality of human rights.

The second chapter is dedicated to engaging in human rights offering 'Materials for Training, Workshops and Seminars'. This chapter contains six general articles, which might be helpful in planning seminars and workshops on development of human rights. In addition, this chapter contains articles on important human rights topics on the church agenda: freedom of religion of belief, equality and non-discrimination, migration, social rights and children's rights. These articles are divided into three parts - first, they show the theological and biblical approach to the topic, then the legal approach and finally, they offer proposals for action. The manual has a CD, which may help experts in presenting and explaining the listed topics.

The main motives for this manual were the new challenges for The Conference of European Churches, which have arisen since the end of Cold War and the process of globalization that undermines the political participation of large society sectors in the democratic process and their abilities to have a broader influence on the state policy. The manual concludes that the church work for human rights must not be pastoral and diaconal, but also prophetic. The Church knowledge and a facilitated access to many government institutions enables them to participate actively in human rights development pointing to all abuses and offering effective solutions for the improvement of human rights, as a very important instrument of international law.

Jelica GORDANIĆ

DOCUMENTS

EUROPEAN COMMISSION
Brussels, 16.10.2013
SWD(2013) 412 final

COMMISSION STAFF WORKING
DOCUMENT
SERBIA
2013 PROGRESS REPORT

Serbia 2013 Progress Report[1]

Conclusions on Serbia

(extract from the Communication from the Commission to the European Parliament and the Council 'Enlargement Strategy and Main Challenges 2013-2014', COM(2013)700 final)

2013 has been a historic year for Serbia on its path to the European Union. Serbia has actively and constructively worked towards a visible and sustainable improvement of relations with Kosovo*. In April, Serbia's engagement in the EU-facilitated dialogue resulted in the landmark 'First agreement of principles governing the normalisation of relations' (the First Agreement), which was complemented in May by an implementation plan. The two parties have in particular agreed that neither side will block, or encourage others to block the other side's progress on their respective EU paths. This represents a fundamental change in the relations between the two sides. Implementation of the First Agreement has continued and has already led to a number of irreversible changes on the ground. The parties have reached agreements on energy and on telecommunications. There has also been progress in the implementation of agreements reached in the technical dialogue and Serbia's cooperation with EULEX has continued to improve in a number of areas.

Serbia has reinvigorated the momentum of reforms and has stepped up high-level contacts with neighbouring countries in an effort to ensure a positive contribution to regional cooperation. Serbia has taken some steps to consolidate its fiscal situation and to improve the business environment. It continued aligning its legislation to the requirements of the EU legislation in

[1] Source: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/serbia_2013.pdf. (30.10.2013)

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

many fields, which are now monitored within the National Plan for the Adoption of the Acquis for the period 2013-2016. The Stabilisation and Association Agreement between the EU and Serbia entered into force on 1 September.

As a result of the significant progress achieved, a new phase has been opened in relations between Serbia and the European Union. The European Council decided to open accession negotiations on 28 June, following the Commission's recommendation of 22 April. The Commission submitted its proposal for a framework for negotiations to the Council on 22 July. The Commission also started the analytical examination of the EU acquis ('screening') in September. The negotiating framework is due to be adopted by the Council soon and confirmed by the European Council with a view of holding the first inter-governmental conference on Serbia's accession in January 2014 at the very latest.

In this new, demanding phase of EU-Serbia relations, Serbia will need to further intensify its efforts to achieve full compliance with all membership criteria. It will also be crucial to communicate regularly on the benefits and opportunities the accession process creates for all citizens in Serbia, all the way to accession.

Among the key challenges it faces, Serbia will need to pay particular attention to the key areas of rule of law, particularly the reform of the judiciary, fight against corruption and fight against organised crime, public administration reform, independence of key institutions, media freedom, anti-discrimination and protection of minorities.

Serbia needs to remain fully committed to the continued normalisation of relations with Kosovo and implementation of all agreements reached in the dialogue, including by cooperating with EULEX as appropriate. Serbia needs to complete the implementation of the First Agreement in particular on police, justice and municipal elections in Kosovo. It is important that Serbia continues to encourage wide participation of Kosovo Serbs in the forthcoming local elections in Kosovo. Full application of the principle of inclusive regional cooperation remains notably to be ensured, including by avoiding problems such as the one encountered with the summit of the South East European Cooperation Process (SEECP).

Serbia will be expected to continue to make an active contribution to regional cooperation and reconciliation.

Serbia sufficiently fulfils the political criteria. The government has actively pursued the EU integration agenda, demonstrating consensus in key policy decisions and enhancing the consultation process. Parliament has improved the transparency of its work, the consultation process on legislation as well as its oversight of the executive. However, parliament still often applies urgent procedures, which unduly limits time and debate for scrutiny of draft legislation.

Serbia has paid particular attention to the improvement of the rule of law, which will be a key issue, in line with the new approach on Chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom and security). Serbia adopted comprehensive new strategies in the key areas of judiciary, fight against corruption and anti-discrimination following an extensive consultation process. There was a visible proactive approach to investigations in the fight against corruption, including in high-level cases. Regional and international cooperation has also led to some results in the fight against organised crime. Criminal investigations have been launched in a number of cases but final convictions remain rare in these areas. Serbia also continued to fully cooperate with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

As regards freedom of expression, defamation has been decriminalised. In line with earlier commitments on Roma inclusion, measures have been implemented and a new action plan has been adopted. The legal framework for the protection of minorities remains generally respected but its consistent implementation throughout Serbia remains to be built-up, in areas such as education, use of language, and access to media and religious services in minority language. While some additional efforts were made by the authorities and independent institutions on the protection of other vulnerable groups, in particular of the lesbian, gay, bisexual, transgender and intersex (LGBTI) population, sufficient political support is lacking. It was in particular regrettable that the pride parade was banned for the third year in a row on security grounds; this was a missed opportunity to demonstrate respect for fundamental rights.

Looking ahead, Serbia will have to pay particular attention to strengthening the independence of key institutions and notably the judiciary. The constitutional and legislative framework still leaves room for undue political influence, especially when it comes to the role of parliament in judicial appointments and dismissals. Further reforms will require a comprehensive functional analysis of the judiciary in terms of cost, efficiency and access to justice. Serbia's track record in effectively investigating, prosecuting and convicting perpetrators of corruption and organised crime remains to be seriously strengthened. The implementation of recent changes to the legislation on 'abuse of office' should be carefully monitored with a view to a comprehensive review of economic crimes. Effective legislation for the protection of whistle-blowers needs to be set-up. The effective implementation of the strategies and action plans in the fields of judiciary and anti-corruption will test Serbia's preparedness and willingness to move forward. Those strategic documents may require adjustments further to the screening exercise.

The government also needs to enhance its steer in the area of public administration reform and further develop a transparent, merit-based civil

service system. The legal framework for the civil service at the local level remains to be properly applied and developed.

Further attention needs to be given to freedom of the media. Serbia needs now to move forward the implementation of the media strategy starting with the adoption of the expected legislation on public information and the media, on public service broadcasters and on electronic communications. The direct state financing and control of media as well as the sustainability of public broadcasters remain key issues to be addressed. The action plan of the anti-discrimination strategy needs to be adopted and implemented. Authorities need to enhance the protection of media, human right defenders and other vulnerable groups, including LGBTI population, from threats and attacks from radical groups. Recent progress to improve the situation of minorities, including the Roma, needs to be further built up over time including with additional financial resources. The issue of housing and access to documents for Roma needs continued attention. More attention needs to be given to regions facing severe socio-economic conditions, in particular in the South and East of Serbia. The elections to the National Minority Councils in 2014 will provide a good opportunity for Serbia to reaffirm its commitment to the protection of minorities. The electoral process will have to be carefully conducted, taking into account past recommendations from independent institutions.

It will be important that Serbia continues to make an active contribution to regional cooperation and further develops its ties with neighbouring countries, including by addressing outstanding bilateral issues.

As regards the economic criteria, Serbia has made some progress 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.

In 2012, Serbia went through another recession and the economy contracted by 1.7%. High exports growth has softened the effects of depressed domestic demand and led to a mild and uneven recovery in the first half of 2013. A series of fiscal consolidation efforts were taken mostly on the revenue side. The process of restructuring state-owned enterprises was revived. Some progress has been made with regards to fighting corruption and improving property rights.

Growth remains narrowly based and the first signs of economic recovery in 2013 did not spill over to the labour market. Unemployment and the budget deficit remain very high. Rigidities persisted on the labour market and sustainable employment creation represents a major challenge. The adoption of a credible medium-term fiscal adjustment programme is still lacking. State presence in the economy is significant and state-owned companies continued to accumulate big losses. Serbia needs to continue improving the business environment and should make strong efforts to develop a competitive private sector. The functioning of market mechanisms is hampered by legal

uncertainty and corruption. The informal sector remains an important challenge.

As regards its ability to take on the obligations of membership, Serbia has continued aligning its legislation to the requirements of the EU legislation in many fields, efforts which were underpinned by the adoption of a National Plan for the Adoption of the acquis. Good progress has been registered in public procurement with the adoption of a new Law on Public Procurement which provides for further alignment with the EU acquis and includes improved provisions on the prevention of corruption. The issue of the central bank's independence has been partly addressed with amendments to the law. Two new laws were adopted in the fields of corporate accounting and auditing, aiming at further alignment in the area of company law. The institutional framework for SME policy and SMEs access to finance improved. Measures taken to improve the business environment, in particular on the business impact assessment for new legislation, are a welcome development. The population and agriculture censuses have been finalised successfully. However, the changes to the law on copyright regarding fee collection and exemptions constitute a step backwards in the alignment to the EU acquis.

Looking ahead, Serbia should redouble its efforts to align with the EU acquis with particular attention to the effective implementation of adopted legislation. In particular, Serbia will need to intensify efforts towards alignment in the fields of water, waste management, air quality and nature protection and towards market opening, unbundling and cost reflective tariffs in the energy sector. Further efforts are also needed in the areas of state aid control, where the independence of the Commission for State Aid Control needs to be further established and the exemption of enterprises under privatisation from state aid rules need to be repealed. Social protection systems, labour relations and social dialogue need to be substantially strengthened, notably at the tripartite level of social dialogue. The GMO law needs to be aligned with EU legislation to enable WTO accession. Substantial further efforts are needed to develop publicsector financial management and control based on the underlying concept of managerial accountability and to develop full external audit capacity.

The Interim Agreement (IA) of the Stabilisation and Association Agreement (SAA) continued to be smoothly implemented.

EUROPEAN COMMISSION
Brussels, 16.10.2013
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COMMISSION STAFF WORKING DOCUMENT
SERBIA
2013 PROGRESS REPORT

Accompanying the document

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Enlargement Strategy and Main Challenges 2013-2014
{COM(2013) 700 final}

1. INTRODUCTION

1.1. Preface

The Commission reports regularly to the Council and Parliament on the progress made by the countries of the Western Balkans region towards European integration, assessing their efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process.

This progress report, which largely follows the same structure as in previous years:

- briefly describes the relations between Serbia and the European Union;
- analyses the situation in Serbia in terms of the political criteria for membership;
- analyses the situation in Serbia on the basis of the economic criteria for membership;
- reviews Serbia's capacity to take on the obligations of membership, i.e. the acquis expressed in the Treaties, the secondary legislation, and the policies of the Union.

This report covers the period from October 2012 to September 2013. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are under preparation or

awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and enables an objective assessment.

The report is based on information gathered and analysed by the Commission. Many sources have been used, including contributions from the government of Serbia, the EU Member States, European Parliament reports[1] and information from various international and nongovernmental organisations.

The Commission draws detailed conclusions regarding Serbia in its separate communication on enlargement,[2] based on the technical analysis contained in this report.

1.2. Context

The European Council of March 2012 granted the status of candidate country to Serbia. In April 2013,[3] finding that Serbia had met the key priority of taking steps towards visible and sustainable improvement of relations with Kosovo*, as set out in its 2011 opinion on Serbia's membership application,[4] the Commission recommended to the Council that accession negotiations be opened. The European Council decided on opening accession negotiations with Serbia on 28 June 2013. It endorsed the Council's recommendation that the Commission submit without delay a proposal for a framework for negotiations in line with the European Council's December 2006 conclusions and established practice and incorporating the new approach to the chapters on the judiciary and fundamental rights and justice, freedom and security as well as steps towards normalising relations between Belgrade and Pristina. The Commission tabled its proposal in July. The Commission was also asked to carry out an analytical examination of the EU acquis which started in September.

The next step is adoption by the Council of the framework for negotiations with Serbia, to be confirmed by the European Council at its usual session on enlargement, with a view to holding the first intergovernmental conference with Serbia in January 2014 at the very latest.

Continued visible and sustainable progress in the normalisation of relations with Kosovo, including the implementation of agreements reached so far, will remain essential.

Serbia will have to sustain the momentum of reforms over time in the key areas of the rule of law, particularly judicial reform and anti-corruption policy,

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1 The rapporteur for Serbia is Mr Jelko Kacin.

2 Enlargement Strategy and Main Challenges 2013-2014, COM(2013) 700.

3 The Commission and the High Representative of the Union for Foreign Affairs and Security Policy issued an ad hoc joint report on specific issues on which the Council had, in December 2012, requested additional information, JOIN(2013) 7 final of 22.04.2013.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

4 COM(2011) 668 final.

independence of key institutions, media freedom, anti-discrimination policy, the protection of minorities and the business environment.

Serbia needs to maintain its commitment to regional cooperation and reconciliation.

1.3. Relations between the EU and Serbia

Serbia is participating in the Stabilisation and Association Process.

The Stabilisation and Association Agreement between the EU and Serbia (SAA) was signed in April 2008 and entered into force on 1 September 2013. It replaces the Interim Agreement on trade and trade-related matters (IA) which had entered into force on 1 February 2010.

Serbia has continued to build a satisfactory track record in implementing the obligations of the SAA and IA. An agreement has been reached on the adaptation of the trade provisions of the SAA in order to take into account Croatia's accession to the EU and with a view to maintaining traditional trade flows. Further efforts are needed in particular in the areas of state aid control, where the independence of the Commission for State Aid Control needs to be further established and the exemption of enterprises under privatisation from state aid rules need to be repealed.

Regular political and economic dialogue between the EU and the country has continued through the SAA/IA structures and in the framework of the Enhanced Permanent Dialogue (EPD). The Interim Committee met in January and seven sub-committee and sectoral EPD meetings were held. Serbia participates in the multilateral economic dialogue with the Commission and the EU Member States to prepare the country for participation in multilateral surveillance and economic policy coordination under the EU's Economic and Monetary Union.

The EU-Serbia Inter-Parliamentary Committee met in Brussels in March and the European Parliament adopted an opinion on the Commission's progress report on Serbia in April. The Committee of the Regions Working Group on the Western Balkans held its annual meeting in Novi Sad on 26 June. On 10 July, the European Economic and Social Committee adopted an opinion on relations with civil society in Serbia.

The Serbian government adopted an action plan in December 2012 to follow up on all the findings of the Commission's 2012 progress report; in February 2013 it adopted a National Plan for the Adoption of the Acquis (NPAA) for the period 2013-2016.

Visa liberalisation for citizens of Serbia travelling to the Schengen area has been in force since December 2009. In the framework of the post-visa liberalisation monitoring mechanism, the Commission regularly assesses progress made by the country in the implementation of reforms introduced under the visa roadmap. This also includes an alert mechanism to prevent abuses, coordinated by Frontex. Within this framework, the European Commission has regularly submitted its monitoring

reports to the European Parliament and Council. The next report will be presented by the end of 2013. A readmission agreement between the European Union and Serbia has been in force since January 2008.

Financial assistance is provided through the Instrument for Pre-Accession Assistance (IPA). The assistance follows a sector-based approach focusing on the following seven sectors: justice and home affairs; public administration reform; social development; private sector development; transport; the environment, climate change and energy; and agriculture and rural development. In addition, the country continues to benefit from various regional and horizontal programmes. Cross-border cooperation is also used to promote capacity building and dialogue between the local and regional authorities of neighbouring countries, namely Bulgaria, Hungary, Romania, Bosnia and Herzegovina, Croatia and Montenegro.

For the period 2007-2013, the Commission has earmarked €1 384 million for IPA projects to be implemented in the country. IPA assistance is currently managed centrally by the EU Delegation in Belgrade. Preparations for decentralised management of IPA funds are being finalised and conferral of management powers is expected by the end of 2013. The government and the Commission are currently preparing a comprehensive Country Strategy Paper for the period 2014-2020, which will provide a coherent and strategic framework for financial assistance under the new Instrument for Pre-Accession Assistance (IPA II).

Serbia participates in a number of EU programmes: the Seventh Framework Programme for research and technological development, Progress, the Competitiveness and Innovation Programme, the Culture Programme, the Europe for Citizens Programme, the Customs Programme and the Fiscalis Programme.

1.4. Normalisation of relations between Serbia and Kosovo

Serbia and Kosovo have actively and constructively participated in the EU-facilitated dialogue, which was upgraded to a high-level political process with facilitation by the High Representative following the Serbian elections of May 2012. Seventeen high-level meetings were attended by both Prime Ministers since October. A meeting also took place between Presidents Nikolic and Jahjaga in February and they continued meeting in the context of various initiatives in June and in July. Since January 2013, the meetings of the two Prime Ministers have focused on northern Kosovo and on delivering structures which meet the security and justice needs of the local population in a way that ensures the functionality of a single institutional and administrative set-up in Kosovo, in line with the December 2012 Council Conclusions.

These discussions resulted in the 19 April 'First agreement on principles governing the normalisation of relations', complemented in May by a comprehensive implementation plan. This landmark achievement represents a fundamental change in relations between the two sides. The 'First Agreement' includes the following key elements: the establishment of an Association/Community of Serb municipalities in

Kosovo; the principle of a single police force in Kosovo and the integration of all police in northern Kosovo in the Kosovo police force; the principle of integration and functioning of all judicial authorities within Kosovo's legal framework; and municipal elections to be held in the northern municipalities in 2013 and facilitated by the OSCE - municipal elections were subsequently convened on 3

November 2013 and will take place throughout Kosovo. The two parties have agreed that neither side will block or encourage others to block the other side's progress on their respective EU paths.

The parties also reached agreements on energy and telecommunications in September. Implementation of other agreements reached in the dialogue to date has continued. The agreement on representation of Kosovo was broadly implemented. Kosovo became a member of the Regional Cooperation Council (RCC) in February. Full application of the principle of inclusive regional cooperation remains to be ensured; problems such as that encountered with the summit of the South East European Cooperation Process (SEECP) need to be avoided. On IBM, joint interim crossing points have been opened on all six border gates and are up and running. December's agreement on the protection of religious and cultural heritage sites is being implemented. Implementation of the agreement on liaison arrangements started in June. The two sides have also agreed to start collecting customs duties and to set up a fund for the development of northern Kosovo. Regarding free movement, the ID card travel regime is operational. The agreement on customs stamps continues to be implemented by both sides. There has also been good progress on civil registry and implementation should be completed by March 2014. Regarding cadastre, while the implementation has commenced on the Serbian side, the legislation necessary to implement the agreement on cadastre has yet to be passed by the Kosovo side. Implementation of the agreement on acceptance of university diplomas is proceeding smoothly. Serbia's cooperation with EULEX has continued to improve. Direct high-level contacts and regular contacts at operational level continue to facilitate cooperation, e.g. in the fight against organised crime. Serbia needs however to follow-up requests under the police protocol with EULEX, eg. vehicle registration documents.

On 19 September, one member of EULEX was killed in an attack on a EULEX convoy in northern Kosovo. The leaderships of both Serbia and of Kosovo condemned the attack in the strongest terms.

Overall, Serbia has taken significant steps towards visible and sustainable improvement of relations with Kosovo, which have already led to a number of irreversible changes on the ground.

2. POLITICAL CRITERIA

This section examines the progress made by Serbia towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of

minorities. It also monitors regional cooperation, good neighbourly relations with enlargement countries and Member States and compliance with international obligations, such as cooperation with the International Criminal Tribunal for the former Yugoslavia.

2.1. Democracy and the rule of law

Constitution

The Constitution is largely in line with European standards. Some provisions still need to fully reflect the recommendations of the Venice Commission in its opinions of 2007 and of 2013, particularly with regard to the role of parliament in judicial appointments.

Parliament

Parliament has been very active in the first year of the legislature and has enacted several important pieces of legislation aiming at alignment with the EU acquis. The consultation process has improved, with extensive use of public hearings. Parliament's work has been made more transparent by the new practices of publishing voting records and transcripts of plenary debates on the internet and live streaming of plenary debates and committees' sessions. But urgent procedures with limited consultation and discussion time have continued to be used extensively to enact legislation. A women's parliamentary network was set up in February. Parliamentary oversight over the executive has improved, with the prime minister and deputy prime ministers participating in regular sessions of oral questions, the government presenting an annual work programme for 2013 and ministers submitting quarterly reports to the corresponding committees. Parliament has been actively reviewing the results of the EU-facilitated dialogue between Serbia and Kosovo and approved with an overwhelming majority a report from the government following the 19 April 'First Agreement'. A committee of inquiry into Serbia's budgetary allocations to Kosovo was set up in April.

Parliamentary committees have developed a more proactive approach. The Committee for European Integration has continued its review of reports submitted by the government, with active support from the corresponding parliamentary department. Independent Regulatory Bodies submitted annual reports for 2012 which were debated by the relevant committees before conclusions were examined by the plenary in July. But parliament has still given only limited consideration and follow-up to their findings and recommendations.

Elections

The Anti-Corruption Agency eventually released its final report on the financing of 2012 elections at all levels in May (See also Chapter 23 — Judiciary and fundamental rights). Allegations of electoral fraud made in the 2012 elections were

dismissed by the prosecution in October. Serbia still needs to introduce changes into the electoral framework in line with recommendations from the OSCE/ODIHR.

Overall, the transparency of parliament's work and its consultation process has improved and there was progress in oversight of the executive. Urgent procedures are still often applied, unduly limiting time and debate for scrutiny of draft legislation. Parliament needs to develop a more proactive approach to the consideration and follow-up of recommendations of Independent Regulatory Bodies. Serbia has not yet enacted changes to the electoral framework as recommended by OSCE/ODIHR.

Government

The coalition government has remained united in demonstrating commitment to joining the EU and to EU-facilitated dialogue with Kosovo. It has been increasingly consistent in practice, in terms of policy priorities, decision-making and the public conduct of its members, with all crucial policy decisions being adopted unanimously. In March, the government amended its rules of procedure, significantly extending the holding of public consultations and making it compulsory to carry out impact assessments in consultation with the Office for the Regulatory Reform and Impact Analysis. The transparency of the legislative drafting process should be further enhanced and sufficient time given for effective consultation of all interested parties to ensure a more predictable legal environment. More attention also needs to be given to the implementation and monitoring of enacted legislation. The government's General Secretariat needs to be further strengthened to contribute to greater coordination of sectoral policies and effectiveness of policy-making. Too often, sectoral ministries take policy decisions relating to EU standards in isolation. The government needs to follow up the findings and recommendations of independent regulatory bodies actively and to keep a record of this follow up. At the end of the reporting period, a new cabinet was sworn in on the basis of a new coalition in agreement, which now excludes the United Regions of Serbia (URS). 11 out of 22 positions have been renewed, but the government leadership remained unchanged.

In September, the structures for the accession negotiations were established, including a coordinating body chaired by the prime minister, and Serbia's Chief Negotiator was appointed. The Serbian European Integration Office continued to effectively coordinate government activities relating to the EU integration process. In February, the government adopted the National Plan for the Adoption of the Acquis (NPAA) for the period 2013-2016. It replaces the National Programme for Integration (NPI) for 2008-2012 under which 88% of the planned legislation was reported having been enacted. In December, the government adopted an action plan to address findings of the 2012 progress report. The National Council for European Integration has not yet been re-established.

As regards local self-government, the provincial assembly of Vojvodina adopted in May 2013 a declaration 'on the Protection of Constitutional and Legal

Rights of the Autonomous Province of Vojvodina'. A law on own resources for Vojvodina has yet to be adopted, as prescribed by the Constitution. Implementation of the existing legal framework for local government remains very limited. The National Council for Decentralisation has not met nor has the new inter-ministerial Municipal Finance Commission and none of the tools needed to monitor functions delegated to municipalities have yet been developed. Responsibilities have continued to be exercised at local level without proper analysis of the capacity and resources required. The legislation on municipal finance needs to be properly implemented with regard to calculation of the earmarked transfers by line ministries. Consultation of local authorities on new legislation that has local implications remains very limited. (See also Public administration and Chapter 32 - Financial control).

Overall, the government has actively pursued the EU integration agenda, demonstrating consensus in key policy decisions. The framework regulating the consultation process has been improved but implementation needs to be stepped up. The legal framework for local self-government remains to be clarified and properly implemented.

Public administration

The government undertook to develop a new public administration reform (PAR) strategy covering all key aspects of the horizontal PAR as well as an action plan for 2013-16. These preparations are based on an active consultative process and working groups involving all key stakeholders. The PAR strategy is expected to be adopted until end of 2013. The Ministry of Justice and Public Administration is now taking the lead on public administration reform but still needs to enhance its ability to coordinate a PAR agenda.

The necessary institutional and administrative capacity for policy planning and coordination needs to be enhanced. So far political coordination of PAR has been insufficient. The Public Administration Reform Council has been now formally re-established under the leadership of the Prime Minister, but the Council has yet to take up its duties.

With regard to the legislative framework, a new Law on General Administrative Procedures and a Law on local government employees and salaries have yet to be adopted. The Law on Administrative Disputes has not yet been fully aligned with European standards for judicial review of administrative acts.

A merit-based civil service system in central and local government needs to be put in place. Recruitment, particularly for managerial and middle-management positions, is an issue of serious concern, as a substantial proportion has been conducted through non-transparent procedures. Recruitment of local employees is regulated by the Labour Law, as the Law on Civil Servants does not apply to local government employees. Administrative and management capacity at local level is weak and significant disparities between municipalities persist. Training needs to be given more importance in professional development.

The government has shown the will to rationalise the organisation of public administration and to streamline subordinate bodies and agencies. However, only partial actions have been initiated, and a clear and comprehensive organisational policy has yet to be determined. Recruitment and human resources management for subordinate bodies and independent regulatory bodies do not follow a consistent regulatory framework.

Serbia has taken new steps to address the logistical constraints affecting Independent Regulatory Bodies (See also Parliament, Government and Ombudsman). The Commissioner for Information of Public Importance and Personal Data Protection remained active both within the government and with the media and civil society. The number of requests from citizens has increased. His office was allocated new premises in August which should allow expanding its administrative capacity, when they become functional as from October 2013. Serbia's State Audit Institution (SAI) has continued to build up capacity and now has approximately 190 staff, including around 150 auditors. The SAI has improved and widened its audit coverage to include local self-government and state-owned companies, but it remains under-resourced for full audit capacity. Performance audit work has not started yet (See also Chapter 32 — Financial control).

Overall, public administration reform remains hampered by the lack of clear steer and coordination structures. The system remains fragmented, with unclear lines of accountability and low policy development and coordination capacity. Recruitment and promotion need to be further reformed and developed to achieve a transparent, merit-based civil service system. Much recruitment is still conducted through non-transparent procedures. Follow-up of the recommendations of independent bodies needs to be built into the system.

Ombudsman

The State Ombudsman's offices at both central and local level and the office of the Ombudsman of Vojvodina continued to be active, with an increase in the number of citizens' complaints. Most of the reported infringements relate to administrative procedures. The number of recommendations followed up by the government and parliament increased slightly, but follow-up needs to be more systematic, especially in the area where the Ombudsman acts as the national preventive mechanism against torture.

Civilian oversight of the security forces

The Law on Military Security and Military Intelligence Agencies, which allowed sensitive data on itemised telephone bills and localisation to be monitored without a court order, was amended in February to require a high court order to be obtained before access to such data is granted. The new parliamentary committee has been proactive in the legislative process, supervision of the security services and cooperation with independent bodies. In March, the Committee adopted a decision regulating in detail the direct oversight of the security services through control visits,

inspections and reports to the plenary. Control visits were made to all three security agencies in the course of June and July, and the Committee in particular inspected the legality of the use of special measures for the secret collection of data. Upon an initiative of the Committee, the State Audit Institution for the first time audited the civilian state security agency (BIA). A law on access to state security files has yet to be adopted.

Civil society

Civil society organisations continued to play an important role in social, economic and political life, and in promoting democratic values. The sector continued to grow. The office for cooperation with civil society produced its first annual report on budget spending on associations and other civil society organisations, covering the 2011 budget.

Judicial system

New five-year strategy on the judiciary was adopted in July, together with implementing action plan. Following last year's Constitutional Court rulings, previously non-reappointed judges and prosecutors, representing approximately one third of the total, were re-appointed. Major legislative improvements were made. However, the legislative and constitutional framework still leaves room for undue political influence and need to be amended. To ensure accountability in the judiciary, professional appraisal rules need to be adopted and codes of ethics and disciplinary rules more systematically applied, where relevant, to prosecutors and judges. The size of the backlog of cases continues to raise concern. There are still major imbalances in the workload of judges and the length of proceedings remains excessive in many cases. Further reforms require a comprehensive functional analysis of the judiciary in terms of cost, efficiency and access to justice. The implementation of the recent changes to the legislation on 'abuse of office' should be carefully monitored with a view to a comprehensive review of economic crimes. The means and expertise of the Judicial Academy should be increased and the legislative and institutional framework adapted to allow it to become the compulsory point of entry to the judicial profession.

For a detailed analysis of the developments in the judicial system, see Chapter 23 — Judiciary and fundamental rights.

Fight against corruption

A new strategy for the period 2013-2018 has been adopted in July, together with a related action plan. Implementation of GRECO recommendations has continued. Investigations into corruption cases have been stepped up, especially in high-level cases, resulting in particular in criminal charges filed against two former ministers and the sentence in first instance of a former president of a commercial court to six and a half years of prison for abuse of office. The Anti-Corruption Agency's operations continued, mostly in relation to the control of the financing of

political parties. The implementation of the legal framework and the efficiency of anti-corruption institutions need to be improved. A proactive approach to investigating corruption needs to be maintained and result into final convictions, included in high profile cases. The judiciary needs to gradually build up a solid track record of convictions in this regard, particularly in cases of misuse of public funds. The Anti-Corruption Agency needs to make full use of its capacity, in particular for checks on the funding of electoral campaigns. The law enforcement bodies need to gain expertise, in particular in financial investigations, and to become more proactive. There is no efficient and comprehensive legal framework to protect whistle-blowers. Continued political direction and improved support for institutions is needed, along with more effective inter-agency coordination in order to significantly improve performance in combating corruption.

For a detailed analysis of developments in anti-corruption policy, see Chapter 23 — Judiciary and fundamental rights.

Fight against organised crime

The institutional framework to fight against organised crime is in place. Regional and international cooperation has led to some results. Criminal investigations have been launched in a number of cases. However, final convictions remain rare. The capacity to carry out financial investigations in parallel with complex criminal investigations needs to be built up, and a track record of proactive investigations and final convictions in organised crime cases needs to be established. The dependence of the police on the security intelligence agency to carry out certain special investigative measures in criminal investigations is not in line with EU standards.

For a detailed analysis of developments in this area, see Chapter 24 — Justice, freedom and security.

2.2. Human rights and the protection of minorities

The legislative and institutional framework for the observance of international human rights law is in place. Further efforts to ensure full implementation of the legal framework and international instruments are needed.

In the area of media freedom, defamation was decriminalised. The creation of an ad hoc Commission tasked with shedding light on cases of unsolved murders of journalists contributed to re-launching some investigations. However, no progress was made in the implementation of the media strategy. Transparency in media ownership and financing of the sector still needs to be comprehensively addressed, particularly as regards direct state financing. Reports of orchestrated media campaigns in certain tabloids against the opposition, coalition partners or independent bodies, detailing investigations or announcing arrests, based on anonymous or leaked sources from the police investigation or prosecution, raise concerns.

Some activities have taken place regarding the protection of the rights of the lesbian, gay, bisexual, transgender and intersex (LGBTI) population. However, sufficient political support is still lacking and a pride parade that was to be held on 28 September in Belgrade was again banned, for the third year in a row, on security grounds. Further efforts are needed to address complaints and in particular alleged ill-treatment, improve conditions in the prison system and ensure access to justice. Further attention needs to be given to actively protecting the media, human right defenders and other vulnerable groups, including the Roma and LGBTI persons, from threats and attacks from radical groups.

A comprehensive anti-discrimination strategy was adopted in June. A law on mental disability was adopted in May. Further positive measures have been taken to protect children's rights. Additional efforts are needed to guarantee women's rights in order to tackle domestic violence and improve gender equality, particularly in the workplace. The social integration of persons with disabilities needs to be further improved.

The legal framework providing for minority protection is in place and generally complied with. However, consistent implementation of the legal framework on the protection of minorities throughout Serbia needs to be fully ensured, notably in the areas of education, use of language, and access to the media and religious services in minority languages. The recommendations of the June 2011 EU-Serbia seminar on Roma inclusion have been actively followed up and a new set of operational conclusions addressing the remaining gaps was jointly agreed in September. Further sustained efforts remain needed to improve the situation of the Roma and of refugees and displaced persons.

For a detailed analysis of the developments in the area of human rights and the protection of minorities, see Chapter 23 — Judiciary and fundamental rights. For developments in the areas of trade union rights, anti-discrimination and equal opportunities, see also Chapter 19 — Social policy and employment.

2.3. Regional issues and international obligations

Regarding relations with Kosovo, see section 1.4 - Normalisation of relations between Serbia and Kosovo.

There are no outstanding issues regarding Serbia's compliance with the Dayton/Paris Peace Agreement. In the framework of the Agreement on Special Parallel Relations, joint sessions of the governments of Republika Srpska and Serbia and a session of the Cooperation Council were held.

Serbia has maintained full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). Serbia has continued to respond to requests for assistance in a timely manner and has intensified efforts to investigate support networks responsible for helping ICTY fugitives. Proceedings are ongoing in 22 cases on charges of harbouring ICTY indictees and 10 people were sentenced on the basis of plea-bargaining. A repeat trial in a case relating to aid provided to Ratko Mladić has resumed in June 2013. Following the acquittals on appeal in the

Gotovina/Markač and Haradinaj cases in November, which were met with outrage and bitterness in Serbia and beyond in the region, Serbian high officials criticised the decisions and, on the occasion of a UN General Assembly thematic debate in April, questioned the contribution of international justice to regional reconciliation. The government extended its financial assistance to all Serb ICTY detainees or convicts and their families in March.

In the area of domestic processing of war crimes, a protocol on cooperation on exchange of information and evidence in war crimes cases was signed between the war crimes prosecutors of Serbia and Bosnia and Herzegovina in January. The two sides have been meeting regularly since then to expand cooperation in practice. Cooperation and exchanges of information with Croatia and EULEX continued. The courts processed cases more efficiently and the judges performed better under new procedural rules. The number of persons indicted in 2012 was low and there was no progress in investigating high-level officers involved in war crimes. Courts continued to pass mild sentences. Serious problems in the system of witness protection have not been addressed and assistance to victims has not improved. Victims are only allowed to be assisted by members of the Bar, when they would benefit from assistance by experienced human rights experts.

Serbia's policy regarding the International Criminal Court is 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 agreements.

Progress has been made as regards the Sarajevo Declaration Process, which brings together Bosnia and Herzegovina, Croatia, Montenegro and Serbia and aims at finding sustainable solutions for the refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. The implementation of the Regional Housing Programme, which aims at providing housing solutions for the most vulnerable refugees and displaced persons in the four countries and is extensively supported with EU financial assistance, has started with the approval of the first round projects by the international donors in April. Joint regional information campaigns on the programme have been carried out throughout the region. However, the implementing capacities of the partner countries need to be further improved and a series of documents and procedures need to be finalised in order for the approved country projects to start. Efficient project implementation units and rigorous beneficiary selection procedures as well as beneficiary data cross checking remain to be established. The issue of refugees' pensions within the bilateral working group between Croatia and Serbia still needs to be addressed. The good overall cooperation between the partner countries on the process and the housing programme needs to continue.

The unresolved fate of missing persons from the conflicts in the 1990s is still an issue of humanitarian concern in the Western Balkans. As of July 2013, a total of 11 859 persons were still missing as a result of the conflicts in the region, according to International Committee of the Red Cross (ICRC) figures. Of these, 7 886 cases relate to the conflict in Bosnia and Herzegovina, 2 246 to the conflict in Croatia and 1 727 to the conflict in Kosovo. The lack of information on potential

gravesites and difficulties in identifying the already exhumed human remains continue to be the key obstacles to solving the remaining cases of missing persons. Belgrade and Pristina held two meetings to address these issues in the framework of the ICRC-chaired Working Group on Missing Persons. Forty four cases have been resolved, owing mostly to the information provided by the Serbian authorities and international stakeholders. Serbia and Croatia resumed formal contacts on missing persons and in July, a first session of the re-established bilateral working group took place in Zagreb with the two sides agreeing to meet four times a year. As a result of the judicial cooperation between the two countries, a gravesite with 13 victims was found and exhumed near Vukovar. However, the process remains slow overall and greater political commitment, supported with financial and technical resources, is needed.

Regional cooperation and good neighbourly relations are an essential element of Serbia's European integration process. Serbia continued to actively participate in regional initiatives and organisations, such as the Migration, Asylum, Refugees Regional Initiative (MARRI), the Central European Initiative (CEI), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty (ECT) and the European Common Aviation Area Agreement (ECAA). The new RCC Secretary General comes from Serbia. In April, Serbia hosted a regional ministerial conference on the fight against organised crime, corruption and judicial cooperation. A trilateral presidential summit took place between Serbia, Turkey and Bosnia and Herzegovina in May, preceded by an economic and trade ministerial meeting in March. In June, the Serbian President appointed a personal envoy to the Regional Commission for Establishing the Facts about War Crimes (RECOM).

As concerns bilateral relations with other enlargement countries and neighbouring EU Member States, the Serbian leadership stepped up high-level contacts with neighbouring countries with renewed impetus since January. After his disputable statements on Srebrenica and Vukovar, the Serbian President made a number of particularly welcome gestures that contributed to a spirit of reconciliation. Following the entry into force of the SAA on 1 September 2013, Serbia will have to conclude bilateral conventions on regional cooperation, under Article 15 of the SAA, with Albania, Montenegro and the former Yugoslav Republic of Macedonia.

The Serbian foreign minister visited Albania in October 2012 for the first such visit in eight years. However, bilateral relations were strained at times, with each side blaming the other for declarations or actions in the Presevo valley which raised tensions.

Relations with Bosnia and Herzegovina have improved. In April, the Serbian President publicly asked for forgiveness for crimes committed by any individual in the name of Serbia and the Serbian people, including in Srebrenica. A key development was the signing of a protocol on cooperation on the prosecution of perpetrators of war crimes, crimes against humanity and genocide. An agreement on readmission and one on extradition, which excludes war criminals, were also

signed. There were many high-level reciprocal visits, a Joint Commission for Economic Cooperation was inaugurated and a memorandum of understanding on cooperation in the EU integration process was signed in December. Border demarcation remains to be addressed.

Relations with the former Yugoslav Republic of Macedonia were further upgraded. A first joint government session was held in Belgrade in June, at which agreements were signed on health and interior issues and the mixed committees on minorities and economic cooperation were reactivated. An agreement on legal assistance in civil and criminal matters entered into force. An agreement on mutual enforcement of court decisions in criminal cases was ratified, and an agreement on cooperation on the process of EU integration was signed. There were no developments in relation to the dispute between the Orthodox churches in the two countries, which both Prime Ministers signalled in January should not be an obstacle to deeper cooperation.

The Serbian Prime Minister visited Montenegro in September. The agreement on police cooperation entered into force in March. A readmission agreement and an agreement on consular protection and services in non-EU countries were signed. A joint special task force for fighting corruption and crime is operational and has already resulted in police actions in the two countries. There were no developments in the dispute between the Orthodox churches in the two countries.

The Serbian President visited Turkey in February and again in May for the trilateral meeting with Turkey and Bosnia and Herzegovina, on which occasion a protocol on commercial and economic cooperation was signed. Agreements with Turkey were signed in June on the areas of mutual legal assistance in civil and trade matters and in criminal matters and extradition.

The Serbian President visited Bulgaria in September. A social security agreement entered into force in February. A joint contact centre for police and customs cooperation was opened in December. An agreement on the implementation of the gas interconnection between Serbia and Bulgaria was signed in December.

The Serbian President and Prime Minister attended the ceremony marking Croatia's accession to the EU in July, a culminating point in a series of high level reciprocal visits that started with the Croatian Prime Minister's visit to Belgrade in January. A joint mixed commission was formed in March to address open bilateral issues (genocide suits, refugees, pensions, border demarcation and missing persons) and Croatia shared in July an updated list of persons facing criminal investigation or indictments for war crimes.

Reciprocal presidential visits marked by reconciliatory statements and apologies for crimes committed during WWII sealed a new phase in relations with Hungary. A new border crossing was opened in May and a trilateral memorandum of understanding on internal affairs was signed by Serbia, Austria and Hungary.

Serbia and Romania continued cooperation on the protection of minorities in line with their Joint Protocol of March 2012. Consultations continued under the

auspices of the OSCE High Commissioner on National Minorities. The Serbian Prime Minister visited Bucharest in May.

Overall, Serbia generally complied with its international obligations. Serbia continued to fully cooperate with the International Criminal Tribunal for the former Yugoslavia. Serbia maintained good relations with its neighbours and was actively involved in regional cooperation.

3. ECONOMIC CRITERIA

In examining economic developments in Serbia, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

3.1. The existence of a functioning market economy

Economic policy essentials

In January 2013, the government submitted to the European Commission its Pre-Accession Economic Programme (PEP) for the period 2013-2015. The programme foresees a mild and plausible recovery by 2% in 2013 and further, rather optimistic, acceleration of real GDP growth to 3.5% and 4% in the following two years. A fiscal consolidation package, mostly on the revenue side, was adopted in the autumn of 2012. Revenue underperformance and expenditure pressures led to another set of consolidation measures in July and to a rebalancing of the budget, increasing the 2013 deficit target from the initial 3.6% of GDP to an estimated

5.3% of GDP. Some steps to address the numerous obstacles to growth have been taken, but the adoption and implementation of a number of important structural reforms has been delayed. The pre-cautionary Stand-By Arrangement (SBA) with the IMF expired in March 2013, without being activated and no new arrangement has been concluded. Overall, in view of the difficult economic situation, economic reforms have progressed slowly. Achieving a sustainable fiscal position and tackling the numerous obstacles to growth remains a challenge.

Macroeconomic stability

In 2012, Serbia went through another recession and the economy contracted by 1.7%. Domestic demand weakened significantly in the last quarter when private consumption fell by 2% and gross fixed capital formation by 3.4%. Loose fiscal policy, which had boosted government expenditure and led to a strong public consumption growth in the pre-election period, was reversed by the year's end and exports remained the only driver of growth. Real GDP grew by 2.1% in the first and by 0.7% in the second quarter. However, economic growth has been uneven, concentrated in few sectors, and employment stagnated. Private consumption has

continued to decrease and import growth lost pace. Activity in key sectors such as construction and retail trade continued to decline. Average per capita income in purchasing power standards stood at 35% of the EU average in 2012, unchanged from the year before. Overall, the economy is slowly emerging from another recession but growth remains weak and narrowly based.

The economy is still facing significant external imbalances. In 2012, the current account deficit increased to 10.5% of GDP, driven mainly by an expanding trade deficit. However, this trend was reversed by the end of the year and, in the first half of 2013 the annualised current account deficit shrank by half in euro terms to an estimated 5.7% of GDP. By July, exports of goods and services were up by 20% in euro terms, explaining the bulk of the current account adjustment while, due to falling domestic demand, imports remained subdued. Despite a slowdown in the EU economies hosting significant Serbian diaspora, private remittances increased strongly by 13% in the first seven months.

External financial flows have been volatile and government borrowing replaced private sector inflows as the main source of financing of the current account deficit. Due to significant outflows, net foreign direct investment fell to 0.8% of GDP in 2012. It gained some ground in 2013, but remained far below pre-crisis levels, as domestic risks and weak EU economy supressed inflows. Wholesale trade, construction and financial services sectors attracted more than half of all net foreign investment in the country, while inflows into sectors that could potentially boost export capacity remained marginal. Portfolio investment increased as a result of significant government borrowing (three rounds of eurobonds denominated in US dollars, totalling about €2.5 billion). In the first half of 2013, banks continued to reduce their foreign liabilities. The central bank foreign exchange reserves stood at a comfortable €10.7 billion in August, covering more than seven months' worth of imports. Private sector external debt has remained fairly stable; however, since September, rising government indebtedness has kept total external debt high, at 83.7% of GDP by the end of June. Overall, external imbalances have been falling but remain significant. Government borrowing replaced private sector inflows as the main source of financing of the current account deficit.

In 2012, the unemployment rate increased to a record high of 23.9%. According to the April Labour Force Survey, the employment rate reached an eleven-year low, while the activity rate edged slightly up but was still very low at 47.9%. Only about one person in three above the age of 15 was employed. Employment in the unreformed public sector remained largely intact. Long-term and youth unemployment have been persistently high and unemployment is very high almost everywhere throughout the country. There are a number of restrictions related to severance payments, duration of fixed-term employment, industry-wide collective agreements, termination of employment, payroll calculation and compensations which are obstacles to job creation and reduce labour flexibility. The first signs of economic recovery in 2013 did not spill over to the labour market. The number of registered employed continued to fall and registered unemployment crept up. Since September last year, gross and net wages have been declining in real

terms. In the first seven months of 2013, real wages fell by 4.3% on average. Departing from regular indexation rules, due to the difficult economic situation, the government increased wages in the public sector by 2% in October and April although, at 11% of GDP in 2012, total government spending on wages and salaries remains relatively high. Overall, unemployment is very high and sustainable employment creation represents a major challenge. Labour market rigidities are significant.

The monetary policy framework remained unchanged and the National Bank of Serbia reconfirmed its commitment to inflation targeting. In November, parliament passed amendments to the Law on the National Bank, which aimed at correcting some of the amendments of August 2012, which had undermined the independence of the central bank. Until April, annual inflation remained at double-digit levels, spurred by a legacy from 2012 of depreciating currency, hikes in indirect taxes and high food prices, and the inflation target (4% ±1.5 percentage points) was missed by a wide margin. However, since November monthly inflation rates have come down, averaging 0.2% in the period until August, due to weak domestic demand, mostly stable exchange rate and delayed adjustments in administered prices. These factors, along with base effects and food price moderation because of better agricultural season, supported rapid disinflation over the summer and inflation fell to 7.3% in August.

The central bank responded to the elevated inflation by tightening its stance, raising the key interest rate in every month from September (10.5%) to February (11.75%). As inflationary pressures started dissipating, in May the bank lowered its key rate by half a percentage point, to 11.25%, followed by another cut to 11.00% in June. Reduced political risks, improving external accounts and tighter monetary policy have broadly stabilised the exchange rate. From September to April, the dinar appreciated vis-ŕ-vis the euro by around 4% and, although this trend was reversed in early June, by early September 2013 the dinar was still stronger than a year ago. The central bank continued interventions to smoothen excessive daily volatility on the foreign exchange market. In view of the high degree of euroisation of the economy and significant pass-through effects on inflation, the relatively stable exchange rate played a significant role in stabilising inflation. Overall, inflationary pressures have receded, helped by a stronger dinar, subdued domestic demand and a better agricultural season. However, inflation remains inherently volatile, heavily dependent on unstable food prices and exchange rate fluctuations.

In 2012, an election year, budget expenditures went off-track across almost all major categories, reaching their highest level in years. Most importantly, previous small gains in expenditure consolidation, in particular in compensation of employees, subsidies and pensions, have been wiped out. In a revised budget, adopted in September 2012, the new government took a number of consolidation measures, mostly on the revenue side. Nevertheless, the deficit overshot by far the initial target of 4.25% and reached 6.4% of GDP and was even higher if expenditure on bank recapitalisations and called guarantees are taken into account.

Building on the measures adopted in the autumn, the 2013 budget envisaged a sharp deficit reduction to 3.6% of GDP. However, tax revenue underperformed from the beginning of the year, putting this target beyond reach. By the end of April, the general government deficit stood at 46% of the planned for the year. The higher than expected deficit prompted another round of measures in May and led to a full budget revision, adopted by the parliament in July. The May measures were mainly on the revenue side and included a reduction of the wage tax and increases of employees' social security contribution and of the property tax base. The July revision raised the annual deficit target from 3.6% to an estimated 5.3% of GDP. It envisaged cuts in ministries' expenditure allocations, fixed indexation of wages and salaries by 0.5% in October 2013 and increases in some outlays. The government also adopted a public sector reform programme, including an action plan to finalise enterprise restructuring by mid-2014. By the end of August, total revenue declined by 4.1%, while public expenditure have been kept largely in check and declined by 5.8% in real terms. However, quasi-fiscal expenditure, related to bank recapitalisations and payments on called guarantees, have been significant, undermining budget transparency and weighing heavily on public finances. Overall, a series of measures, mostly on the revenue side, failed to deliver the expected reduction of the deficit. Expenditure inefficiencies and the high level of spending on wages and pensions still need to be addressed in a systematic way.

Fiscal rules were breached and government debt significantly exceeded the 45% of GDP limit, reaching close to 60% in 2012. In line with legislative requirements, the government presented a programme of reducing government debt, according to which, and in a rather optimistic scenario, it will take until 2020 until the debt falls again below the 45% threshold. In 2013, the high budget deficit and new government borrowing continued to push the debt up. Since the beginning of the year, government-guaranteed debt and called guarantees have also increased, reflecting continued government support of loss-making public enterprises. Taking advantage of the favourable international environment and declining interest rates on the domestic government bonds market, in April the government prepaid some €330 million of its obligations towards the London Club. Interest payments to service the debt went up by 55% to 2.0% of GDP in 2012 and increased further in 2013. Overall, the adoption and implementation of a credible medium-term fiscal adjustment programme, backed by systemic reforms of the public sector to restore fiscal sustainability and stem further rise in the government debt, is urgently needed.

Recent fiscal consolidation efforts have been mainly on the revenue side where the space for further measures has been largely exhausted, with the exception of decreasing costly tax expenditures and improving collection. Some small steps have been taken to reduce and restructure current expenditure and to tackle spending inefficiencies but the big and unreformed public sector remains a significant drain on the budget. High export growth has softened the effects of depressed domestic demand and reduced external imbalances, relieving some of the depreciating pressures on the dinar. Inflation decelerated but monetary policy continues to be restricted by unstable food prices, irregular administered price adjustments and the

high degree of euroisation of the economy. Overall, achieving a proper policy mix is still a challenge. Revenue-based fiscal adjustment has largely reached its limits and monetary policy efficiency remains constrained.

Interplay of market forces

Due to changes in consumer prices' basket, the proportion of administered prices fell by 2 percentage points to 20%. Since the beginning of the year, gas prices were adjusted twice, while a planned electricity price increase was postponed several times until August, when the price was raised on average by 11.3% (10.9% for households). As of 2013, the electricity and gas markets have been liberalised for big consumers connected to the transmission network which need to buy energy at strictly market prices. The government continued to control prices of some public utilities indirectly by setting a limit on increases in the prices of communal and public city transport services which are under the control of the local authorities. In November, the government adopted new criteria for wholesale and retail price formation for medicines for human consumption issued on prescription. The government decree which capped retail margins at 10% for basic foodstuffs expired at the end of 2012. Overall, price liberalisation has advanced but state control over prices remains significant.

The state holds predominant stakes in major sectors such as energy, transport and telecommunications. Some legislative efforts were made to improve the operation of public companies, which continued to be poorly managed, largely overstaffed and loss making. A law on public companies was adopted, setting criteria and delineating a procedure for the appointment of companies' management. The government continued to provide state guarantees for liquidity loans to major companies and 'ad hoc' subsidies to selected manufacturing state-owned enterprises to cover capital investment in modernising their equipment. Some of the large state-owned companies have been tendered (unsuccessfully) for privatisation or are in the process of setting up strategic partnerships with foreign investors. In April, with significant support from the state, the government partially re-started production in the loss-making steel mill in Smederevo.

In order to revive the privatisation of socially owned enterprises, the Law on Privatisation was amended in December 2012, enabling creditors' forced collection of their claims against entities subject to privatisation after 30 June 2014. An action plan to restructure 179 of these companies was adopted in June, with a view to privatising the viable ones (fully or partially) and selling off assets and initiating bankruptcy procedures for those enterprises that have no market prospects. In line with the plan, a bankruptcy procedure for 26 enterprises has already been initiated. Overall, some steps have been taken to revive the privatisation process, especially regarding enterprises undergoing restructuring. The state presence in the economy remains significant and state-owned companies continued to accumulate losses.

Market entry and exit

The introduction of the 'one-stop shop' business registration system in 2009 has significantly improved the efficiency and speed of the registration procedure. As of October 2012, the fee for obtaining a company registration code, assigned by the Statistical Office, was abolished. However, market entry is still hampered by lengthy and costly procedures for granting various permits, notably construction permits. With amendments to the Law on Planning and Construction, adopted in late December, the requirement for converting use rights into ownership rights in order to receive a construction permit, for land obtained through privatisation, was abolished for one year. In May, the Constitutional Court suspended the execution of this provision until determining its constitutionality. In the first half of 2013, the number of companies with blocked accounts reached 44.7 thousand, marking a drop of around 25% since September. Overall, red tape and difficulties in obtaining construction permits continue to be important obstacles for business expansion.

Legal system

While the legal basis has developed further, the implementation of laws needs to be seriously strengthened. The uneven and slow enforcement of laws has an impact on the cost of doing business. The backlog in the courts is still substantial and companies — aware of the limitations of the system — often avoid using the courts as a legal solution to their problems. Enforcement of restitution legislation, which is expected to improve legal clarity over real estate ownership, is ongoing. By August 2013, about 25% of all submitted claims were resolved. A new Law on Public Procurement, increasing transparency and including measures to prevent corruption and conflicts of interest, was adopted in December. The informal economy remains strong and is a major hindrance to fair competition and business development. Corruption harms the business environment, although the fight against it has intensified. Overall, legal predictability and enforcement of court decisions remain weak. Some progress has been made in improving property rights. Further concrete steps should be taken swiftly to improve the business environment.

Financial sector development

Part of the banking system has been under stress, which has prompted state intervention, costly recapitalisations and consolidation of state-owned banks. In October, parliament passed a law allowing assets and liabilities from problematic state-owned banks to be transferred to viable banks. On this basis, the cases of two troubled banks (Agrobanka and Development Bank of Vojvodina) have been resolved with unlimited coverage of deposits. Further steps in bank consolidation were made when Telenor Serbia, a major telecom operator in the country, took over the local KBC Banka, while Société Générale Bank assumed KBC's clients and portfolio. A total of 31 banks were operating in mid-2013 — two less than a year earlier. The banking sector continued to dominate the financial system, accounting for 93% of total assets in 2012. Within the banking sector, foreign-owned banks are

preponderant. As of June, there were 21 foreign banks, accounting for three quarters of the assets, almost 80% of lending and 70% of all bank deposits. There were also seven banks controlled by the state and only three small private banks. Financial intermediation remained broadly unchanged and banking sector assets amounted to 91.8% of GDP by the end of 2012.

Capital adequacy indicators improved and the regulatory capital to risk-weighted assets of the system stood at 20.2% in June, well above the required minimum of 12%. The level of Euroisation remained high, with about 81% of deposits and 72% of households and enterprises loans denominated in or linked to foreign currency. Lending activity decelerated significantly and, excluding the exchange rate effect, domestic lending growth fell to 1% in June. Corporate loans declined the most, especially after subsidised lending was suspended due to exhaustion of funds, while household lending increased only marginally. Commercial banks opted for low-risk investments, increasing their holdings at the central bank and reducing external liabilities. A weak labour market and falling incomes have undermined the growth of non-monetary sector deposits, which has steadily decelerated. The quality of the loan portfolio worsened, mainly in its corporate sector segment, and the gross non-performing loans ratio reached 19.9% in June. In December, the central bank amended its Decisions on Risk Management and on the Classification of Bank Balance Sheet Assets and Off-balance Sheet Items with the aim of facilitating the resolution of accumulated non-performing loans. Following the closure of Agrobanka, which had made significant losses, bank profitability improved. Still, a number of small banks, holding a combined market share of around 15%, continued to run losses. Overall, banking sector capitalisation and liquidity indicators remained strong. However, credit growth stagnated, non-performing loans are high and vulnerabilities need to be addressed.

The main index of the Belgrade Stock Exchange BelexLine has increased by 28% (from September) by early April, before losing more than half of this gain during the summer. The insurance sector remains underdeveloped, with a ratio of total premiums to GDP at 1.8% and per capita premiums of about €75. The sector is dominated by non-life insurance, which accounted for 80.7% of total premiums. The number of insurance companies remained unchanged at 28, of which 24 were engaged exclusively in insurance business and 4 in reinsurance. Most of the companies (21) were under majority foreign ownership and they dominated the market with a share of 90.8% in life premiums, 57.6% in non-life premiums, 68.8% in total assets and 65.5% in employment. The insurance sector's share of total financial sector assets increased slightly, to 4.5% in 2012. The assets controlled by voluntary pension funds have increased but are still marginal at 0.5% of GDP, while the importance and operations of leasing companies continued to decline. Overall, the non-banking financial sector remains underdeveloped.

3.2. The capacity to cope with competitive pressure and market forces within the Union

Existence of a functioning market economy

State presence in the economy remains significant, while the private sector is weak and unprotected as the rule of law is not systematically observed. Economic reforms have progressed slowly. Domestic and external deficits remain high and there are significant structural rigidities and obstacles to growth. Overall, the functioning of market mechanisms remains hampered by distortions and legal uncertainty.

Human and physical capital

The gap between supply and demand of skilled workforce remains and the education system continues to educate a workforce that does not necessarily correspond to the needs of the economy. As a consequence, the main features of the labour market are high unemployment of people with lower and intermediate education, and high long-term and youth unemployment. In October 2012, the government adopted an education strategy, which envisages a number of measures to improve the quality of education at all levels by 2020. However, action plans for implementing the strategy have so far not been drafted and funding is constrained by the need to pursue expenditure-based fiscal consolidation. Active labour market programmes remain underfunded and do not seriously address youth and long-term unemployment. Overall, the education strategy is ambitious but its implementation is a challenge.

Serbia continues to need significant investment to improve and upgrade its physical infrastructure, which has been neglected for many years. Government investment increased to 3.7% of GDP in 2012 but remains low and declined by 37% in real terms in the first eight months of 2013. Works on major transport corridors are progressing slowly, delayed in part by land expropriation issues, overlapping competencies of different institutions and lack of project documentation. Energy efficiency continues to be low and energy infrastructure, in particular electricity generation and distribution, needs further investment. Steps have been taken to secure foreign financing for big infrastructure projects in the transport and energy sectors, which may help to speed up work on strategically important projects. Greenfield foreign direct investment (FDI) has been marginal, despite continued provision of costly government subsidies. Overall, the physical infrastructure needs substantial investment. Government investment is constrained by the tight financial conditions and the urgent need of further fiscal consolidation. Securing financing for large transport and energy projects need to be in line with public debt sustainability.

Sectoral and enterprise structure

Following particularly bad weather in the winter and a drought in the summer, in 2012 the value added in agriculture declined by 17% and its share of gross value

added dropped to 10.4% from 10.8% a year earlier. Industry's share also fell, from 29.3% to 28.7%, while services increased their share to 61% of GDP. Employment remained roughly unchanged across the sectors. The informal sector, driven by labour law rigidities and taking advantage of weaknesses in tax and expenditure policies and in law enforcement, remained significant. Overall, the economy is dominated by services, although agriculture's share remains high. The informal sector is a significant challenge.

State influence on competitiveness

State aid reported in 2012 was 7% higher than in 2011, representing 2.6% of GDP. Of the total state aid granted in 2012, 35.8% was regional aid, 13.6% was in the form of other horizontal aid, 22% was sectoral aid, and 28.6% went to agriculture. There was very little aid given to training and to research and development. Most of the aid was given in subsidies (close to 60%) or as tax incentives (32.6% of total). State-controlled, monopolistic structures remain in a large number of sectors and the state continued to subsidise heavily the transport sector, which received almost a fifth of all aid. State aid control needs to be enforced consistently and the exemption from state aid rules given to enterprises that are being privatised still needs to be abolished. New state aid measures need to be systematically notified before being put into force. The Commission for State Aid Control still has to demonstrate its independence through ex post controls and use of the provision on recovery of unlawful state aid. Overall, the state continues to substantially influence competitiveness by providing significant and wide-ranging forms of state aid.

Economic integration with the EU

The EU remains Serbia's main trading partner, accounting for 58.1% of its total exports and 58.2% of its imports in 2012. Shares of both Serbia's exports to the EU and imports from the EU have increased slightly in comparison to 2011. Serbia's exports to the EU have grown faster than its imports, resulting in an increase in the export to import ratio vis-ŕ-vis the EU from 48% in 2009 to 60% in 2012. The CEFTA countries accounted for 32.4% of total exports and 10.4% of total imports in 2012. The share of net FDI inflows from the EU in total net FDI inflows stood at 64% in 2012. The average real gross wage growth was 1% in 2012, while average labour productivity growth was negative, translating into an increase in real unit labour costs. In real effective terms (deflated by inflation), the dinar depreciated on average by 7.7% in 2012. However, the depreciating trend was turned around in August 2012 and by August 2013 the dinar strengthened by 10.4%. Overall, trade integration with the EU remained high.

4. ABILITY TO TAKE ON THE OBLIGATIONS OF MEMBERSHIP

This section examines Serbia's ability to take on the obligations of membership — that is, the acquis as expressed in the Treaties, the secondary legislation and the policies of the Union. It also analyses Serbia's administrative capacity to implement the acquis. The analysis is structured in accordance with the list of 33 acquis chapters. In each sector, the Commission's assessment covers progress achieved during the reporting period and summarises the country's overall level of preparations.

4.1. Chapter 1: Free movement of goods

There were no developments regarding the general principles.

As regards horizontal measures, Serbia has further aligned legislation with the EU acquis by adopting the remaining implementing legislation on metrology in January. Staffing levels in the ministry in charge of horizontal coordination remain to be strengthened.

In the area of standardisation, the Institute for Standardisation of Serbia (ISS) has adopted almost 94% of the European standards (ENs) required for membership of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). Serbia has not yet applied for membership of CEN and CENELEC. The total number of EU standards and other deliverables applied nationally stood at 21 191, including 14 912 CEN standards, 5 963 CENELEC standards and 316 European Telecommunications Standards Institute (ETSI) standards. The number of conflicting Serbian standards and related documents withdrawn was 10 779. The ISS currently has 215 active technical committees. The Institute has 66 full-time employees, making its overall administrative capacity adequate.

In the area of conformity assessment, a number of conformity assessment bodies have been designated in accordance with the relevant EU Directives: 7 for the Machinery Directive, 4 for the Low Voltage Directive, 4 for the Electromagnetic Compatibility Directive, 7 for the Lift Directive, 8 for the Pressure Equipment Directive, and one for the Radio and Telecommunications Terminal Equipment Directive.

In the field of accreditation, the Accreditation Body of Serbia (ABS) signed the International Laboratory Accreditation Co-operation (ILAC) Mutual Recognition Agreement for the field of calibration, testing, and inspection, and the International Accreditation Forum (IAF) Multilateral Agreement for product certification fields. New fields of accreditation were established for several New Approach Directives. For the first time a national certification body was recognised by the European Commission (EC), a body performing certification of organic products in line with the acquis, allowing Serbia to freely export and place its organic products on the EU market. By June, the ABS had granted accreditation to 535 bodies, including 313

testing, 53 calibration, and 9 medical laboratories, and 125 inspection bodies, plus 21 certification bodies for products, 9 for management systems and 2 for persons. Staffing levels of the ABS remain insufficient to handle these new tasks.

In the area of metrology, the Directorate for Measurements and Precious Metals became a contact member of EURACHEM and Serbia was included in EURAMET's Metrology Programme for Innovation and Research (EMPIR) for the first time. 23 rulebooks for the implementation of the framework law have been adopted. Overall, the administrative capacity of the Directorate is sufficient.

In the area of market surveillance, after a period of low activity, the Product Safety Council restarted its regular operations in January, to include representatives of relevant groups. Interinstitutional co-operation and co-operation with the civil society sector, businesses and academia has improved. The administrative capacity of the joint body for surveillance of chemicals and biocidal products needs to be reinforced.

In the field of 'Old Approach' product legislation, Serbia has aligned its legislation with the acquis on pre-packaging and units for measurements. It has yet to align its legislation with the acquis in a number of areas, including emissions of pollutants from non-road engines, crystal glass, textiles and footwear.

As regards 'New and Global Approach' product legislation, Serbia has adopted legislation and aligned its legislation to the relevant directives in the field of personal protective equipment, equipment in the potential explosive atmosphere (ATEX Directive), noise emissions from outdoor equipment, and non-automatic weighing instruments (NAWI Directive). It has updated the list of standards in the field of electromagnetic compatibility, machinery safety, low voltage electrical equipment and general product safety, non-automatic weighing instruments, and radio and telecommunications terminal equipment. However, further alignment is needed inter alia in the areas of construction products, cableway installations, recreational craft, cosmetics, and toy safety.

As regards procedural measures, the law on dual use of goods remains to be adopted. Serbian law has yet to be aligned with the acquis on civil firearms as well as the return of cultural objects unlawfully removed from the territory of an EU Member State.

Conclusion

Progress was made in the area of free movement of goods. Serbia continued with the alignment of horizontal legislation. 94% of EU standards have been adopted. The Serbian accreditation body signed additional Multilateral Agreements and Mutual Recognition Agreements, while the Directorate for Measures and Precious Metals was admitted to EURACHEM. Stronger emphasis needs to be put on administrative capacity and coordination between institutions. Overall, preparations in the area of free movement of goods are moderately advanced.

4.2. Chapter 2: Freedom of movement for workers

In the area of access to the labour market, the Law on Employment of Foreigners has yet to be adopted by the parliament.

Objectives were defined by the National Employment Service in preparation for Serbia's participation in the EURES (European Employment Services) network. The National Employment Service's vacancy database is incomplete, as there is no obligation on employers to register all vacancies centrally.

As regards coordination of social security systems, bilateral agreements with Austria, Bulgaria and Slovakia entered into force. The electronic system of exchange of information among former Yugoslav republics remains limited, operating only with Slovenia. Due to limited public administration resources, the capacity of the social security institutions still needs strengthening.

Preparations as regards the European Health Insurance Card have not started yet.

Conclusion

Little progress was made in the area of freedom of movement of workers, apart from preparations for participation in EURES. Overall, preparations in this area are moderately advanced.

4.3. Chapter 3: Right of establishment and freedom to provide services

There were no developments in the area of the right of establishment.

As regards the freedom to provide cross-border services, a general law aligning Serbian legislation with the Services Directive needs to be adopted. The capacity of departments dealing with the service sector needs strengthening.

In the field of postal services, the postal strategy for 2013-2016 was adopted in April. The administrative capacity of the postal regulator (RAPUS) is now sufficient. The administrative capacity of the line ministry's inspectorate is weak, so quality monitoring is inadequate. The public postal operator has modernised its operational processes but the sector has not yet been corporatized.

Legislation on mutual recognition of professional qualifications has yet to be adopted.

Conclusion

Little progress was made in the area of the right of establishment and freedom to provide services. Efforts to further align the legislation with the acquis and to improve administrative capacity in this field are needed. Overall, in the area of the right of establishment and freedom to provide services, preparations are moderately advanced.

4.4. Chapter 4: Free movement of capital

In the area of capital movements and payments, amendments to the Law on Foreign Exchange Operations were adopted in December. The amendments further liberalise capital transactions, for both natural and legal persons. Limitations still exist regarding short-term capital transactions, while deposits by residents continue to be partially liberalised. Long-term capital transactions are fully liberalised. Restrictions on the acquisition of real estate, especially agricultural land, remain.

Serbian legislation on payment systems still needs to be aligned with the acquis.

As regards the fight against money laundering, Serbia initiated the National Risk Assessment process. The Agency for Prevention of Money Laundering (APML) signed memoranda of understanding (MoU) with Argentina, Andorra, Panama, Denmark and Portugal, bringing the total number of signed MoUs to 42. The APML does not have adequate business premises, which complicates the recruitment of additional staff and the establishment of a training centre.

Conclusion

There was limited progress in the area of capital movements. Serbia needs to make further efforts to align its legislation with the acquis for short-term capital movements, real estate and payment systems. Overall, alignment in the area of the free movement of capital is moderately advanced.

4.5. Chapter 5: Public procurement

In the field of general principles, a new Law on Public Procurement was adopted in December and entered into force in April. It provides for further alignment with the acquis. It introduces provisions for the prevention of corruption and conflicts of interest and aims to improve the transparency and integrity of the public procurement system. It strengthens the powers of Public Procurement Office (PPO) and the Republic Commission for the Protection of Rights in Public Procurement Procedures ('Republic Commission'). The PPO adopted five rulebooks for the implementation of the new law in March. It also published nine standard model documents and one set of guidelines in July to facilitate the new procurement practice. The public procurement portal was upgraded and the Common Procurement Vocabulary was adopted. The national strategy and action plan for upgrading the public procurement system need to be aligned with the new law. Two implementing decrees for the Law on Public Private Partnerships (PPPs) and Concessions were adopted.

As regards the award of public contracts, the PPO notes a decreasing trend in irregularities in the use of the negotiated procedure for the first quarter of 2013. The PPO is recruiting eight new employees, but further reinforcement of its administrative capacity is needed. The Budgetary Inspectorate of the Ministry of Economy and Finance took action against irregularities in public procurement

procedures worth €17 million. Its administrative capacity needs to be strengthened. In the area of PPPs and concessions, three projects of a mainly concessionary nature and two PPP projects were approved by the PPP Commission (CPPP). The administrative capacity of the CPPP remains limited. Institutional co-operation on public procurement, including audit and judicial institutions, is improving, notably between the PPO, the Republic Commission and the State Audit Institution, but still needs to be strengthened. In general, tendering authorities do not take appropriate action often enough in cases of established misuse of public money.

In the field of remedies, new members of the Republic Commission were appointed by the parliament in March in line with the new Law on Public Procurement. A new organisational structure and rules of procedure were adopted in July. The number of cases received by the Republic Commission increased by 23% in 2012, and the number of cases solved increased by 31%. It has continued to actively monitor the implementation of its decisions. It has continued to build up its administrative and enforcement capacity to a total of 40 employees. The Republic Commission still needs to build its credibility and a solid enforcement record, by further ensuring that its decisions are implemented.

Conclusion

There has been good progress in the field of public procurement. The new Law on Public Procurement further aligns the legislation with the acquis and improves public procurement procedures. The capacities in this area and in particular of the PPO remain insufficient. Effective coordination between the main stakeholders needs to be ensured. Overall, alignment in the area of public procurement is moderately advanced.

4.6. Chapter 6: Company law

In the area of company law, the Business Registers Agency published founding acts and statutes as required in the Law on Economic Entities. The Agency started running the register of chambers of commerce in January. The electronic registration process is still not operational.

In the areas of corporate accounting and auditing, the Law on Accounting adopted in July aims to ensure further implementation of the Fourth and the Seventh Company Law Directives. The Law on Auditing adopted in July further harmonises national legislation with the Eight Company Law Directive.

Conclusion

Progress was made in the area of company law. In the field of corporate accounting and auditing, two new laws were adopted, in order to achieve further alignment with the acquis in this area. Overall, alignment in the area of corporate law is well advanced.

4.7. Chapter 7: Intellectual property law

In the area of copyright and neighbouring rights, certain amendments to the law on intellectual property rights, adopted in December, are not in line with the acquis. These provisions need to be harmonised no later than five years after entry into force of the Interim Agreement. A new Law on the Protection of Topographies of Semiconductor Products was adopted in June and further aligns the Serbian legislation with the acquis. The Commission for Copyright and Related Rights was abolished and its responsibilities were transferred to the Intellectual Property Office (IPO). The IPO needs additional capacity to cover these new responsibilities.

In the field of industrial property rights, in January, the Law on Trademarks was amended to further align with the acquis and Serbia became a member of the International Union for the Protection of New Varieties of Plants (UPOV).

In the field of enforcement, the IPO conducted a large number of training events for government enforcement agencies and SMEs. The customs administration introduced a web application for electronic exchange of information with right holders. Seizures of counterfeit goods decreased over the reporting period. The Tax Administration increased the number of checks by 74% in 2012. They showed that the use of illegal software has decreased in Serbia. The Market Inspectorate of the Ministry of Trade and Telecommunications received an increased number of requests and confiscated more goods for the whole year 2012.

Full alignment with the enforcement directive needs to be ensured. There is still no formal coordination mechanism between the institutions in charge of IPR protection. Implementation of the national IPR strategy and action plan 2011-2015 has been delayed. No solution has yet been found to the issue of the IPO's long-term financial sustainability. The participation of economic operators and consumers in the prevention of counterfeiting and piracy remains limited. Specialisation of prosecutors, judges and court panels to handle IPR cases remains to be ensured.

Conclusion

Limited progress was made in the area of intellectual property law. Enforcement was improved, although formal coordination between stakeholders and effective implementation of the national IPR strategy remain to be ensured. The changes to the law on copyright regarding fee collection and exemptions constitute a step backwards in alignment to the EU acquis. Overall, alignment in the area of intellectual property law is advanced.

4.8. Chapter 8: Competition policy

In the field of anti-trust and mergers, the CPC adopted four decisions on restrictive agreements, one decision on abuse of dominance, and 62 decisions on mergers in summary procedure, and it carried out three investigation procedures on

mergers that were conditionally approved. Six CPC decisions were partially or fully confirmed by the courts while two were overturned. The CPC resumed its sector analysis of the oil market in 2012 and continued its analysis of the milk sector. The CPC signed a memorandum of understanding with its Russian counterpart.

Conflicting legislation, limiting the scope and effectiveness of competition law, notably on price regulation, has been adopted without prior consultation of the CPC. The CPC's financial plan for 2013 is still awaiting government approval. With 30 employees, the CPC's capacity remains insufficient. The capacity of the judiciary to assess complex competition cases needs to be strengthened. Competition advocacy needs to be stepped up.

In the area of state aid, the Commission for State Aid Control (CSAC) adopted 111 decisions, including 41 conclusions initiating ex-post control, compared to 148 decisions over the previous period. The majority of the existing state aid schemes, including the fiscal aid schemes, still need to be aligned with the acquis. The rules on aid to the provision of services of general economic interest need to be aligned with the acquis. An effective mechanism must be implemented to ensure the respect of the de minimis aid threshold and of cumulation rules. The exemption from state aid rules for companies in the process of being privatised needs to be repealed. The CSAS needs to demonstrate its operational independence, particularly from state aid granting bodies. Further efforts are needed to ensure that aid measures are notified to the CSAC and approved before being granted. A decree subsidising the sale of cars produced in Serbia was adopted in March without the CSAS being notified or approving it. It was incompatible with the Interim Agreement and with the acquis and was subsequently repealed.

Concerning liberalisation of specific sectors, a number of Serbian undertakings continue to enjoy special or exclusive rights, de facto or de jure, e.g. in the fields of transport, infrastructure, postal services, telecommunication services, broadcasting, agriculture, the environment and, to some extent, energy. Additional efforts need to be made to move towards market liberalisation in line with the acquis.

Conclusion

No progress was made in the area of competition. Serbia's record on ex ante notifications of state aid measures needs to be improved. The legislation on state aid control must be aligned with the acquis and applied to all undertakings, including those in the process of being privatised. In both anti-trust and state aid fields, additional advocacy measures are needed. Overall, alignment in the area of competition policy is moderately advanced.

4.9. Chapter 9: Financial services

In the area of banks and financial conglomerates, some measures were adopted to address the issues of non-performing loans and bank restructuring. In October, the Law on Takeover of Assets and Liabilities of Certain Banks, aimed at maintaining the stability of the financial system, was adopted. The National Bank

of Serbia (NBS) adopted decisions on risk management by banks, on bank capital adequacy and on classification of assets. The capacity of the NBS' newly created Administration for Supervision of Financial Institutions was increased. Full implementation of the Basel II standards has yet to be achieved. The NBS has postponed the adoption of its own strategy for the full implementation of Basel III standards; however, some elements of these standards have already been introduced. Alignment with the latest acquis on deposit guarantees remains to be achieved.

In the area of insurance and occupational pensions, the NBS has continued to supervise insurance companies and has increased the number of on-site controls. Alignment with the Solvency II directive has yet to be achieved. There have been no changes in legislation relating to occupational pension funds.

There were no developments in the area of financial market infrastructure.

In the area of the securities market and investment services, the by-laws adopted by the Securities Commission in 2012 have been implemented. There has been no further alignment with the acquis on rating agencies or on undertakings for collective investment in transferable securities (UCITS).

Conclusion

Some progress was made in the area of financial services. Steps were taken to address the issue of non-performing loans and bank restructuring. Additional efforts are needed, e.g. to align Serbia's rules with the requirements of Basel III and the Solvency II and UCITS directives. Overall, alignment in the area of financial services is moderately advanced.

4.10. Chapter 10: Information society and media

As regards electronic communications and information and communications technology (ICT), an annual action plan (2013-2014) to implement the 2010-2020 e-communications strategy was adopted in March. In October a frequency allocation plan was adopted, allowing the use of the 900 and 1 800 MHz bands for e-communications on a technology neutral basis that enables deployment of new wireless broadband services. The fixed broadband penetration rate increased to 13.5% of the population according to the latest available data, which is low compared to the EU average of 28.2%. The penetration rate of mobile services, including 3G, exceeds the EU average, while mobile broadband is still low at 3.5%, below the EU average of 8.8%. Serbia still needs to fully align with the 2009 EU regulatory framework. The amendments made to the budget law and the law on public sector salaries in September 2012 have had an impact on the National Regulatory Agency's (RATEL) operational independence and its ability to recruit and retain competent staff. Competitive safeguards need to be fully implemented, notably in the fixed telephony market. Implementation of fixed number portability has been postponed. The emergency number 112 has yet to be introduced.

In September, Serbia and Kosovo reached an agreement on telecommunications under the EU-facilitated Dialogue. The agreement provides for Telekom Srbija to operate legally in Kosovo until 2015. It also provides for Kosovo being allocated a 3-digit Dial Code from the International Telecommunications Union as of 2015.

In the field of information society services, an action plan for 2013-2014 for the information society strategy 2010-2020 was adopted in August and a working group was set up in March to develop a national broadband network. Further alignment with conditional access and EU legislation on e-commerce is needed. The administrative and inspectorate capacity of the line ministry and its units responsible for ICT and digital administration remains insufficient. Overall IT capacity needs to be strengthened, especially at local level.

As regards audiovisual policy, the implementation of the Media Strategy, aimed at alignment with the EU acquis in this area, has not progressed. The digital switchover needs to be handled efficiently to meet the June 2015 deadline. Provisions allowing media financing from the state budget need to be brought into line with the EU acquis on state aid.

Conclusion

Some progress was made in the area of information society and media with the adoption of several action plans implementing the information society and respectively e-communications strategies. The legislative framework needs to be further aligned with the acquis and competitive safeguards in electronic communications need to be fully implemented. The issue of the telecom regulator's budgetary and operational independence raises concerns. Media strategy implementation needs to step up. Serbia needs to implement its commitments made in the agreement on telecommunications reached with Kosovo. Overall, alignment with the acquis in the area of information society and media remains moderately advanced.

4.11. Chapter 11: Agriculture and rural development

As regards horizontal issues, the law on agricultural and rural development subsidies was adopted in January providing for production-linked payments, quality premiums and rural development measures. The law introduced an acquis-like instrument of cross compliance but support measures coupled to production are not in line with the acquis. The agricultural census — the first in 50 years — was completed and preliminary results were published in January. Administrative capacity for the Farm Accountancy Data Network continues to be developed. The number of participating holdings increased from 42 to 173. A strategy for Agricultural and Rural Development has yet to be adopted. Administrative capacity needs to be strengthened, particularly vacant senior level positions in the agricultural administration affecting the quality and pace of decision-making. An Integrated Administration and Control System (IACS) has yet to be established.

As regards alignment with the acquis in the area of common market organisation, the legal basis for the system of geographical indications has been established in the wine sector. Over 1 600 vineyard parcels with a surface of some 1.400 ha have been entered in the vineyard register. The capacity of the administration in charge of the wine market organisation requires further strengthening. A draft law on spirit drinks needs to be further aligned with the acquis before adoption.

In the area of rural development, the operating structures for the IPA rural development programme are being developed. However, capacity must be strengthened at the Managing Authority, the future Paying Agency, and the Audit Authority in order to continue the development of the management and control system. Strong links with stakeholders through the extension service and rural finance institutions have yet to be put in place.

As regards quality policy, a system of labelling and control of agricultural farm products and foodstuffs with Protected Designation of Origin and Protected Geographical Indication is being established. In the area of organic farming, the national ction plan for the development of the organic sector in Serbia has yet to be adopted.

Conclusion

Some progress has been made in the area of agriculture and rural development. The law on agricultural and rural development subsidies provides for a clearer and more predictable planning framework for rural operators. However, the Agricultural and Rural Development Strategy has yet to be adopted and additional capacity building is required to ensure future implementation of the IPA rural development programme. Overall, in the area of agriculture and rural development, alignment with the acquis remains at an early stage.

4.12. Chapter 12: Food safety, veterinary and phytosanitary policy

In the field of general food safety principles, the aflatoxins crisis highlighted the shortcomings of the Serbian food and feed safety system, in particular the lack of a well-established national reference laboratory. To address this, a working group was established to prepare the necessary legal provisions. The National Reference Laboratories Directorate in the Ministry of Agriculture is still severely understaffed and unable to perform its duties. Most of the laboratories' staff are administrative staff. Regarding food safety rules and specific rules for feed, a rulebook on a rapid alert system for food and feed was adopted in June.

As regards alignment with and implementation of the acquis in the field of veterinary policy, the new campaign for oral vaccination of foxes against rabies finished successfully. Rabies cases in animals have decreased significantly, with only 19 being registered in 2012 and only 4 being registered in the first half of 2013. A system of registration of holdings of bees has been established and over 300 000 beehives have been registered. The system of registration of the movement of

sheep and goats needs to be finalised. No new developments took place regarding the registration of cattle.

As regards the placing on the market of food, feed and animal by-products, the new hygiene rules for food and feed establishments are partly aligned with the acquis. A new national monitoring and control programme on food and feed safety is being prepared. Serbia still needs to adopt a programme on upgrading establishments. The national system for the management of animal by-products remains weak and needs to be upgraded in order to comply with EU requirements.

In the area of phytosanitary policy, a plant passport system was established and registration of operators has started. The specific procedures for border phytosanitary inspections were revised. However, the country's phytosanitary procedures need to be further aligned with the acquis. In February, a rulebook was published setting out the annual programme for post-registration control of residues of plant protection products in food of plant and animal origin. A pesticide residues monitoring programme for 2013 has been adopted. The procedure for registering new plant protection products needs to be further aligned with the acquis. A new rulebook on detailed conditions for variety testing was adopted in October. In January, Serbia became a full member of the International Union for the Protection of New Varieties of Plants. The Phytosanitary Laboratory remains the weakest part of the National Reference Laboratories Directorate and its capacity needs to be strengthened.

As regards genetically modified organisms (GMOs), the GMO Law has not been aligned with EU legislation. This remains the key condition for Serbia to become a WTO member.

Conclusion

There has been little progress in the area of food safety, veterinary and phytosanitary policy, mainly limited to the veterinary field. A reliable system of national reference laboratories needs to be set up to improve general food safety. In addition, further capacity building is needed in the area of food and feed establishments, animal by-products and phytosanitary policy. The GMO law needs to be aligned with EU legislation to enable WTO accession. Overall, preparations in the area of food safety, veterinary and phytosanitary policy are moderately advanced.

4.13. Chapter 13: Fisheries

EU requirements on resource and fleet management and inspection and control do not apply to inland fishing and are therefore not applicable to Serbia, except for control of marketing and traceability of fishery products. A working group for the establishment of a national certification scheme was set up in April. A national catch certification scheme for imports and exports of fishery products has yet to be adopted.

As regards structural actions for small-scale commercial fisheries and inland fisheries, Serbia still does not have structural measures in place. In the field of market policy, there were no developments regarding the establishment of producers' organisations and the collection of market data. The capacity of the administration managing and controlling the imports and exports of fisheries' products needs to be strengthened and brought into line with the acquis.

As regards state aid, the Law on Subsidies in Agriculture and Rural Development adopted in January provides for support to fish producers for consumption and for breeding of brood fish. The Environmental Protection Fund ceased to exist in October and its budget and functions have not been re-established elsewhere in the administration. This has a negative impact on protection measures, particularly measures on protected fish species.

There have been no new developments as regards international agreements in this area.

Conclusion

Little progress was made on fisheries. A national catch certification scheme for imports and exports of fishery products and a system for the collection of market data need to be set up. Overall, preparations in the area of fisheries are moderately advanced.

4.14. Chapter 14: Transport policy

In the area of road transport, several amendments to implementing legislation on classification and technical requirements for motor vehicles and trailers, weight and dimensions for vehicles, and on testing of vehicles have been adopted. Implementing legislation on safety conditions in tunnels, on special transport, on training programme and exams for drivers of vehicles carrying dangerous goods, on placing, securing and marking the cargo and on issuing permits for international road transport of goods for national haulers have been adopted. The director and assistant director of the administration for transport of dangerous goods were appointed. The Road Traffic Safety Agency has increased its capacity to 50 of the 65 planned posts. The transparency of the fees charged for special transport operations exceeding the permitted vehicle dimensions, total mass and axle load has been ensured. Road safety remains a concern with a high, but decreasing, number of fatal road traffic crashes per year. Further alignment with recent road safety and dangerous goods acquis is still necessary. Implementing legislation on driving and rest periods of drivers engaged in domestic transport has not yet been adopted.

As regards rail transport, the new law on railways was adopted in May. The law provides for transformation of the Serbian railways, Zeleznice Srbije, into a group whereby the dominant railway undertaking includes both passenger and freight operations. The law introduces several safeguards to prevent the operator from constraining the independence of the infrastructure manager. The new law has reinforced the role of the railway directorate. The railway directorate now assumes

the functions of licensing body, regulatory body and safety authority Different loan agreements for rolling stock and track improvements have been pursued and partially concluded. The role of the railway regulator needs to be upgraded, including the powers to make decisions on the structure of the infrastructure manager and enforce cooperation and regulatory decisions by fines. The Railway Safety and Interoperability Law has not yet been adopted. Fair access to the market and a transparent infrastructure charging system have yet to be achieved as the market remains virtually closed. Serbian railways continue to deny access to a domestic freight operator, while new entrants to the market have been discouraged by lengthy certification procedures. The network statement has not been published. No public service obligation contracts have been signed on national or local level. Independent accident investigation body has not been set up. The Border Crossing Agreement between Montenegro and Serbia needs to be further aligned with EU legislation to ensure independence of the infrastructure manager.

In the area of inland waterway transport, the implementation of River Information Services has been finalised for the Danube River and also for the River Sava in March. More than 160 commercial vessels and 50 governmental vessels have been equipped with AIS technology for tracking and tracing. The Director of the Port Governance Agency has been appointed. Amendments to the law on navigation and ports on inland waters were adopted in December, harmonising the procedures for the technical inspection of vessels. The Directorate for Inland Waterways was moved to the Ministry of Transport without this affecting negatively its staff or work. The Law on Vessel Nationality and Registration was adopted. Implementing legislation was adopted on medical requirements and examinations for crew members on inland navigation vessels, on inland waterways, and on methods and navigation zones for conducting trial voyages for vessels.

As regards combined transport, construction of the first modern intermodal terminal in Belgrade has not started yet. Implementing legislation on supporting measures for intermodal transport, on incentive measures for road carriers and on loading units on railway is yet to be adopted, following the adoption of the new law on railways in May.

In the area of air transport, sixteen pieces of implementing legislation have been adopted. The Civil Aviation Directorate (CAD) drafted the list of air carriers that are subject to an operating ban within the European Union. There was significant progress towards the fulfilment of requirements under the first transitional period of the European Common Aviation Area Agreement, especially in the areas of economic regulation and security. Transposition of requirements under the second transitional period of the Agreement is also well advanced, particularly in the field of economic regulation. A national body to enforce the law on passenger rights has been established. The area of Aviation Safety was assessed positively by the European Aviation Safety Agency (EASA) in October. The CAD started implementing EU regulations on licensing flight crews, as confirmed by the EASA. The CAD implements corrective actions plans, in line with EASA's

recommendations. Implementation f the rules on slot allocation, ground handling and airport charges is yet to be concluded.

As regards maritime transport, the Law on Vessels Nationality and Registration was adopted in January. The Law on Maritime Navigation needs to be harmonised with the 2006 Maritime Labour Convention and other ILO conventions.

No progress was made in the area of satellite navigation. Serbia's participation in the Galileo satellite navigation programme is yet to be implemented.

Conclusion

Some progress was made in the area of transport policy, particularly in road, inland waterways and air transport. Further strengthening of administrative capacity is needed, in particular for enforcement and inspection. Further work is required towards market opening in the area of railways and setting up the required institutional structures. Overall, Serbia is moderately advanced in its alignment with the acquis in the area of transport policy.

4.15. Chapter 15: Energy

In the field of security of supply, the draft Law on Commodity Reserves, regulating the compulsory reserves of oil and oil derivatives, has yet to be adopted. The Law on the South Stream Gas Pipeline was adopted, together with a decree on the spatial plan for its construction. These pieces of legislation implement the Inter-Governmental Agreement (IGA) between Serbia and Russia on the South Stream Gas Pipeline, which raises concerns regarding its compatibility with the Energy Community obligations. Serbia and Bulgaria signed a memorandum of understanding on the interconnecting gas pipeline between the two countries. The project preparation is ongoing and on track but financing needs to be secured. No progress was achieved as regards the alignment to the provisions on security of supply for natural gas. However, the continued upgrade of capacity of the underground storage in Banatski Dvor is strengthening security of supply.

Good progress was made in the area of the internal energy market. The Energy Agency of the Republic of Serbia (AERS) approved electricity market rules and rules on supplier switching. The electricity and gas market have been liberalised as of January for large consumers connected to the transmission network, who have no longer the right to be supplied by the public supplier at regulated tariffs. Of the 26 customers of electricity concerned, one switched to a different supplier while the others remained with the incumbent company EPS under market based prices. The electricity balancing market has been operational since January. The Electricity Market code has been adopted for both transmission and distribution. The gas transmission system code was approved by AERS in August. In October, AERS approved new cross-border capacity allocation rules on electricity, enabling coordinated capacity allocation. In November, AERS approved agreements between Serbia's transmission system operator EMS and its Romanian and Hungarian counterparts on coordinated capacity allocation. The government has

adopted the decree on the establishment of supplier of last resort, but the unbundling of distribution and supply functions in the publicly owned generation, distribution and supply electricity company EPS has not been finalised yet. The government has adopted the Decree on the Protection of Vulnerable Customers, setting out criteria and measures for protection. Secondary legislation in the gas sector, on price methodology for access to the distribution network, determination of connection costs to the transmission and distribution system and a rulebook on licensing has been adopted. The state-owned gas company Srbijagas has not yet been unbundled. It remains a fully integrated company and is the only wholesale supplier on the market. Yugorosgas, another vertically integrated company, has also not yet been unbundled. The implementation of the Energy Law and alignment with the third package of the EU energy acquis will require an increase in the AERS' staff as well as further capacity building and strengthening of independence.

In September, Serbia and Kosovo reached an agreement on energy under the EU-facilitated dialogue. Through the implementation of the agreement, Serbia will uphold its respective obligations under the Energy Community Treaty of which it has been in breach so far. The agreement provides that the Serbian transmission system operator (TSO) Elektromreza Srbije signs with Kosovo's TSO, KOSTT, an operational agreement within three months. The agreement also foresees that a Serbian power supply company will operate legally in the North of Kosovo.

In the area of renewable energy and energy efficiency, the government has adopted the decree on feed-in tariffs for electricity produced from renewable energy sources. The level of tariffs will be adjusted annually in line with the inflation rate in the euro zone. All by-laws required for the implementation of the incentives system to renewables have been adopted. In September, amendments to the Energy Law were adopted in order to close the Energy Efficiency Agency and merge it within the Ministry of Energy, Development and Environmental Protection. A national renewable energy action plan was adopted by the government in June. The new law on energy efficiency was adopted in March. Implementing legislation has yet to be adopted. The law on construction and planning was amended to bring it in line with the Directive on energy performance of buildings. Administrative capacity in this area is very limited. Further simplification of administrative procedures for issuing necessary permits and network connections is necessary.

In the areas of nuclear energy, nuclear safety and radiation protection, the inspection functions have not been transferred to the Serbian Radiation Protection and Nuclear Safety Agency (SRPNA), but remain with the Ministry for Education, Science and Technology Development. Environmental radioactivity monitoring at national level has been temporarily suspended due to a lack of financial means. Effective financial independence, funding and sufficient staffing (currently standing at 20 of the planned 35 posts) are needed to ensure that the Agency functions properly. In September, SRPNA issued a licence for radioactive waste management and use of temporary storage facilities of radioactive waste to Serbia's public company for nuclear facilities. Serbia still needs to adopt a national strategy for radioactive waste management and prepare an action plan for the decommissioning

of its research Reactor A at Vinča. A national programme for spent fuel has not been adopted yet. Further efforts are required to improve the radiological situation at the Vinča site and abandoned Kalna mine and to improve radioactive waste management at national level.

Conclusion

Progress was made in the area of energy, in particular the electricity market, renewable energy and energy efficiency. Through the implementation of the agreement reached on energy with Kosovo under the EU-facilitated Dialogue, Serbia will meet its Energy Community obligations, contributing to a significant normalisation of energy relations with Kosovo. Additional efforts are needed to achieve further market opening, unbundling and cost-reflective tariffs. By-laws in the field of energy efficiency and legislation on commodity reserves have yet to be adopted. The role and independence of the energy regulator AERS and the nuclear regulator SRPNA need to be strengthened. Serbia needs to implement its commitments made in the agreement on energy reached with Kosovo. Overall, preparations in the area of energy are moderately advanced.

4.16. Chapter 16: Taxation

In the area of indirect taxation, excise legislation changed again in December after a number of laws on various indirect taxes (such as excise duties and VAT) were amended in the context of fiscal consolidation. On cigarettes, the excise tax structure was aligned with the EU acquis and the excise duties increased. Excise rates on oil derivatives were harmonised in order to further align them with the EU acquis. However, other energy sources such as coke, heavy fuel oil, natural gas and electricity remain untaxed and some exemptions granted for specific use of oils, are not in line with EU legislation. VAT legislation was brought closer into line with EU legislation. The VAT rate increased from 18% to 20%. Legislation on other excise goods and on issues such as movement and control, excise warehouses and storage or the concept of taxpayer remains to be aligned with the acquis.

As regards direct taxation, amendments to the Law on Personal Income Tax were adopted, increasing the rate from 10 to 15% for revenues from capital, capital gains and revenues from insurance. Amendments to the Law on Tax on Profits increased the rate of tax on company profits from 10% to 15%. Conditional deferring or writing-off of tax debts helped companies with financial problems to pay their tax liabilities. New corporate tax legislation was also further harmonised with the EU Parent Subsidiary Directive and the Directive on Interest and Royalties.

In the field of administrative cooperation and mutual assistance, Serbia continued to participate in cooperation meetings between the B-6 (Balkan countries) tax administrations. Agreements on avoidance of double taxation were signed with Palestine, the United Arab Emirates and Vietnam.

In the area of operational capacity and computerisation, the Serbian Tax Administration (STA) continued to implement its corporate strategy for 2011-2015.

The STA became responsible for gambling activities. The number of electronic services has increased as annual income tax and excise duty declarations were allowed to be made electronically as of January. Work is ongoing to introduce electronic declarations for salary taxes and contributions. Training and education of taxpayers have resulted in an increased number of electronic declarations via the tax administration portal. Staffing levels at the STA have increased. Risk management training has started for SMEs. Rights and obligations are not always clearly stated, making them subject to interpretation. Procedures may also differ from one region to the other. Individuals within the tax authorities have substantial discretionary powers, and there is no adequate control mechanism in place. Tackling the grey economy remains a challenge.

Conclusion

Some progress can be noted in the area of taxation. The corporate STA strategy continues to be implemented but better coordination within the STA remains necessary. Modernisation of the IT system and communication with taxpayers continued but need to be further strengthened. Overall, preparations in the area of taxation are moderately advanced.

4.17. Chapter 17: Economic and monetary policy

As regards monetary policy, in November, amendments to the Law on the National Bank (the National Bank of Serbia, NBS) were adopted, aimed at correcting some of the amendments of August 2012 which challenged the independence of the Bank. The November amendments set out the procedure for replacing vice-governors and members of the Council of Governors and reintroduced the possibility of legal recourse for dismissed NBS officials.

The NBS maintains a floating rate policy for the dinar, but the effectiveness of this policy option is limited and has led to exchange rate volatility.

As regards economic policy, Serbia continues to participate in pre-accession economic surveillance. It submitted its 2013 economic programme — Pre-accession Economic

Programme for 2013 — to the Commission in January. The programme covers the period 2013-2015. It provides the macroeconomic framework for the three years and explains the authorities' strategy of shifting to a new paradigm built upon tradable sectors and underpinned by stronger investments and net exports. While identifying major challenges, the programme still needs to further clarify the pace and sources of fiscal consolidation, address the need to further strengthen fiscal rules and provide a roadmap for the implementation of structural reforms. As regards fiscal responsibility, the public debt has further increased to 60% of GDP which is over the legal ceiling of 45% in national legislation. The capacity for economic policy formulation and coordination remains insufficient.

Conclusion

There has been some progress in the area of economic and monetary policy. The issue of the NBS's independence has been addressed with amendments to the law and there were no signs of political interference. Capacity for economic policy formulation remains insufficient. Overall, in addressing the acquis in the area of economic and monetary policy, Serbia is moderately advanced.

4.18. Chapter 18: Statistics

As regards statistical infrastructure, the capacity of the Statistical Office of the Republic of Serbia (SORS) needs to be strengthened. An agreement on cooperation for the production of national health accounts was signed in June 2013 between SORS and the Ministry of Health, the Institute of Public Health, the Fund of Health Insurance and the Ministry of Finance and Economy.

In the field of classifications and registers, the issue of regional statistical classification (future NUTS classification) remains open due to the need to clarify its territorial scope. This goes beyond the scope of technical expertise and requires a political decision.

As regards sectoral statistics, several reports on the results of the population census have been published since October with one or more monographs released each month. The first results of the agriculture census were released in February. A first wave of the survey on income and living conditions (SILC) was conducted in May-June. Statistics on social

protection according to EU standards have been developed. An action plan for the production, delivery and transmission of national accounts data was adopted in December. Transmission of data to Eurostat has increased substantially.

Conclusion

Good progress was made in the area of statistics. The population and agriculture censuses have been finalised successfully. Sectoral statistics have been further developed. To fully implement the acquis in statistics comprehensively the Statistical Office of Serbia requires more staff. The issue of regional statistical classification should be solved. Overall, Serbia is advanced in the area of statistics.

4.19. Chapter 19: Social policy and employment

In the field of labour law, further amendments to the labour law, relating to maternity leave were adopted. Measures aimed at achieving a more flexible labour market, as announced in the fiscal strategy in November, remain to be adopted. Further efforts are needed in this area.

The process of alignment with EU Directives on health and safety at work advanced, with further alignment on the remaining EU directives on electromagnetic waves and on optical radiation in December. Work is ongoing on

amendments to the Law on Health and Safety at Work with additional implementing legislation. A new strategy on health and safety at work for the period 2013-2017 is in preparation. The register of injuries at work is under construction. The Labour Inspectorate continues to carry out inspections as well as awarenessraising activities, despite a reduction in its staffing levels.

In the area of social dialogue, the National Economic and Social Council (NSEC) met four times during the reporting period. The NSEC was consulted on several amendments to laws in the areas of employment, labour and education. Its work is still hampered by the problem of representativeness, as there is no agreement on criteria for the selection of trade unions. No agreement was reached between the government and the Socio-economic Council on setting the annual minimum wage level. As a consequence, the government decided in April to keep the minimum net wage at RSD 115 per hour for 2013. No new local councils have been established, while the work of the current 18 remains symbolic. There is no comprehensive record of collective agreements. Employers' organisations at local level and bilateral social dialogue require strengthening. The weak social dialogue, notably at tripartite level, is an area of serious concern.

In the area of employment policy, the annual performance agreement between the Ministry of Labour, Employment and Social Policy (MoLESP) and the National Employment Service (NES) was adopted in June. The National Employment Action Plan for 2013, adopted in December, gives priority to youth employment and to redundant workers. The budget favours employment subsidies instead of additional education and training. Local employment plans now include local and regional funds on top of the budget allocated under the National Action Plan for Employment. Over 2000 unemployed Roma participated in measures under the 2012 National Action Plan. The Labour Force Survey completed in October showed slight improvements in labour market indicators; however, the impact of employment policies remains limited notably on long-term, undeclared work and youth unemployment. The coverage of active labour market measures remains at 15% of the registered unemployed. The national budget approved for active labour market measures in 2013 still represents 0.1% of GDP. It is still too low to ensure appropriate coverage of the unemployed based on needs. The modernisation of NES continued, direct mediation is now available throughout Serbia. Further consolidation of implementing structures in the MoLESP remains necessary. Additional efforts are needed to ensure better targeted and efficient labour market measures and to develop a strategic approach to employment, especially in a context of limited financial resources, increasing unemployment and deteriorating economic growth.

There were no developments as regards preparations for the European Social Fund.

In the area of social inclusion, implementing legislation required under the Law on Social Welfare was adopted in May. The social welfare chamber, an independent organisation of welfare protection workers, started operations in January. Amendments to the Law on Professional Rehabilitation and Employment of

Persons with Disabilities were adopted in April. The public fund for professional rehabilitation and enhancement of the employment of people with disabilities covered approximately 6 500 people with specific measures on employment and professional development. The number of social assistance recipients has increased. The 2012-2014 action plan to implement the national strategy to improve the status of the Roma was adopted in June. The recommendations of the June 2011 EU-Serbia seminar on Roma inclusion have been actively followed up and a new set of operational conclusions addressing the remaining gaps was jointly agreed in September. The Roma community continues to be exposed to multiple forms of exclusion, while the range of social services and initiatives to promote their inclusion remains to be improved. Development of communitybased services across the country remains limited. (See also Chapter 23 - Judiciary and fundamental rights)

In the field of social protection, the deficit in the pension fund remains large, despite a limit on the indexation of pensions. In the absence of sufficient funds for the payment of pensions, transfers from the budget continue to be the largest single item on the expenditure side. Due to insufficiently developed mechanisms of enforcement and control, the overall sustainability of the pension and health funds remain at risk. Serbia continued to develop the statistics and data needed to monitor social inclusion and set up an integrated social protection statistics system, in line with EU practices. In February, an improved database was introduced and included state-level and local indicators. Comprehensive restructuring and reforms are needed in order to regain sustainability. Integrated/cross-sectoral social services need to be further developed.

In the field of anti-discrimination, the strategy on the fight against discrimination (2013-2018) was adopted in June. The Commissioner for Protection of Equality received 465 citizens' complaints, and issued 56 opinions, 117 recommendations and 3 opinions on laws in 2012. It filed charges for violation of the Law on Prohibition of Discrimination in 5 cases and issued 19 warnings and announcements. The office of the Commissioner was active in awareness-raising, e.g. on mechanisms for protection against discrimination. The police response to attacks against LGBTI has slightly improved. Some provisions of the Anti-Discrimination Law have yet to be aligned with the acquis. This includes the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to provide reasonable accommodation for disabled employees. The most discriminated groups remain the Roma, women, people with disabilities and sexual minorities, who often face hate speech and threats. Serbian authorities need to develop a proactive approach towards the better inclusion of the LGBTI population and a greater understanding across society. (See also Chapter 23 - Judiciary and fundamental rights) As regards equal opportunities between women and men, the Gender Equality Directorate in MoLESP started to carry out public awareness campaigns, but its administrative capacity remains weak. Labour legislation needs to be fully implemented, particularly regarding the dismissal of pregnant women and women on maternity leave, sexual harassment

and inequality in promotion and salaries. (See also Chapter 23 - Judiciary and fundamental rights)

Conclusion

Some progress can be reported in the area of social policy and employment, especially in the fields of health and safety at work, social inclusion and anti-discrimination. Social protection systems, labour relations and social dialogue remain to be substantially strengthened. Employment and social policies continue to be affected by adverse economic conditions and scarce public finances. Overall, Serbia has started to address its priorities in this area.

4.20. Chapter 20: Enterprise and industrial policy

In the area of enterprise and industrial policy principles, preparations for the new strategy for competitive and innovative SMEs for 2014-2020 continue. Information about upcoming public-private consultations (PPCs) is publicly available and registration is open to all interested participants. The SME Council did not increase its activity and staffing levels remain to be increased.

In March, the law on limiting payment deadlines entered into force, setting a 45-day payment deadline for public sector debts to private businesses and a 60-day deadline for payments between companies in the private sector. This is not yet in line with the EU directive on late payments.

In the field of enterprise and industrial policy instruments, Serbia continues to implement the Small Business Act and to participate in projects under the European Entrepreneurship and Innovation Programme (EIP). Its SME definition is in line with that of the EU in terms of company size.

Legislation affecting the business environment has been reviewed and simplified. The regulatory guillotine process has now been extended to secondary business-related legislation with an impact on SMEs. Mandatory regulatory impact assessments (RIA) are applied systematically for new laws and regulations.

The legal framework for access to finance has improved. The Development Fund provides small credit-guarantee schemes and public start-up funding. However, the number of market participants and the value of equity transactions remain low. Further efforts are needed in relation to company registration, business incubators and access to finance for SMEs.

No new development took place in sector policies.

Conclusion

Some progress was made in the area of enterprise and industrial policy. The institutional framework for SME policy and SMEs access to finance improved. Measures taken to improve the business environment, in particular on the business impact assessment for new legislation is a welcome development. Serbia continues

to implement the Small Business Act in an appropriate manner. Overall, preparations in this area are on track.

4.21. Chapter 21: Trans-European networks

In the area of trans-European transport networks (TEN-T), Serbia continued to participate in the work of the South-East Europe Transport Observatory (SEETO) on implementing the memorandum of understanding on the development of the South-East Europe Core Regional Transport Network. Implementation of the action plan for the construction of road corridor X has advanced. The works contracts for several remaining sections of the E80 and motorways have been signed. The implementation of several major projects to develop project documentation for rail corridor X has started. Different loan agreements for rail have been pursued and partially concluded. Several infrastructure projects for enhancing navigation conditions on the inland waterways network along the River Danube and the River Sava have been concluded or are in progress. As regards the airport of Belgrade tenders for apron and passenger bridge improvements haven been concluded. Limited progress has been made in the implementation of the action plan for the construction of Road Route 4 (Belgrade-Bar), also referred to as 'Corridor XI'.

As regards trans-European energy networks (TEN-E), Serbia continues to support the implementation of the Gas Ring Project for South-East Europe, in line with corresponding plans of the Energy Community. The MoU between Serbia and Bulgaria for the construction of the Nis-Dimitrovgrad gas interconnector has been signed in December. Project preparation is on track but financing needs to be finalised. Regarding electricity, the Serbian part of the Nis-Lescovac-Vranje border interconnection became operational in December. The feasibility study, concept design and environmental impact assessment for the new electricity interconnection between Romania and Serbia (Resita-Panchevo) was finished.

Conclusion

Serbia has made some progress in the area of trans-European networks. It continues to develop its transport and energy networks and participates actively in the work of the SEETO and of the Energy Community. Major challenges remain in terms of financing the new interconnections between energy and transport networks. Overall, preparations in the area of trans-European networks are moderately advanced.

4.22. Chapter 22: Regional policy and coordination of structural instruments

With regard to the legislative framework legislation in policy areas that support the implementation of regional policy are not fully in line with the acquis.

As regards the institutional framework, Serbia has continued to prepare for the introduction of the decentralised management system for IPA components I and II. The conferral of management of these components is in the final stage of verification. Following the decision not to open IPA components III and IV under the current financial perspective, the relevant projects will be implemented under IPA component I. Work is ongoing to align the programming and implementation structures of the national regional policy with EU regional policy, in view of the next financial perspective (2014- 2020) and with the ultimate goal of increasing the absorption and co-financing capacity of the EU-funded programmes.

With regard to administrative capacity, the Commission has completed an audit in preparation for transferring management of IPA components I and II and has noted that further efforts are needed to ensure an adequate staff retention policy in line with the anticipated workload.

In the field of programming, Serbia has made significant efforts to prepare for a sectoral approach under the IPA from 2014 onwards. The lack of coherent sectoral strategies and of strategically developed investment plans, resulting in a weak project pipeline, remains an issue of concern in some sectors. The capacity of potential final beneficiaries to produce project documentation in line with IPA requirements needs to be improved. In the area of monitoring and evaluation, sectoral monitoring committees for all sectors of IPA components I and II have been established and they have met regularly.

In the field of financial management, control and audit, the financial management and control systems have been further developed to comply with the decentralised management requirements of IPA components I and II. The capacity of the Audit Authority needs to be enhanced.

Conclusion

There has been progress in the area of regional policy and coordination of structural instruments. Serbia is in the process of acquiring valuable experience in the management of EU funds under the Decentralised Implementation System (DIS), as it is in the final stage for the conferral of management for two IPA components. Adequate implementation capacity needs to be ensured under the decentralised implementation system. Programming needs to be improved, especially in terms of preparing a solid investment project pipeline based on relevant strategies. Overall, preparations in this area are moderately advanced.

4.23. Chapter 23: Judiciary and fundamental rights

Judicial system

Regarding judicial reform, the Serbian authorities have undertaken to implement the Constitutional Court's rulings of 2012 which overturned the non-

reappointment of judges and prosecutors, leading to the reintegration of some 800 magistrates, representing one third of the total number.

The High Judicial and State Prosecutorial Councils (HJC and SPC) reappointed all the previously non-reappointed magistrates to their courts or prosecution offices, or to the jurisdictions that replaced them, within the 60-day deadline set by the Constitutional Court. In addition, some 900 magistrates recruited in 2009 on a probationary basis were granted permanent tenure in December.

The parliament adopted a new national judicial reform strategy for the period 2013-2018 in July, following a consultative process involving key stakeholders. The strategy takes stock of problems encountered in the implementation of the previous strategy adopted in 2006 and is built around the key principles of independence, impartiality and quality of justice, competence, accountability and efficiency of the judiciary. It aims to strengthen the HJC and SPC and make them accountable, as the bodies mandated by the Constitution to guarantee the independence of the judiciary. It also acknowledges the need for changes in the Serbian Constitution to address the lack of real judicial independence seen in many features of the current system. The strategy also aims to strengthen the framework for recruitment, evaluation, discipline and ethics within the judiciary. An increase in resources for the Judicial Academy is provided, to enable it to become the compulsory point of entry to the judicial profession. A 'strategy implementation commission', composed of representatives of major stakeholders, will be responsible for monitoring and measuring progress in the implementation of the strategy. The related action plan adopted in August details concrete measures to meet the strategy's objectives, particularly in critical areas such as harmonising jurisprudence, reducing the backlog of court cases, and distributing the workload. The smooth and timely implementation of the action plan is a crucial milestone.

Regarding the independence of the judiciary, the current constitutional and legislative framework still leaves room for undue political influence, in particular when it comes to appointments and dismissals, and needs to be amended. Following a Constitutional Court ruling in December that stated that the legal basis for the election in 2009 of the first president of the Supreme Court in its then temporary composition was unconstitutional, a new acting president of the Supreme Court, thus ex-officio acting president of the HJC, was elected in February. The HJC has finalised the proposals for the elections of the president of the Supreme Court of Cassation, the presidents of the Administrative, Commercial Appellate and Higher misdemeanour Courts, together with the presidents of the three Appellate Courts in Belgrade, Nis and Kragujevac. These proposals remain to be endorsed by parliament to become definitive. Once the new Court and Prosecution's office network is adopted, the HJC and SPC will have to finalise the appointment of the remaining Court presidents and public prosecutors, to be further endorsed by parliament. Responsibility for proposing and allocating the budget for the courts and prosecution services remained shared between the HJC and SPC, on the one hand, and the Ministry of Justice, on the other. The first 18 graduates from the initial programme of the Judicial Academy were appointed, but the institution remains

largely understaffed and underequipped. Further legislative and institutional changes are needed for the Academy to face the challenge of becoming the compulsory point of entry to the judiciary. The HJC and SPC have yet to finalise the process of adopting rules on regular appraisal of the work and performance of judges, court presidents and prosecutors.

The impartiality of judges continues to be broadly ensured. Legal provisions on conflicts of interest and on random allocation of cases are in place. However, different electronic data management software continued to operate in parallel in the appellate, administrative, and supreme courts, while electronic case management has not yet been set up in the misdemeanour courts or prosecutors' offices.

In relation to accountability, one judge was sanctioned following disciplinary procedures in 2013, convicted to a salary reduction of 40% for a period of one year. The disciplinary authorities for prosecutors were appointed by the SPC in May and first cases were processed, leading to the dismissal of a Deputy Public Prosecutor in May. A code of ethics for prosecutors and deputy public prosecutors has just been adopted, in October. The procedure for lifting the functional immunity of judges, prosecutors and members of the Councils remain largely unused. The implementation of those control mechanisms needs to be stepped up, especially since allegations of corruption in the judiciary persist.

As regards the efficiency of the judiciary, the Judicial Academy continued initial and in-service judicial training for judges, prosecutors and attorneys. This still needs to be systematised and structured, especially in terms of developing expertise in certain areas (economic crime in particular). The judicial budget for 2012 remained stable (around 0.65% of GDP). In 2012, the backlog of courts cases was not reduced significantly (more than three million cases were still pending at the end of 2012). The Constitutional Court resolved an increased number of cases following the reform carried out last year. However, its backlog remains of particular concern (more than 12 000 pending cases at the end of 2012), especially in terms of cases related to breaches of the right to trial within a reasonable time The entry into force of the law on public notaries was postponed to 2014 because too few candidates passed the public notaries' examination. The number of bailiffs increased after a second group of candidates who had passed an exam was appointed in April, but remains insufficient to meet the target set by the law for its implementation. Bailiffs are mainly concentrated in Belgrade.

Adjustments to the court and prosecutor's office networks are currently planned and are aimed at ensuring optimal allocation of the reappointed magistrates, balancing their individual wishes and constitutional rights not to be moved from one place to another without their consent with the needs of the whole judiciary in terms of access and proximity. There are still major imbalances in the workload of judges and the length of proceedings remains excessive in many cases. Further reform of the court network will require a comprehensive analysis, notably in terms of cost, efficiency and access to justice. The quality of statistics needs to be improved.

Amendments to the Criminal Code included the criminalisation of aiding abuse of the right to asylum in a foreign country; the decriminalisation of defamation, and of 'unauthorised public comments on court proceedings'; the recognition of discriminatory motivating factors such as ethnic origin, religion, gender identity or sexual orientation as an aggravating circumstance of certain crimes and the recognition that no statute of limitations applies for sex offences committed against children. The offence of 'abuse of office' was also amended to redefine the way it applies to private operators. Open cases under Article 359 of the Criminal Code are being re-examined, on a case-by-case basis. Most of those already re-examined were re-qualified, under the new offence of 'abuse of position by a responsible person' (new Article 234 of the Criminal Code). So far only a very limited number of cases under the competence of the general jurisdiction prosecutors' offices were waived. The implementation of this new provision applying to private operators should be carefully monitored including with a view to a comprehensive review of economic crimes.

General implementation of the adversarial procedure under the new Criminal Procedure Code, which puts the prosecution in the lead for criminal investigations both in the pre-investigative and investigative phases, was postponed to October. Some training aimed at enhancing the capabilities of the judiciary and prosecution in this regard was conducted. However, in the absence of a free legal aid system aimed at granting poorer defendants an effective defence, and of the infrastructure and equipment necessary to obtain good quality evidence, concerns about procedural safeguards in the new system remain. Moreover, the planning affectation in terms of human resources, financial and infrastructure remains unclear. The implementation of the new Criminal Procedure Code will have to be carefully monitored.

The Administrative Court has resolved all cases older than three years and 9551 cases during the first six months of 2013. However, it continued to face an increasing inflow of cases (11315 new cases for the first six months of 2013, compared to 4 938 new cases in 2012) and has not been able to reduce the number of pending cases (more than 23 200 pending cases at the end of June, compared to more than 21 500 at the end of 2012). The elaboration and implementation of a unified backlog-clearance programme foreseen in the new action plan for the implementation of the national judicial reform strategy for the period 2013-2018 should be a priority in this regard. Training of administrative judges in specific areas such as asylum, consumer protection, state subsidies and competition needs to be further developed.

Inconsistency in case-law remains a concern, especially at the level of appellate courts.

A reform of minor offences courts was conducted in July with a view to improving access to justice. However, differences in workload within the judiciary, the high average length of proceedings, the backlog of cases and the lack of a free legal aid system are major obstacles in practice. The general introduction of the adversarial model in criminal proceedings, based on equality of the parties, as from

October 2013, raises additional concerns in this framework, and will need to be carefully monitored.

Anti-corruption policy

Anti-corruption policy has been underpinned by a strong 'zero tolerance' message from the government. Following broad stakeholder consultation, a new strategy on the fight against corruption for the period 2013-2018 was adopted in July, together with a related action plan in August. The strategy aims at both a structural approach dealing with issues such as good governance, independent institutions, internal and external audit and control, and protection of whistle-blowers, together with a sectoral approach addressing corruption in most sensitive sectors such as public procurement, urbanism and spatial planning, the judiciary, police, education and health. The Ministry of Justice and Public Administration is responsible for coordinating the implementation of the strategy and action plan, while the Anti-Corruption Agency is responsible for monitoring them. The action plan provides for detailed measures to implement the strategy, with a focus on most vulnerable areas, such as the improvement of financial investigation capacity and making illicit wealth a criminal offence. A mid-term review of the action plan is provided, with a view to assessing first measures implemented under the action plan and possibly amending or adjusting some of the longer term measures. This mid-term review should be used as a way to conduct a reality and feasibility check of the implementation of the strategy and action plan, to ensure that both are turned into concrete results. The implementation of the strategy and action plan will test Serbia's preparedness and willingness to proceed forward. It remains crucial that adequate resources are allocated.

Implementation of outstanding Council of Europe Anti-Corruption Group (GRECO) recommendations has continued and the Criminal Code was amended in December to comply with the recommendations of the incriminations chapter of GRECO's third evaluation round of September 2012.

On the prevention side, the Anti-Corruption Agency has initiated a public anti-corruption awareness campaign, was submitted 2.112 public authorities' integrity plans and has developed and is applying corruption risk analysis of draft legislation. The Agency also increased its activities in the field of training and education (3 679 participants underwent various educational programs in 2012, compared to 1 883 in 2011). The Agency increased its cooperation with some stakeholders and improved its methodology for investigating targeted declarations of public officials' assets. The methodological changes introduced a mandatory step requiring verification and comparison of the data contained in asset and income declarations with the data held by at least four authorities: the Ministry of the Interior, the Tax Administration, the Business Registers Agency, and the Republic Geodetic Authority. The number of procedures related to control of property and revenues of public officials in 2013 increased (283), out of which the majority (182), refers to officials who had not submitted the report of property and revenues within the deadline prescribed by law. The Agency filed seven criminal charges due to reasonable suspicion that a

public official did not report property to the ACA or gave false information about the property, with an intention of concealing facts about the property, including against a member of the national assembly, two against former members of parliament, one against a member of a Management Board and one against a mayor. In May, the Agency also adopted its first report ever on the financing of electoral campaigns, for 2012. Annual financing was reported by two thirds of political groups. The Agency submitted 53 requests for misdemeanour procedures on the grounds of inappropriate use of funds, untimely submission of annual financial reports and non-submission of electoral campaign financial reports. However, cases of illicit wealth will have to be addressed in line with the provisions of the action plan on the fight against corruption. Track records of asset declarations and checks on party funding need to be established. Detection and resolution of cases of conflict of interest remains at an early stage since although more files than ever were processed, very few charges were filed during the reporting period. Half of the public authorities obliged to draft Integrity Plans did not fulfil their obligations without any statutory sanctions being provided.

The Anti-Corruption Council continued to be active in exposing and analysing cases of systemic corruption, in its advisory role to the government. A working group within the Ministry of Interior has been tasked with following up the high-profile corruption cases, including those pointed out by the Council. As a result of the work undertaken by this working group, the prosecution for organised crime and corruption raised seven indictments, including against two former ministers, and well-known businessmen. One trial was completed at first instance level, sentencing in particular to four years of prison a judge and to six and half years a former president of a commercial court, while five and nine years sentences were respectively issued against a former director of a company and a banker, for abuse in a business operation.

The number of investigations launched in 2012 by the special prosecutor for corruption and organised crime in high-level corruption cases increased slightly (140 new investigations, compared to 115 in 2011). The same applies to investigations launched from other public prosecutors' offices during the same period (2 690 new investigations, compared to 2 270 in 2011). The Constitutional Court clarified that the prolongation of pre-trial detention during the investigations should not violate constitutional right to a reasonable duration of pre-trial detention. However, the ratio of convictions remains relatively low. Further efforts are needed to establish a track record of prosecution and conviction, particularly in high-level cases. The law enforcement bodies need to become more proactive. Lack of internal capacity and expertise in financial investigations and of technical equipment for special investigative measures hampers the effectiveness of investigations. Inter-institutional cooperation between law enforcement agencies needs to be improved. Civil society continues to play a limited role. Effective whistle-blowing protection mechanisms have yet to be established. Internal control departments lack equipment and human capacity.

Independent supervision and capacity for early detection of wrongdoing and conflicts of interest in public enterprises, privatisation procedures and public expenditure are underdeveloped. Local corruption needs attention. Health and education remain particularly vulnerable to corruption. Comprehensive risk analyses for areas vulnerable to corruption are needed.

Fundamental rights

Serbia has ratified all of the main international human rights instruments. In January, Serbia presented the Report on Human Rights for the Universal Periodic Review — Second Cycle. The UN Human Rights Council made 144 recommendations to be followed up by 2 016, of which 77 relate to LGBTI rights.

During the reporting period, the European Court of Human Rights delivered 11 judgements on 177 applications finding that Serbia had violated the European Convention for the Protection of Human Rights and Fundamental Freedoms. The number of new applications increased, putting Serbia fifth in the list of states with the highest case-count. The largest number of judgments refers to violation of the right to a fair trial due to the length of the procedure and to the non-enforcement of domestic judgments. Due enforcement of rulings is particularly needed in cases of compensation of workers from state-owned enterprises, administrative decisions, and the resumption of payment of pensions earned in Kosovo. As of September, there were over 12 200 eligible cases pending before the Court regarding Serbia, and 108 cases pending before the Committee of Ministers in charge of supervising the execution of judgments.

In relation to the promotion and enforcement of human rights, the government's Office for Human and Minority Rights has carried out a significant number of activities involving other state bodies including training courses for judges, prosecutors, legal practitioners, prison officers and police officers. Its administrative capacity remains to be strengthened.

As regards the prevention of torture and ill-treatment, the Ombudsman, acting as the national preventive mechanism against torture, periodically visited places where persons are or may be deprived of their liberty and detained under the order of a public authority, focusing on police stations. The Law on the Protection of Rights of Persons with a Mental Disability, adopted in May, introduces basic legal safeguards for persons with mental disabilities involuntarily placed in psychiatric institutions. The Constitutional Court recognised for the first time ever a violation of the right to physical and mental integrity of a prisoner in July. Unsatisfactory healthcare together with a lack of adequate and specific treatment programmes in prisons remain a matter of concern. Due to poor living conditions in police detention facilities, district prisons tend to be increasingly used as unlawful police detention facilities. Police instructions on handling persons in police custody have been issued, but have yet to be implemented through adequate training to prevent ill-treatment. An internal effective non-judicial mechanism for reviewing complaints remains to be strengthened.

When it comes to the prison system, a new strategy for further development of the correctional system 2013-2020, together with a new Law on Enforcement of Criminal Sanctions and first ever Law on Probation have yet to be adopted. The November 2012 amnesty law had an immediate effect on overcrowding. Amendments to the Criminal Code introduced the possibility of conditional release. The number of alternative sanctions, such as home imprisonment monitored by electronic tagging and community service orders, increased. Vocational training was offered to prisoners in three of the main prisons (Pozarevac, Nis and Sremska Mitrovica) through pilot programmes. However, the prison system continued to face serious overcrowding with 10 500 prisoners for some 8 500 places. Further efforts are needed to improve living conditions and healthcare and to provide adequate treatment programmes for prisoners. Alternative sanctions need to be introduced on a larger scale. Frontline prison staffing remains insufficient.

As regards freedom of expression, defamation was decriminalised in December, while hate speech was recognised as an aggravating circumstance. A commission specially tasked to look into unsolved cases of murdered journalists from 1999 and 2001 was created and is actively cooperating with prosecution services. Amendments to the law on public information now prevent public authorities from setting up public companies in the media sector. However, further steps are still needed to ensure an effective implementation of the media strategy. Direct state financing and control of the media, including the local level, still needs to be comprehensively addressed. Uncertainty about models of financing of the two public service broadcasters (RTS and RTV) puts in question their survival and are a reason of concern given RTV's role regarding broadcasting in minority languages. The procedure by which the Republican Broadcasting Agency's members are appointed continues to raise concerns. Legislative instruments on public information and the media together with public service broadcasters and electronic communications have yet to be adopted. Threats and violence against journalists remain a significant factor in self-censorship. Although criminal charges are increasingly filed for incitement to ethnic, racial and religious hatred and intolerance, final convictions remain rare. Media campaigns based on anonymous or leaked sources are frequent. Such campaigns, detailing investigations or announcing arrests, undermine trust in the judicial institutions, violate personal data laws and challenge the presumption of innocence.

Freedom of assembly and association is constitutionally guaranteed and in general respected. Ninety-one political parties, including 53 representing minorities, were registered as of September 2013. A working group to draft and implement a strategy and an action plan for fighting sport-related violence was set up in March.

The public assembly law has yet to be fully aligned with the Constitution. While a Pride festival could take place in Belgrade from 21 to 27 September, the Pride Parade itself, scheduled for 28 September, was banned by the Serbian authorities on security grounds, for the third year in a row. This decision contradicted the ruling of the Constitutional Court of April that the 2011 ban on the Pride Parade violated the right to freedom of assembly. The activities of extreme right-wing organisations and

of violent groups of so-called sports fans continue to be a major cause for concern. Extreme right-wing organisations published blacklists of media organisations, NGOs, and prominent human rights defenders they described as 'traitors' and incited violence against them. The authorities have not taken appropriate action.

Freedom of thought, conscience and religion is guaranteed and in general respected. Religiously motivated incidents declined. In addition to 7 religious communities recognised as traditional communities under a law adopted in 2006, another 18 religious organisations have been registered so far. The lack of transparency and consistency in the registration process continues to be one of the main obstacles preventing some smaller religious groups from exercising their rights, and access to church services in some minority languages is not fully guaranteed in practice. The rulebook on the register of churches and religious communities includes disputable provisions and may lead to contravention of the principle of state neutrality towards the internal affairs of religious communities.

Relating to women's rights and gender equality, a Council for Gender Equality was set up in April as an inter-ministerial body tasked with proposing measures and initiatives to improve gender equality. Two special protocols on procedures for police officers and procedures at social work centres regarding instances of violence against women in the family and in partner relationships were adopted in February and March respectively. The protection of women against all forms of violence needs to be strengthened and mechanisms for coordinating the collection and sharing of data between all relevant actors in the system enhanced. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence has yet to be ratified. The action plan for the national strategy for prevention and suppression of violence against women remains to be adopted. Local gender equality commissions have yet to be set up in a number of municipalities. Labour legislation needs to be fully implemented, particularly regarding the dismissal of pregnant women and women on maternity leave, sexual harassment and inequality in promotion and salaries.

In the area of children's rights, legislation providing for no statute of limitations for sex offences against children was adopted in April. The new legislation also provides for stricter surveillance and police measures for people convicted of similar offences, extending beyond the end of the prison sentence in order to prevent subsequent offences. The total number of children in institutional care decreased further. However, the number and difficult situation of disabled children in large-scale institutions remains of concern. Roma children, who are over-represented in the state care system, are at higher risk of living in poverty, of leaving school early, of being victims of domestic violence and of being placed into care. This is particularly the case for those children living in Roma settlements. Further efforts are needed to protect children from violence, especially violence among children and young people. Cross-sector coordination to detect, refer and respond to cases of violence against children exists only in less than 20% of municipalities. Alternative sanctions for juvenile offenders have yet to be developed.

Regarding socially vulnerable and/or persons with disabilities, amendments to the Law on Vocational Rehabilitation and Employment of Persons with Disabilities were adopted in April providing for incentives for employers to recruit persons with disabilities replacing the former system of penalties. The Law on the Protection of Persons with Mental Disabilities, introducing basic legal safeguards for the placement and treatment of people with mental disabilities involuntarily placed in psychiatric institutions, and the Law on Patients' rights were adopted in May. Deinstitutionalisation efforts have further continued, in tandem with the development of community-based services. However, oversight of living conditions in social care institutions and psychiatric hospitals should be strengthened. The involuntary psychiatric hospitalisation procedure and the regulations on depriving people with psychosocial and intellectual disabilities of their liberty should be aligned with the case law of the European Court of Human Rights. The social integration of persons with disabilities generally needs to be further improved.

Serbia's anti-discrimination legislation is broadly in line with European standards on combating racism and racial discrimination. A comprehensive anti-discrimination strategy 2013-2018 was adopted in June. It aims at combating discrimination against people and groups that are more exposed to discrimination and discriminatory practices, such as the Roma, women, LGBTI persons, persons with disabilities and children. Changes to the Criminal Code recognised motivating factors such as ethnic origin, religion or sexual orientation as an aggravating circumstance of certain 'hate' crimes. The Equality Protection Commissioner's office has continued to be active in raising awareness on discrimination and existing mechanisms for protection against discrimination and received an increased number of complaints from citizens. Its capacity needs to be improved to cope with the increasing flow of complaints. However, certain aspects of the anti-discrimination legislation have yet to be aligned with the acquis, notably the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to make reasonable accommodation for disabled employees. The groups most discriminated against are the Roma, women, persons with disabilities and LGBTI persons who, together with human rights defenders, often face hate speech and threats.

Some activities regarding the protection of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons have taken place and there has generally been a more active processing of discrimination cases against the LGBTI population, as a result of police training, the development of court practices and improved cooperation with LGBTI persons as witnesses. The Novi Sad Appellate Court delivered Serbia's first ruling on discrimination in the work place based on sexual orientation. However, a pride parade that was to be held on 28 September in Belgrade was again banned, for the third year in a row, on security grounds. This raises a number of concerns regarding the lack of sufficient political support for the protection of the rights of LGBTI population, the lack of implementation of the constitutionally

guaranteed rights of freedom of expression and assembly as well as the authorities' capacity to handle threats from radical groups.

Regarding labour and trade unions rights, which are guaranteed by the Constitution and broadly respected, the 1996 Law on Strike has yet to be aligned with International Labour Organisation conventions. The criteria for selecting representative social partners have not been revised. Disagreements on these criteria between the main trade unions continue to block the work of the Economic and Social Council; its meetings are not regularly attended by government officials, and its role remains limited. The Council is not regularly consulted on draft laws within its area of competence. At local level, tripartite social dialogue remains generally non-existent. (See also Chapter 19 - Social policy and employment).

With regards to property rights, the Agency for Restitution continued to implement the 2011 Law on Restitution. Former owners continue to submit claims for restitution. The Agency receives about 1 000 claims per month (21 500 had been received by September) and has adopted about 6 100 decisions. By September, about 2 700 ha of agriculture land and forests, 1 400 apartments and business premises and 135 000 m2 of construction land had been returned to their owners — at an estimated value of about €300 million. The special law on restitution of Holocaust-era Jewish properties has not yet been adopted.

The legal framework providing for respect for and the protection of minorities and cultural rights is in place and generally upheld, in line with the Framework Convention on National Minorities to which Serbia is party. The government's Office for Human and Minority Rights has carried out a significant number of activities but its administrative capacity needs to be strengthened. A traineeship programme has been set up, offering opportunities in the state administration to members of under-represented minorities. Measures have been implemented to broadcast TV programmes in Romanian and language classes have started to be constituted in Eastern Serbia. The framework for the national minority councils has yet to be revised in line with the recommendations made by the independent bodies. The newly re-established, in May, National Council for Minorities has not yet met. Consistent implementation of the legal framework on the protection of minorities throughout Serbia needs to be fully ensured, notably in the areas of education, use of language, and access to media and religious services in minority language.

The Autonomous Province of Vojvodina offers a high degree of protection of minorities and the inter-ethnic situation remained generally good. Sporadic inter-ethnic incidents were recorded, but their overall number continued to decrease. Measures to prevent and prosecute such incidents were agreed in March between central and regional authorities. There have been appropriate reactions to such incidents by provincial officials and the police, but the prosecution continued to treat them as misdemeanours rather than serious criminal offences. The Provincial Ombudsman's 2012 report noted that out of 1 248 complaints, 65 (5%) related to minority issues. The political climate was strained over the issue of autonomous status for the province and marked by occasional tensions as a number of parties and political movements started to actively contest the authority and views of the

province's ruling coalition. Increased activity by extreme right-wing organisations is a cause of concern.

Regarding the municipalities of Presevo, Bujanovac and Medvedja, there were some tensions over the issue of monuments to former members of forces which took part in the 1999-2000 conflicts. Talks have resumed between ethnic Albanian leaders and the new head of the government's Coordinating Body leading to a regular dialogue taking place on improving the situation in the area. After consultations with representatives of ethnic Albanians, in June the government adopted a comprehensive agenda with measures ranging from integration into public administration to education and economic recovery. The Albanian/Serbian Department of Economics in Bujanovac continued its work. Further scholarships to study at Novi Sad University were granted to students from Presevo and Bujanovac. Additional textbooks in the Albanian language were provided for the 2012 school year. A first Investment Potential Fair was held for the three municipalities in April by the government and the chamber of commerce. Ethnic Albanians remain underrepresented in the public administration and in local public companies. The area remains among the poorest in Serbia and requires further commitment from the state authorities for its economic development.

As regards the Sandzak area, the inter-ethnic situation remained stable. A curriculum in the Bosnian language was adopted by the National Education Council in November and preparatory classes started in February with a view to the regular introduction of classes in this minority language as of the 2013/2014 school year. In July, the government adopted a decision extending the programme of publication of free textbooks in minority languages to the Bosniak language too. The Bosniak community continued to be underrepresented in the local administration, judiciary and police. The issue of the election of the Bosniak national minority council and the issue of the two rival Islamic communities have yet to be solved. The area remains significantly underdeveloped, with a high unemployment rate and a lack of adequate infrastructure and investment. It requires further commitment from the state authorities for its economic development.

Regarding the Roma, the 2012-2014 action plan to implement the national strategy to improve the status of the Roma was adopted in June. The recommendations of the June 2011 EU-Serbia seminar on Roma inclusion have been actively followed up and a new set of operational conclusions addressing the remaining gaps was jointly agreed in September. Governmental coordination on the issue has improved. A new procedure to ensure that 'legally invisible persons' are registered has started to be implemented and has led to encouraging initial results. Additional sustainable housing solutions have been provided. The sustained support provided to 170 teaching assistants resulted in a further increase in the enrolment rate for Roma children in the education system, notably at pre-school level. Further support for a 75-strong health mediators' network has had a similar impact on health indicators. Some encouraging results have been achieved through employment measures targeting the Roma, particularly in Vojvodina.

However, the Roma still face difficult living conditions, especially those living in informal settlements where adequate access to water and electricity is not ensured. Compliance with international standards on forced evictions and relocations still needs to be systematically ensured. The Roma continue to be subject to discrimination, particularly regarding access to social protection, health, employment and adequate housing. The legal provision allowing social welfare centres to be used as a temporary address for registration purposes has yet to be implemented. The Roma population, and especially Roma women, are the most discriminated against in the labour market and continue to face social exclusion and high unemployment rates. The school drop-out rate for Roma children remains high. Roma women and children are still frequently subject to family violence, which often goes unreported. Roma children remain over-represented (25%) in the care institutions. Further sustained efforts, including financial efforts, are needed to ensure full implementation of Serbia's Roma strategy and action plan and to address the difficult situation of the Roma population.

According to the UNHCR, there are around 57 000 refugees and 209 000 internally displaced persons (IDPs) in Serbia. The number of collective centres was further reduced from 24 to 18, providing housing for 2 438 displaced persons. The programme for supporting municipalities which draft local action plans to improve the status of refugees and IDPs has continued and some improvement has been made concerning displaced persons, with further provision of sustainable housing solutions. Nevertheless, the living conditions of many refugees and internally displaced persons are still difficult. Many are unemployed and live in poverty. Internally displaced persons who do not have personal documents are in a particularly difficult position as they are not able to exercise their basic rights. Some progress has been achieved as a result of the adoption of the Law on Permanent and Temporary Residence, which allows IDPs to apply for residence using the address of a social welfare centre, but the new provision still needs to be fully implemented in practice.

As regards protection of personal data, the office of the Commissioner for Free Access to Information of Public Importance and Personal Data and Protection was allocated new premises in August which should allow expanding its administrative capacity, when they become functional as from October 2013. The Commissioner received an increased number of complaints, mostly concerning police evidence, together with medical and social care documentation, without being allocated further resources. The legal framework needs to be further aligned with EU standards in several areas, especially interception and data protection. An action plan implementing the strategy still needs to be adopted.

Conclusion

There has been some progress in the area of judiciary and fundamental rights. Reforms are on the right track. Their implementation will test Serbia's preparedness and willingness to proceed forward.

A new five-year strategy and action plan on the judiciary were adopted. Previously nonreappointed magistrates were re-appointed following last year's Constitutional Court rulings. Intensive legislative activity took place. However, further reforms will require a comprehensive functional analysis of the judiciary in terms of cost, efficiency and access to justice, as well as constitutional amendments.

A new strategy and action plan on the fight against corruption 2013-2018 have been adopted. The number of investigations, particularly in high-level cases, increased. Implementation of GRECO recommendations has continued. The implementation of the legal framework and the efficiency of anti-corruption institutions need to be improved. The Anti-Corruption Agency needs to make full use of its capacity, in particular with a view to introducing tougher checks on the funding of electoral campaigns as soon as possible. The law enforcement bodies need to gain expertise, in particular in financial investigations, and to become more proactive. There is no efficient mechanism to protect whistle-blowers. Conflicts of interest need to be addressed.

Regarding fundamental rights, a comprehensive anti-discrimination strategy was adopted. Defamation was decriminalised. A law on mental disability was enacted. Some activities have taken place regarding the protection of the rights of the LGBTI population. However, sufficient political support is still lacking and a pride parade that was to be held in Belgrade was again banned, for the third year in a row, on security grounds. The authorities need to pay special attention to protecting media organisations, human right defenders and other vulnerable groups, including the Roma and LGBTI population from threats and attacks from radical groups. The implementation of the media strategy remains to be stepped up. Further efforts are needed to improve conditions in the prison system. Further efforts are also required to strengthen the data protection legal framework. The legal framework providing for protection of minorities is in place and generally respected. It has yet to be fully and consistently implemented throughout Serbia, notably in the areas of education, use of language, and access to the media and to religious services in minority languages. While progress was made, further sustained efforts are needed to improve the situation of the Roma and of refugees and displaced persons.

4.24. Chapter 24: Justice, freedom and security

Visa liberalisation for citizens of Serbia travelling to the Schengen area has been in force since December 2009. In order to ensure ongoing implementation of Serbia's commitments, a post-visa-liberalisation monitoring mechanism has been established. Serbia is also participating in the reinforced reporting mechanism agreed following up to the Joint Declaration on visa-free travel adopted in Tirana in November. The Commission will present its fourth monitoring report to the European Parliament and the Council before the end of 2013. The Serbian national authorities continued to cooperate in counteracting the phenomenon of unfounded asylum applications in EU and Schengen countries. Nevertheless, the number of citizens making unfounded asylum applications abroad is still high. With more than 15 900 applications in 2012 according to Frontex (a 38% increase compared to

2011), Serbian nationals remained one of the largest groups of asylum applicants in the EU (especially in Germany). In turn, the number of Serbian citizens finally granted asylum remained stable in 2012 compared to 2011 (310), with a recognition rate of around 1%, which continues to indicate largely unfounded nature of these asylum claims. Serbian authorities took further measures, including operational cooperation with Member States and awareness raising campaigns, in order to inform citizens of the consequences of abusing the visa-free regime. Since the introduction in December of a new criminal offence relating to facilitation of abuse of the visa-free regime, operational controls have been carried out on tourist agencies and passenger transport companies. Border controls, surveillance patrols and risk analysis have been enhanced. However, despite slight improvement, long-term policies to improve the social and economic inclusion of the most vulnerable groups of the population most likely to migrate, including Roma, need to be stepped up in order to make a practical impact on the situation. Further efforts in these areas need to continue systematically and be properly funded.

In the field of migration management, Serbian border authorities demonstrated in general a proactive attitude. They achieved results as regards interceptions of irregular migrants at border crossing points and in between border crossing points. The number of irregular migrants detected passing through Serbia whose final destination is the EU has increased: more than 13900 illegal border-crossings were reported by Serbia in 2012. This number is 34% higher than in 2011. A similar trend was observed with detections of migrants hiding in means of transport when trying to illegally cross the border (988 cases or 36% more than in 2011 according to Frontex). This represents four out of ten detections by western Balkan countries. The Law on Migration Management, adopted in November, identifies the Commissariat for Refugees and Migration as a central focal point in migration management policies and establishes a unified system for data and information collection of relevance to migratory movements. Coordination with other administrative bodies, in particular the newly established migration councils competent at local level, needs to be ensured and sufficient means allocated.

Serbia needs to make further efforts to ensure respect of the rights of asylum seekers and progressive alignment with the EU acquis on legal migration. The readmission agreement between the EU and Serbia continued to be implemented without significant problems, although capacity and resources for integrating returnees from the readmission process are very limited. 6 282 persons were returned to Serbia from EU Member States in 2012 (5 150 in 2011). Under the Agreement, new bilateral implementing protocols have been signed with the Czech Republic and Greece. The main countries from which people return are, in order of decreasing numbers, Germany, Sweden, Switzerland, Denmark, France and the Netherlands. Joint-patrolling at the new external border with Croatia needs to be established. Overall, migration management in Serbia continues to be moderately advanced.

Regarding asylum, claims are still temporarily processed by the Border Police Asylum Unit. The Asylum Office intended to operate as the first instance body has

yet to be established in line with the 2007 Law on Asylum. A unified national database for checking the personal data and fingerprints of foreigners, including asylum seekers, is being developed but remains to be put in operation. From over 2 723 applications in 2012 (3 134 in 2011), only three of those that were maintained were granted positive protection decisions (none in 2011). The criteria of safe countries of origin and the list of safe non-EU countries have yet to be fully aligned with the acquis. The lack of adequate asylum processing, where applicants are neither referred to nor registered in the asylum procedure as the Asylum Law requires, tends to encourage asylum applicants to see Serbia as a transit country for entering the EU illegally. Additional reception facilities with adequate conditions for asylum seekers are also needed, especially since access to the asylum procedure is dependent on accommodation at an asylum centre. Overall, Serbia continues to be in the early stages of aligning with EU asylum policy.

As regards visa policy, a unified visa information system which would allow a swift exchange of information among the authorities is still lacking. The list of countries for which a visa is required has yet to be fully aligned with the acquis. Overall, Serbia is moderately advanced in aligning its visa policy with European standards.

In the area of external borders and Schengen, the Integrated Border Management (IBM) strategy was revised in November to enhance the capacity of the coordination body for its implementation. Serbia has continued to improve the infrastructure and equipment at border crossing points by completing the installation of an immigration and case management system and increasing operational field equipment (special cameras, scanners, fingerprint capturing devices and detection devices). Operational biometric system solutions at borders, such as the existing Automatic Fingerprint Identification System (AFIS) and Facial Image Identification System (FIIS) have also been upgraded. Serbia has been increasingly involved in joint activities with Frontex and the Western Balkan Risk Analysis network. Operational coordination between border police, customs and phytosanitary services needs to be improved. The connectivity of the databases from and to the biometric devices needs to be enhanced in order to support the operations of the Border Police. Analytical, communication, procedural, training and technical capabilities need to be strengthened in order to effectively counter irregular migration. Human resources' risk analysis capacities need to be enhanced. Overall, Serbia continues to be moderately advanced on border management.

As part of the Dialogue on the implementation of the IBM protocol, Serbia and Kosovo agreed on a procedure for mutual legal assistance. The procedure entered into force in March and is facilitated by EULEX.

As regards judicial cooperation in civil and criminal matters, three agreements with the former Yugoslav Republic of Macedonia were ratified (one on cooperation in civil and criminal matters, one on the mutual enforcement of court decisions in criminal matters and one on extradition of own citizens), together with one with Slovenia (on mutual enforcement of court decisions in criminal matters), while three were signed with Turkey (on mutual legal assistance in civil and commercial matters

on the one hand, and in criminal matters on the other hand, and on extradition) and one with Bosnia and Herzegovina (on extradition). A memorandum of understanding on cooperation in judicial matters was signed with Germany. Serbia signed the fourth additional protocol to the Council of Europe Convention on Extradition. Serbia also ratified the 2007 Hague Protocol on the Law Applicable to Maintenance Obligations. An operational agreement with Eurojust has yet to be signed. Overall, Serbia remains moderately advanced in the areas of judicial cooperation in civil and criminal matters.

In the field of police cooperation and the fight against organised crime, the institutional framework to fight against organised crime is in place. Operational coordination and cooperation between law enforcement authorities, together with regional and international cooperation have yielded some results in high profile investigations into organised crime groups. A bilateral agreement on police cooperation with Montenegro came into force in March. Some measures have been taken towards improving the methodology and standards of the police, including in strategic planning and reform of human resources management. Nevertheless, organised crime remains a serious concern in Serbia. Although criminal investigations have been launched in a number of cases, final convictions remain rare. The capacity to carry out financial investigations in parallel with complex criminal investigations needs to be built up. Certain specialised services, in particular the unit for witness protection, continue to lack sufficient staff, resources and adequate premises. Existing regional instruments of cooperation need to be fully used in order to strengthen joint strategic and operational measures. A centralised criminal intelligence system and harmonised statistical data remain to be established. An integrated IT system linking the police, prosecution and the courts now appears necessary to enhance the effectiveness of the fight against organised crime. Risk assessments and crime mapping need to be used more broadly and intelligence-led policing needs to be developed. The dependence of the police on the security intelligence agency to carry out certain special investigative measures in criminal investigations is not in line with EU standards. In particular, the legal framework does not clearly distinguish between interception for criminal investigation and interception for state security, contrary to European best practices, while data retention rules comply with the EU acquis on data retention. An operational agreement with Europol has yet to be signed. Overall, Serbia is moderately advanced as regards police cooperation and the fight against organised crime.

In relation to cybercrime, a Ministry Instruction has been issued governing the seizure and handling of digital evidence and 180 police officers and senior managers have received basic training including a booklet on first response procedures to high-tech crime. However, structured training and adequate resources remain necessary. The High-Tech Crime Unit (HTCU), responsible for cybercrime investigation since 2010 within the Ministry of the Interior, lacks sufficient resources and needs to strengthen its capabilities in order to manage the increasing volume and complexity of its tasks. The introduction of specialist tools and techniques are needed to bring the unit up to modern operational international

standards. In order to optimise the fight against cyber-crime, partnership with the private and public sectors and academia have to be concluded. Overall, the fight against cyber-crime in Serbia is at an early stage. 30 requests for seizure of assets were approved in full in 2012, 9 partially and 19 denied, while out of 14 requests for confiscation of assets submitted, 3 were approved in full, 1 partially, 4 denied and 6 are still pending. A new law on recovery of the proceeds from crime was adopted in May, which allows extended confiscation through a reverse burden of proof. The Directorate responsible for the seizure of assets needs appropriate resources in terms of staff and capabilities, together with storage space. Data registration by the Directorate needs to be improved to satisfy requirements on security, accessibility and protection of sensitive data. Coordination between the prosecutors, the FIU, and the institutions involved in asset recovery needs to be further improved, together with training for judges and prosecutors.

The Administration for the Prevention of Money Laundering (APML) intensified reporting on suspicious transactions and cooperation with prosecution services. It continued training courses for its staff and awareness-raising activities for reporting entities. APML made further efforts to improve national and international cooperation in the investigation and processing of offences. Nevertheless, APML still lacks sufficient human resources and analytical capacity to systematically identify suspicious cases. The level of reporting of suspicious transactions remains low, in particular outside the banking sector, and especially in the real estate sector, currency exchange offices and insurance companies. An effective system for monitoring and analysing cash transactions needs to be put in place and made operational. Judiciary and law enforcement services lack expertise in handling money laundering cases. A track record of financial investigations and final convictions in money laundering cases needs to be built up. A new strategy for fighting money laundering has yet to be adopted. Overall, Serbia is moderately advanced in the fight against money laundering.

Serbia remained a country of origin, transit and destination for trafficking in human beings. Awareness campaigns have been conducted and training was organised for operational stakeholders. An increased number of investigations are being launched. A new Centre for the Protection of Victims of Trafficking has been established, but is not yet fully operational. A comprehensive, multi-disciplinary and victim-oriented approach to trafficking still needs to be developed. Victims' identification needs to be improved, together with their access to assistance, support and protection. A new anti-trafficking strategy and action plan for 2013 2018 are pending adoption. Overall, Serbia is moderately advanced in fighting trafficking in human beings.

As regards the fight against terrorism, the Criminal Code was amended to introduce relevant criminal offences in line with international standards and the EU acquis. A new strategy and implementing action plan for fighting terrorism have yet to be finalised, together with a new law on freezing of assets proceeding from terrorism. A national database and more efficient exchange of information are still

needed, while internal organisation and inter-agency cooperation also need further improvement. Overall, Serbia is moderately advanced in fighting terrorism.

As regards cooperation in the field of drugs, a new strategy for the period 2013-2020 has yet to be finalised. Serbia has shown commitment and operational capacity in contributing to the dismantling of international drug trafficking groups. A stronger focus on drugs prevention is needed. The national focal point for the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is not yet fully operational and should strengthen its capacity to adequately perform data collection and reporting. The country is on the main Balkans drug trafficking routes and continued and sustained efforts are needed by all involved law enforcement relevant agencies, including the customs administration, to detect and seize narcotics at the borders. Consumption remains a matter of concern. Cooperation between law enforcement bodies has to be improved and the process of accreditation for the Forensic Institute of the Serbian police needs to be completed. Effective destruction of seized drugs is still a concern. Overall, Serbia is moderately advanced regarding cooperation in the field of drugs.

Concerning customs cooperation (See also Chapter 29 — Customs union), Serbia's customs administration engaged in joint cases with agencies from neighbouring countries and continues to take an active part in international activities concerning the fight against illegal trade in goods such as narcotics, oil and cigarettes and cross-border movement control. However, Serbia still needs to align its legal framework with EU legislation on the use of technology for customs purposes. Overall, Serbia is moderately advanced regarding the cooperation in the field of customs.

For measures against counterfeiting of the euro, see Chapter 32 — Financial control.

Conclusion

Serbia made some progress in the area of justice, freedom and security. Serbia is actively involved in international police and judicial cooperation. A track record of proactive investigations and final convictions in organised crime cases needs to be established.

Additional efforts are needed to improve coordination between law enforcement agencies and the judiciary and to increase capacity to carry out financial investigations in parallel with complex criminal investigations. Migration management and asylum policies also need to be significantly strengthened and the asylum procedures need to be put in line with EU standards. Overall, Serbia is moderately advanced in the area of justice, freedom and security.

4.25. Chapter 25: Science and research

In the area of research and innovation policy, the level of investment in research stagnated at around 0.5% of GDP, below the national target specified in the strategy

for scientific and technological development for the period 2010-2015 and well below the EU 2020 target of 3%. The action plan implementing this strategy has still not been adopted.

Concerning participation in framework programmes, Serbia continues to be successful in the Seventh EU Research Framework Programme (FP7) but further efforts are necessary in particular in preparation of participation in Horizon 2020 to involve more small and medium-sized enterprises and obtain Marie Sklodowska-Curie grants. Serbia has also been successful in COST and EUREKA actions. Serbia successfully participated for the first time as third country in the FP7 Euratom programme. Serbia expressed an interest in becoming associated to the next EU research and innovation programme Horizon 2020 and started preparations on this.

Regarding the European Research Area, a Research Infrastructure roadmap, in accordance with the European Strategic Forum for Research Infrastructures standards, has yet to be adopted. No actions to strengthen the human capital building have been taken. Concerning the Innovation Union, Serbia took some actions such as supporting the Business Technology Incubator of technical faculties in Belgrade. The Innovation Fund started to disburse some grants to stimulate innovative companies in different sectors. Further efforts are necessary, including the adoption of a national strategy on innovation.

Conclusion

Limited progress was registered in the area of science and research. Public and private investments in research remain low. National research capacity and the implementation and monitoring of the actions envisaged remain to be improved. Overall, preparations in the area of science and research are on track.

4.26. Chapter 26: Education and culture

In the field of education and training, a strategy on the development of education up to 2020 was adopted by the government in November. The strategy is in line with EU's 2020 educational goals and envisages mandatory secondary education, stronger links with the labour market and economic development, the objective of sharply increasing the number of persons with higher education by 2020 and to increase investment in education from the current 4.5% to ca. 6% of GDP. In June, a legislative package on education was adopted: The Law on Elementary Education and Upbringing and the Law on Secondary Education and Upbringing provide for increasing education opportunities for vulnerable groups and reinforce quality assurance. The Law on Education of Adults brings substantial improvements in adult education, implementing experiences and recommendations from pilot projects. The revision of vocational education profiles (VET) has been initiated, thus mainstreaming numerous VET pilot projects implemented over the past ten years.

However, the implementation of education reforms needs to be improved. An action plan for the implementation of the strategy on the development of education

has yet to be adopted. The reform of the VET system, which does not match labour market needs, has yet to be fully carried out, notably regarding systematising new pilot programmes in VET schools. Quality assurance reforms in primary and secondary education have been slow. The lack of an efficient system of recognition of diplomas represents a serious impediment to graduates for further schooling and employment. A National Qualifications Framework for all levels of education has yet to be introduced. Serbia's participation in the EU's lifelong learning programme has yet to be decided.

The implementation of the youth law and strategy is ongoing with an increasing number of registered youth organisations, youth offices and local action plans. The Ministry of Youth and Sports is supporting young people with volunteering activities as well as internships and career counselling programmes. Serbia has further increased its participation in the EU's 'Youth in Action' programme.

In the field of culture, Serbia signed a memorandum of understanding in November and started to participate in, and actively promote, the 'Europe for Citizens' programme through the Office for Cooperation with Civil Society. It also continued to participate in the EU's Culture programme.

Conclusion

Good progress has been made in the area of education and culture with the adoption of the strategy on the development of education and a new comprehensive legislative package. The strategy remains to be followed-up with a realistic action plan and roadmap for its implementation. Educational reforms' implementation remains slow and further efforts are needed with a view to ensure a holistic approach to match education with labour market needs. Overall, preparations for aligning with EU standards are moderately advanced.

4.27. Chapter 27: Environment and climate change

In the area of the environment, as regards horizontal legislation, an agreement on operating a fourth local Aarhus centre was reached. The first National Ecoregister for Environmental Information in electronic form was launched in January. In 2012, 197 operators in total reported their data to the Serbian pollutant release and transfer register, according to the European Regulation on Pollutant Release and Transfer thresholds (of 270 with a reporting obligation). Reports are mainly lacking from agricultural and mining operators. Serbia has established the Serbian node of the European Environmental Information and Observation Network (EIONET), which connects 23 national providers of environmental monitoring data, including the public health institutes and statistical office. Further inter-institutional agreements, unified reporting formats and financing need to be ensured to guarantee proper functioning. The implementation of the Environmental Impact Assessment Directive needs to be improved, as regards particularly the public consultation process.

As regards air quality, a regulation setting out zones and agglomerations and a list of air quality categories were adopted in October. An air quality management plan has been adopted for the city of Bor, whereas those for Belgrade and Novi Sad are under preparation.

In the area of waste management, a new regional waste management centre has been opened in Pirot. Serbia has 6 EU compliant regional sanitary landfills currently functioning. The collection rate of household waste has increased from 72% to 78%. Other forms of waste management need to be developed in order to use landfilling only as a last resort. Non-compliant landfills need to be closed more quickly and enforcement of waste legislation enhanced. Full alignment with the Waste Framework Directive is yet to be achieved. New investments in the area of waste should focus more on waste separation and recycling. An investment pipeline linked to strategic priorities remains to be developed. Progress in hazardous waste management has been impeded by the cancellation of the previously applied system of product charges.

As regards water quality, a Regulation on the Annual Water Monitoring Programme was adopted in April. Completion of the surface and groundwater monitoring network is pending, as is the alignment of the geographical remit of the river basin management authorities to the boundaries of the river basins. Strategic investment planning in water pollution abatement continues to be hampered by the absence of a national water protection strategy. The delineation of competences between the national and local levels for infrastructure projects needs to be clarified. Projects charged with flood risk mapping have been concluded and vulnerability and flood risk maps for about 50% of Serbia's flood-prone areas are in place. The construction of plants in Vrbas, Kula, Leskovac and Sabac has not yet been completed. The capacity of the Ministry of Agriculture's Water Directorate remains to be enhanced.

As regards nature protection, the implementation of the CITES Convention has improved. The institutional framework for designating and managing the Natura 2000 sites needs to be confirmed and methodological and resource problems with regard to habitats and species data collection, mapping and monitoring resolved. The delineation of competences between local and national levels needs to be clarified and local governments' resources increased.

In the field of industrial pollution and risk management, 105 out of an estimated 161 integrated pollution prevention and control (IPPC) installations have submitted their requests for integrated permits. Six permits have so far been issued. The current practice of having separate water and waste permits is not in line with the requirements of the IPPC Directive. Linkages between environmental impact assessments and IPPC need to be strengthened and their synergies exploited. Capacity at central and local level for issuing IPPC permits is insufficient. Intra- and interinstitutional cooperation needs to be established. Minimum standards for assuming statutory duties at local level are yet to be ensured before competencies are devolved. The public participation foreseen in the integrated permitting process needs to be significantly enhanced.

As regards chemicals management, the closure of the Chemicals Agency in September and the transfer of its mandate to the Ministry of Energy, Development and Environmental Protection have removed the legal basis for carrying out statutory duties related to issuing permits and decisions. Serbia needs to re-instate a sound legal basis for chemicals management. Joint inspections under the Law on Chemicals have been discontinued. The advanced level of competence in this domain should be preserved in the new structure and the legislation applied again.

In the area of noise, targets should be defined to meet the national deadlines for implementing the provisions of the law on the protection against environmental noise in 2015 and 2016.

As regards civil protection, in January, the National Emergency Management Headquarters has been transformed into the National Platform for Disaster Risk Reduction. The intergovernmental agreement between Russia and Serbia on the establishment of the Nis humanitarian centre was ratified in December. In order to develop a regional approach with a strong EU dimension to disaster prevention, preparedness and response, cooperation needs to be ensured with the EU Civil Protection Mechanism, which Serbia, as a candidate country, can join. The bilateral agreement with France on emergency assistance has not yet been signed. The implementation of Action plans related to the National Strategy for Protection and Rescue, and for Disaster Risk Reduction and the Strategy for Fire Protection, adopted in 2011 and 2012 respectively, has not yet been completed.

Regarding climate change, the country does not yet have a comprehensive countrywide climate policy or strategy. Serbia regularly associated itself with EU positions in the international context. While having previously associated itself also with the Copenhagen Accord and having submitted an assessment of its mitigation potential to the UNFCCC, the country nevertheless has not yet put forward a commitment for mitigation by 2020. Serbia should consider making mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015. Also, in line with the EU Green Paper 'A 2030 framework for climate and energy policies', Serbia is invited to start reflecting on its climate and energy framework for 2030.

As regards alignment with the climate acquis, Serbia adopted implementing legislation on the quality of petrol and diesel fuels. 157 stationary installations for the purpose of future implementation of an emissions trading system were identified. Significant efforts are required to strengthen the country's monitoring, reporting, and verification capacity. Serbia participated regularly in climate work under the Regional Environmental Network for Accession (RENA). Awareness-raising at all levels and relevant initiatives need to be further intensified. An administrative structure on climate change with adequate human and financial resources and clearly defined responsibilities is yet to be established. Inter-institutional cooperation and coordination, and capacity in the area, need to be improved.

Conclusion

Little progress has been made in the areas of environment and climate change. Significant additional efforts are needed to further align with EU policies in areas such as water, waste management, air quality and nature protection. Implementation of the existing legislation needs to be improved and related capacity maintained. Efforts under way to strengthen inspection and enforcement need to be accompanied by removing inconsistencies and incompleteness in legislation that prevent effective enforcement. Public participation and consultation in the decision-making processes need to be strengthened. Considerable efforts are required to adopt a more strategic approach for the country, align with and implement the EU climate acquis, and to strengthen administrative capacity and inter-institutional cooperation and awareness-raising. An investment pipeline linked to strategic priorities needs to be developed. Overall, priorities in the fields of environment and climate change have started to be addressed.

4.28. Chapter 28: Consumer and health protection

In the area of consumer protection, as regards horizontal aspects, the National Council for Consumer Protection was established in October and cooperation with consumer protection organisations has continued to improve, as has implementation of the existing legislative framework. The strategy for consumer protection 2013-2018 was adopted in July. The administrative capacity and coordination of the departments in charge of consumer protection in the line ministries need be reinforced as well as their cooperation with consumer protection organisations.

As regards product safety-related issues, a product safety council was established in June with the role of introducing new standards in market surveillance for non-food products, and further aligning this sector with EU standards. Tools and procedures for the mediation process and the legal framework for out-of-court settlement of consumer protection disputes still need to be strengthened. There was no further legal alignment.

As regards non-safety related issues, further alignment of the law on the protection of users of financial services is still required.

In the area of public health, the overall financial sustainability of the public health system in Serbia is still seriously endangered by the poor financial situation of the public health fund.

There were no developments in the area of tobacco control.

In the area of communicable diseases, some case definitions for reporting communicable diseases, including clinical, laboratory and epidemiological criteria, are still lacking and EU case definitions have to be progressively adopted. Surveillance and response capacity remains limited and requires modernisation, in particular in the form of human resources and equipment. More attention is needed for effective implementation of the national HIV/AIDS strategy and awareness

raising. Additional efforts are needed in particular in surveillance of antimicrobial resistance.

In the area of blood, tissues, cells and organs, further efforts are needed to implement the Law on Organ Transplantation. The administrative and technical capacity of the Directorate for Biomedicine in the Ministry of Health needs to be strengthened.

In the field of patients' rights in cross-border healthcare, the government adopted a Law on Patients' Rights governing the rights of patients in the use of healthcare and the manner in which they exercise and protect such rights.

In the field of mental health, in March the government adopted a Law on the Protection of Persons with Mental Health Problems which regulates mental healthcare system including procedures, organisation and conditions of treatment as well as retention of persons with mental disorders. Community-based mental health services should be further supported and developed.

In the area of drug abuse prevention, measures to curb the supply of illicit drugs and to provide needle exchange and substitution treatment to prevent HIV were taken. As regards cancer screenings, full implementation of the national screening programme for colorectal and cervical cancers has yet to be achieved. Some progress can be noted in the field of rare diseases, especially in providing more sustainable funding for treatment and implementation of legislation.

Conclusion

There has been some progress in the area of consumer and health protection, in particular with regard to the strategy on consumer protection. Further efforts need to continue on implementing the existing legislative framework, to pursue alignment with the acquis and its full implementation. Institutional coordination between the relevant actors and administrative capacity in both areas need to be strengthened. The overall financial sustainability of the public health system in Serbia needs to be strengthened. Overall, preparations in this area remain moderately advanced.

4.29. Chapter 29: Customs union

As regards customs legislation, the Customs Law was amended in November and was further aligned with the acquis and with national legislation, particularly with some provisions of the Budget System Law. The Serbian government amended the decree on customs tariff nomenclature in November with the aim of aligning it with the 2013 EU Combined Nomenclature and with the liberalisation schedule under the Interim Agreement.

Further harmonisation is needed in the field of customs legislation. The Law on the Customs Service remains to be adopted. An adequate legislative framework on cultural goods is missing. The provisions on cash control have yet to be aligned with the acquis. The same goes for duty relief on imports of new production

equipment. Legislation on customs-related security initiatives and authorised economic operators has yet to be implemented. The Serbian parliament ratified the Pan-Euro-Med Convention on Rules of Origin.

As regards administrative and operational capacity, the Customs Administration (CAS) has continued to improve its administrative capacity to effectively enforce the customs legislation. It continued to apply integrity procedures for customs officials and to step up the fight against corruption. Post-clearance controls and risk analysis systems are implemented following the two respective strategies. Simplification of customs procedures continued and the number of companies making use of such procedures increased. Coordination between the CAS and the Ministry of Finance and Economy is strengthening. The CAS is aiming to establish a functioning IT system based on interconnectivity between various departments. Over 95% of customs declarations are submitted electronically and the concept of electronic signature has been introduced. About 17% of declarations are subject to documentary or physical inspections. The electronic application for the protection of Intellectual Property Rights is used by around 45% of the rights holders. In terms of trade facilitation, the electronic system for exchanging pre-arrival information with Bosnia and Herzegovina, Montenegro and the former Yugoslav Republic of Macedonia is functioning well.

A new border crossing on the Serbia-Hungarian border was opened in May. A big challenge remains the upgrading of the customs declaration processing system (CDPS) and the customs laboratory.

Customs procedures between Kosovo and Serbia have further progressed with the opening of joint interim crossing points in December 2012 and January 2013 at six locations, including the two crossing points in northern Kosovo, as per the IBM agreement. The establishment of these co-located crossing points has allowed daily cooperation between both administrations and regular exchange of information. On 17 January, both parties concluded an agreement for the restoration of customs controls at the two crossing points (gates 1 and 31). In the meantime, the administrative border/boundary line between Kosovo and Serbia remains vulnerable to illicit activities.

Preparations in the area of administrative and operational capacity are on track.

Conclusion

There has been some progress in the area of the customs union. The Customs Law and legislation on the tariff nomenclature were further aligned with the acquis. The CDPS system needs to be renewed or upgraded. Overall, preparations in the area of the customs union are well on track.

4.30. Chapter 30: External relations

In the area of the common commercial policy, the finalisation of Serbia's World Trade Organisation membership remains dependent on the adoption of a WTO-compliant law on genetically modified organisms and on the completion of bilateral market access negotiations with a number of countries (in particular USA and Ukraine), mainly on agricultural products.

Coordination between various ministries for formulation and implementation of trade and trade-related policies still needs to improve.

The national control lists for military equipment and for dual-use goods were adopted and aligned with the relevant EU lists in November and February respectively. Legislation on dual use goods which would further align Serbian legislation with the acquis remains to be adopted. Efforts to join multilateral export control regimes should continue.

As concerns bilateral agreements with third countries, Serbia is currently negotiating a free trade agreement (FTA) with Ukraine. Serbia's trade arrangements with the Russian Federation, Belarus and Kazakhstan were harmonised, since the three countries form a customs union. Serbia has ratified bilateral investment treaties (BITs) with Algeria and the United Arab Emirates. Serbia signed the Pan-Euro-Mediterranean (PEM) Convention on Rules of Origin in November. It was ratified by parliament in May. There were no developments in the areas of development policy and humanitarian aid.

Conclusion

Limited progress has been made in the field of external relations. Accession to the WTO is moving slowly. Overall, preparations in the area of external relations are moderately advanced.

4.31. Chapter 31: Foreign, security and defence policy

Political dialogue between the EU and Serbia has continued and regular political consultations were held. (Concerning relations with other enlargement countries and Member States, see Political criteria 2.3 — Regional issues and international obligations)

Concerning the common foreign and security policy (CFSP), Serbia aligned itself, when invited, with 31 out of 35 EU declarations and Council decisions (89% alignment). But at the same time, Serbia moved one step closer to the Collective Security Treaty Organisation, obtaining observer status in its Parliamentary Assembly in April.

Serbia continued to implement the UN Security Councils' restrictive measures. However, the Law on Restrictive Measures, that would establish a system for tracking the implementation of restrictive measures, has yet to be adopted. (Concerning the International Criminal Court, see Political criteria 2.3 — Regional

issues and international obligations.) Regarding conflict prevention, no particular developments can be reported.

Regarding non-proliferation, Serbia became a member of the Nuclear Suppliers Group (NSG) at the NSG's annual plenary meeting in Prague in June. An action plan to implement the national strategy on small arms and light weapons has been adopted in August. A working group on the implementation of UN Security Council Resolution 1540 on the Non-Proliferation of Weapons of Mass Destruction and their Means of Delivery was set up in December and Serbia hosted a regional seminar regarding implementation of the Resolution in May. Serbia's 2008 application to join the Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies remains dependent on a new law on dual-use goods which has yet to be adopted. The ratification of the Additional Protocol to the Nuclear Non-Proliferation Treaty is still pending.

Serbia continued to engage actively in cooperation with international organisations (UN, OSCE, Council of Europe, etc.). In September, Serbia completed its presidency of the 67th UN General Assembly.

As regards security measures, no particular developments can be reported.

Regarding the common security and defence policy (CSDP), in February parliament adopted an annual plan for the use of the Army of Serbia and of other defence forces in multinational operations and a decision on the participation of members of the Serbian Army in multinational operations. It continued participation in two EU civil and military crisis management operations, the EU Navfor-Atalanta Somalia operation and EUTM Somalia operation, with one member each. Serbia responded positively in May to the EU invitation to participate in the EUTM Mali operation and agreed to participate with one medical team and one training team.

Conclusion

Serbia continued to further align with EU CFSP statements and declarations and continued to participate in EU civil and military crisis management operations. Legislation on the tracking mechanism for the implementation of EU restrictive measures, and on dual-use goods has yet to be adopted. Overall, preparations in the area of foreign, security and defence policy are well on track.

4.32. Chapter 32: Financial control

In the area of public internal financial control (PIFC), the action plan of the current PIFC strategy has been updated. The Central Harmonisation Unit (CHU) has revised the internal audit manual to broaden the scope of audit activity. The number of internal auditors has gradually increased. In the area of Financial Management and Control (FMC), the CHU has organised additional training to budget users on topics such as risk management techniques and audit trails. The CHU has started to provide training and methodological guidance also to local

government level. The CHU should gradually move from being a training provider to a strategic role in training needs analysis and management.

The Budget System Law was amended to clarify provisions on managerial accountability in 2012. However, FMC continues to be understood in a narrow sense, focusing too much on the legality and regularity of financial transactions. Managerial accountability will need to be further explained in the relevant implementing legislation. There is no coherent strategic management process in place yet for budget users that would allow full application of managerial accountability. More awareness-raising among senior public-sector managers is needed to increase understanding of their specific role and responsibilities in setting up FMC and of the role of an internal auditor within their organisation. As the current PIFC strategy is coming to an end in 2013, a new strategy and an action plan need to be prepared. The role of centralised budget inspection needs to be regulated so that it is compatible with PIFC.

In the area of external audit, the State Audit Institution (SAI) has continued to build up its audit capacity by recruiting more auditors. The SAI now has approximately 190 staff, including around 150 auditors. The SAI has implemented the 2012 audit programme with 145 audits as planned. The SAI is still in the institution-building phase and its audit capacity is insufficient for full audit coverage. Performance audit work has only recently started. The SAI Law is broadly in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI), but it should be further strengthened for full operational and financial independence of the SAI. The law gives the SAI specific responsibility for submitting requests for filing misdemeanour charges with the competent authority. This takes up some of the SAI's limited audit resources that could instead be used for additional audit work.

There were no developments in the area of protection of the EU's financial interests. Serbia still needs to decide where to set up a contact point for cooperation with the European Commission.

As regards protection of the euro against counterfeiting, the National Bank of Serbia (NBS) acts as a national analysis centre and has concluded agreements facilitating prevention and detection of euro counterfeiting with the European Central Bank (on banknotes) and the Commission (on coins). Serbian authorities have continued to participate in relevant EU and international training programmes.

Conclusion

Some progress has been made in the area of financial control. Substantial further efforts are needed to develop public-sector financial management and control based on the underlying concept of managerial accountability and to develop full external audit capacity. Overall, preparations in this area are moderately advanced.

4.33. Chapter 33: Financial and budgetary provisions

There were no developments in the areas of traditional own resources, the VAT resource and GNI resource. (For progress in the underlying policy areas, see Chapter 16 — Taxation; Chapter 18 — Statistics; Chapter 29 — Customs union; and Chapter 32 — Financial control).

As concerns the administrative infrastructure, administrative capacity in the relevant policy areas needs to be strengthened. A coordinating body to ensure correct calculation, accounting, forecasting, collection, payment and control of own resources has yet to be established. The body is also required for reporting to the EU on the implementation of the own resources rules. Instruments to fight and reduce tax evasion and fraud and to reduce the informal economy also need to be further developed.

Conclusion

No progress has been made with regard to financial and budgetary provisions. A coordinating body to ensure correct calculation, accounting, forecasting, collection, payment and control of own resources has yet to be established. Overall, preparations in this field are at an early stage.

Statistical Annex

STATISTICAL DATA
Serbia

Basic data	Note	2001	2008	2009	2010	2011	2012
Population (thousand)		7 505	7 366	7 335	7 307	7 276	7 241p
Total area of the country (km)		77 474	77 474	77 474	77 474	77 474	77 474
National accounts	Note	2001	2008	2009	2010	2011	2012
Gross domestic product (GDP) (million national currency)		762 178	2661 387	2720084	2881 891	3 208 620	3386169e
GDP (million euro)		12 821	32 668	28 957	28 006	31 470	29 932e
GDP (euro per capita)	1)	1 709	4 445	3 955	3 841	4 336	4 134e
GDP (in Purchasing Power Standards (PPS) per capita)		:	8 996	8 378	8 471	8 688	9 026e
GDP per capita in PPS (EU-27 = 100)		:	36	36	35	35	:
Real GDP growth rate (growth rate of GDP volume, national currency,% change on previous year)		5.3	3.8	-3.5	1.0	1.6	-1.7e
Employment growth (national accounts,% change on previous year)		2.0	1.0	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		3.5	4.5	:	:	:	:
Real unit labour cost growth (national accounts,% change on previous year)		:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors (%)							
Agriculture and fisheries		19.5	10.4	9.3	9.9	10.5	10.1e
Industry		24.6	21.9	22.4	22.5	23.6	23.5e
Construction		3.3	5.5	4.8	4.6	4.9	4.3e
Services		52.6	62.2	63.5	63.0	61.0	62.2e
Final consumption expenditure, as a share of GDP (%)		104.0	97.1	99.6	99.8	96.3	96.5p
Gross fixed capital formation, as a share of GDP (%)		10.7	23.8	18.8	17.8	18.5	17.9p
Changes in inventories, as a share of GDP (%)		1.0	6.0	-0.7	-0.5	1.7	3.4

Exports of goods and services, relative to GDP (%)		25.6	31.4	29.4	36.0	36.6	39.9p
Imports of goods and services, relative to GDP (%)		41.3	58.2	47.1	53.0	53.0	57.7p
Industry	Note	2001	2008	2009	2010	2011	2012
Industrial production volume index (2010=100)		96.9	113.1	98.8	100.0	102.5	100.2
Inflation rate	Note	2001	2008	2009	2010	2011	2012
Annual average inflation rate (CPI,% change on previous year)		93.3	11.7	8.4	6.5	11.0	7.8
Balance of payments	Note	2001	2008	2009	2010	2011	2012
Balance of payments: current account total (million euro)		282	-7 054	-1 910	-1 887	-2 870	-3 155
Balance of payments current account: trade balance (million euro)		-2 602	-8 501	-4 946	-4 581	-5 318	-5 450
Balance of payments current account: net services (million euro)		272	-185	21	8	163	152
Balance of payments current account: net income (million euro)		7	-922	-502	-670	-758	-798
Balance of payments current account: net current transfers (million euro)		2 605	2 554	3 518	3 356	3 043	2 941
of which government transfers (million euro)		652	163	197	193	206	144
Net foreign direct investment (FDI) (million euro)		184	1 824	1 372	860	1 827	232
Foreign direct investment (FDI) abroad (million euro)		-14	-193	-38	-143	-122	-42
of which FDI of the reporting economy in EU-27 countries (million euro)		:	-78	-28	-33	-84	-19
Foreign direct investment (FDI) in the reporting economy (million euro)		198	2 018	1 410	1 003	1 949	274
of which FDI of EU-27 countries in the reporting economy (million euro)		:	1 470	808	778	1 690	-25

Public finance	Note	2001	2008	2009	2010	2011	2012
General government deficit/surplus, relative to GDP (%)		:	-2.6	-4.5	-4.7	-4.9	-6.4e
General government debt relative to GDP (%)		104.8	26.9	34.0	43.5	46.0	59.0e
Financial indicators	Note	2001	2008	2009	2010	2011	2012
Gross foreign debt of the whole economy, relative to GDP (%)		86.1	64.5	77.7	85.1	76.7e	85.9
Gross foreign debt of the whole economy, relative to total exports (%)		407.3	207.6	265.3	236.2	210.3	215.9
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	2)	975	2 717	2 695	2 401	2 807	2 715
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	3)	1 141	4 459	4 555	3 891	4 663	4 227
Money supply: M3 (M2 plus marketable instruments, million euro)	4)	2 101	11 198	12 573	12 899	14 339	14 438
Total credit by monetary financial institutions to residents (consolidated) (million euro)		4 866	12 926	14 863	17 544	18 995	19 783
Interest rates: day-to-day money rate, per annum (%)		:	18.4	9.5	12.0	8.5	9.8
Lending interest rate (one year), per annum (%)		16.9	20.3	12.0	14.0	12.3	13.8
Deposit interest rate (one year), per annum (%)		:	15.3	7.0	9.0	7.3	8.8
euro exchange rates: average of period - 1 euro = … national currency	5)	59.458	81.441	93.952	103.043	101.950	113.128
Effective exchange rate index (2005=100)	6)	78.6	132.1	122.2	115.4	127.1	118.3
Value of reserve assets (including gold) (million euro)		:	8 162	10 602	10 002	12 058	10 914
External trade	Note	2001	2008	2009	2010	2011	2012
Value of imports: all goods, all partners (million euro)		:	16 283	11 327	12 423	14 250	14 782
Value of exports: all goods, all partners (million euro)		:	7 429	5 961	7 393	8 441	8 837
Trade balance: all goods, all partners (million euro)		:	-8 854	-5 366	-5 030	-5 809	-5 945
Terms of trade (export price index / import price index)		103.1	97.6	100.9	99.5	103.5	101.8

Share of exports to EU-27 countries in value of total exports (%)		:	54.2	53.6	57.3	57.7	58.1
Share of imports from EU-27 countries in value of total imports (%)		:	55.0	56.7	55.8	55.5	58.2
Demography	Note	2001	2008	2009	2010	2011	2012
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		-2.7	-4.6	-4.6	-4.8	-5.1	-4.9
Infant mortality rate: deaths of children under one year of age per 1000 live births		10.2	6.7	7.0	6.7	6.3	6.2
Life expectancy at birth: male (years)		69.6	71.3	71.4	71.4	71.6	72.2
Life expectancy at birth: female (years)		75.0	76.6	76.7	76.6	76.8	77.3
Labour market	Note	2001	2008	2009	2010	2011	2012
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)		:	67.3	65.2	63.7	64.1	64.3
* Employment rate (20-64): share of population aged 20-64 in employment (%)		:	58.0	54.5	51.2	49.2	48.9
Employment rate male (20-64) (%)		:	67.5	63.0	59.2	56.8	56.7
Employment rate female (20-64) (%)		:	48.9	46.4	43.5	41.7	41.1
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		42.1	37.6	35.4	32.8	31.4	31.6
Employment by main sectors (%)							
Agriculture	7)	:	25.1e	23.9be	22.3e	21.2e	21.0
Industry	7)	:	19.9e	20.1be	21.0e	21.5e	21.3
Construction	7)	:	6.3e	5.2be	5.0e	5.3e	5.2
Services	7)	:	48.6e	50.8be	51.7e	52.0e	52.6
Unemployment rate: share of labour force that is unemployed (%)		12.2	13.6	16.1	19.2	23.0	23.9
Share of male labour force that is unemployed (%)		10.5	11.9	14.8	18.4	22.4	23.2
Share of female labour force that is unemployed (%)		14.5	15.8	17.8	20.2	23.7	24.9
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		46.4	35.2	41.6	46.2	50.9	51.1

Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		9.0	9.7	10.5	13.3	16.9	18.6
Social cohesion	Note	2001	2008	2009	2010	2011	2012
Average nominal monthly wages and salaries (national currency)	8)	8 691.0	45 674.0	44 147.0b	47 450.0	52 733.0	57 430.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)	8)	118.4	275.7	275.6b	277.4	277.9	280.4
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	11.6	9.3	8.2	8.5	8.1
Standard of living	Note	2001	2008	2009	2010	2011	2012
Number of passenger cars per 1000 population	9)	184.2	201.8	223.2	214.3	230.5	239.2
Number of subscriptions to cellular mobile telephone services per 1000 population		251.1	1 194.2	1 351.3	1 357.0	1 399.4	1 261.9
Infrastructure	Note	2001	2008	2009	2010	2011	2012
Density of railway network (lines in operation, per 1000 km)		49.2	49.2	49.3	49.3	49.3	49.3
Length of motorways (km)		370	465	495	495	595	606
Innovation and research	Note	2001	2008	2009	2010	2011	2012
Spending on human resources (public expenditure on education in % of GDP)		3.2	4.9	5.0	4.9	4.8	:
* Gross domestic expenditure on R&D in% of GDP		:	0.4	0.9	0.8	0.8	:
Percentage of households who have Internet access at home (%)		:	33.2	37.0	39.0	41.2	47.5
Environment	Note	2001	2008	2009	2010	2011	2012
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	:

Electricity generated from renewable sources in% of gross electricity consumption		43.3	35.1	39.3	37.4	26.5	:
Road share of inland freight transport (% of tonne-km)		13.8	16.3	23.6	27.8	30.5	:
Energy	Note	2001	2008	2009	2010	2011	2012
Primary production of all energy products (thousand TOE)		:	9 441	9 487	9 876	10 504	:
Primary production of crude oil (thousand TOE)		:	652	676	929	1 111	:
Primary production of hard coal and lignite (thousand TOE)		:	7 369	7 330	7 226	7 822	:
Primary production of natural gas (thousand TOE)		:	231	232	342	449	:
Net imports of all energy products (thousand TOE)		:	7 477	5 046	6 320	5 048	:
Gross inland energy consumption (thousand TOE)		:	15 620	14 657	15 093	15 749	:
Electricity generation (thousand GWh)		31.0	37.0	38.0	38.0	38.0	:
Agriculture	Note	2001	2008	2009	2010	2011	2012
Agricultural production volume index of goods and services (producer prices, previous year=100)		118.0	108.0	101.0	99.4	100.9	82.3
Total utilised agricultural area (thousand hectare)		5 077	5 055	5 057	5 052	5 056	5 052
Livestock: cattle (thousand heads, end of period)		1 128	1 057	1 002	938	937	921e
Livestock: pigs (thousand heads, end of period)		3 587	3 594	3 631	3 489	3 287	3 139e
Livestock: sheep and goats (thousand heads, end of period)		1 612	1 760	1 647	1 604	1 590	1 867e
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)	10)	1 594	1 566	1 503	1 486	1 461	1 478e
Crop production: cereals (including rice) (thousand tonnes, harvested production)	11)	9 001	8 833	9 111	9 280	9 066	5 920
Crop production: sugar beet (thousand tonnes, harvested production)		1 806	2 300	2 798	3 325	2 822	2 328
Crop production: vegetables (thousand tonnes, harvested production)		1 283	1 277	1 257	1 314	1 305	1 054

: = not available

b = break in series

e = estimated value

p = provisional

* = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.

Footnotes:

1) Apart from difference due to different population figure, this variable might differ due to difference of the variable 1402.Mid-year population figure were used. Data provided as variable 1001 refers to the population at the beginning of the year (figure used only for the recent 2012 estimates).GDP estimations in Euro are based on the average annual exchange rate.
2) The money supply M1 consists of currency in circulation and funds in gyro, current and other accounts belonging to the owners of money balances in banks'liabilities, including money balances in the accounts of local government bodies, i.e. Accounts from which payments can be made with any restrictions.
3) The money supply M2, in addition to M1,includes other dinar deposits,both short-and long-term.
4) The money supply M3,in addition to M2,includes short-and long term foreign currency deposits(without the so called frozen foreign currency savings.
5) The annual average exchange rate is calculated as an arithmetic mean of official middle exchange rates of the national currency (dinar) against a unit of foreign currency applied on working days.
6) Index of nominal effective exchange rate adjusted for the ratio of domestic consumer price index to the weighted sum of indices of consumer prices in the euro area and US.
7) 2008 - 2009, data were provided according to NACE Rev. 1.1.
8) From January 2009, the Statistical Office of the Republic of Serbia is expanding units coverage. Besides the salaries and wages paid to legal entities' employees, from January 2009, salaries and wages paid to employees working in unincorporated enterprises have been also included in calculation of average salaries and wages.
9) Ministry of Interior Affaires excluded the vehicles that were not registered before the given deadline (1 month).
10) In million litters, includes cows and sheep milk used for human consumption or processing; since 2006 goat milk is also included.
11) No rice production; Since 2005, triticale is included.

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One author:

Young, O. R. (1991). Political leadership and regime formation: On the development of institutions in international society. *International Organization, 45,* 281–309.

Vukasović, V. (2005). Ugovor o Zajednici za energiju zemalja Jugoistočne Evrope i Evropske unije [The Treaty on the Energy Community in South East Europe and European Union]. *Evropsko zakonodavstvo, 14*, 25–37.

2-6 authors:

Prost, M., & Clark, P. K. (2006). Unity, diversity and the fragmentation of international law: How much does the multiplication of international organizations really matter? *Chinese Journal of International Law, 5,* 341–370.

Fatić, M., Đukanović, D., & Gajić, D. (2012). Security of Balkans and Serbia in the Context. *Review of International Affairs, 44(3),* 70–83.

More than 6 authors:

Biermann, F., Betsill, M., Gupta, J., Kanie, N., Lebel, L., Liverman, D., et al. (2010). Earth system governance: a research framework, *International Environmental Agreements: Politics, Law & Economics. 4,* 277–298. DOI: 10.1007/s10784-010-9137-3.

Book:

Calfee, R. C., & Valencia, R. R. (1993). *APA guide to preparing manuscripts for journal publication*. Washington, DC: American Psychological Association.

Nikolić, M. (2011). *Ekumenski odnosi Srpske pravoslavne i Rimokatoličke crkve 1962-2000 [Ecumenical Relations of Serbian Orthodox and Roman Catholic Chruch 1962-2000]*. Beograd: Službeni glasnik.

Book chapter:

Jonsson, C., & Tallberg, J. (2008). Institutional Theory in International Relations'. In J. Pierre, B. G. Peters & G. Stoker (Eds.). *Debating institutionalism* (pp. 48–65). Manchester University Press, Manchester, NY.

Petrović, P., Mirković, A. (2011). General characteristics of foreign direct investment in Serbia, in Antevski, M. (Ed.). *Development Potentials of Foreign Direct Investment:*

International Experiences (pp. 229–247). Belgrade: Institute of International Politics and Economics.

Conference papers:

Petrović, D. (2010). Interes Srbije u odnosu na carinski savez i druge integracione procese i međunarodne organizacije na postsovjetskom prostoru [The interest of Serbia in relation to customs union and other integration processes and international organizations in the post-Soviet space]. U Đukanović, D., Lađevac, I. (pr.). Zbornik radova sa međunarodne naučne konferencije *Uloga i mesto Srbije u međunarodnim organizacijama*. Beograd, 12-13. Oktobar 2010. (str. 524–540). Beograd: Institut za međunarodnu politiku i privredu.

Institutions as authors and legal documents:

World Bank. (2010). *World development report—Development and climate change*. The World Bank, Washington, D.C., USA.

United Nations. (2006, November 9). *Delivering as one*. Report of the Secretary-General's High-Level Panel on UN System-wide Coherence in the Areas of Development, Humanitarian Assistance and the Environment, New York.

EC. (2002). Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), *Official Journal of the European Communities L201* 37–47, 31 July (European Commission, Brussels).

Zakon o spoljnim poslovima, *Službeni glasnik RS*. *Br. 116* (2007).

Article by DOI:

Todić, D., & Dimitrijević, D. (2013). Priority goals in international co-operation of the Republic of Serbia in the field of environment and sustainable development. *International Environmental Agreements: Politics, Law and Economy,* DOI: 10.1007/s10784-013-9207-4.

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Evropski pokret u Srbiji. (2011). *Nacrt spoljnopolitičke strategije Republike Srbije [Strategy on foreign policy of the Republic of Serbia, draft]*. Beograd. [Online] http://www.emins.org/sr/aktivnosti/projekti/strategija-sp-pol/Strategija-C.pdf. Accessed 25 June 2012.

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BOOKS:

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Meaning of Borders and Border Issues in the Age of Globalization: Europe and Asia, Procedings, Duško Dimitrijević, Dragana Mitrović i Ivona Lađevac (eds.), brošurano, 2012, 160 str.

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Stubovi spoljne politike – Srbija, EU, SAD i Kina, Dragan Petrović i Dragan Đukanović, tvrd povez, 2012, 240 str.

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Uloga civilnog društva u promociji potencijala Podunavlja u svetlu izrade Strategije EU za Dunavski region, zbornik radova, priređivači Edita Stojić Karanović i Nevenka Jeftić Šarčević, brošurano, 2012, 212 str.