

Analysis of the European Commission's Progress Report 2013 for Serbia

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ABSTRACT: Progress report 2013 for Serbia is generally viewed as one of the most positive reports to date. This clearly indicates the inclination of the Commission for the opening of the EU accession negotiations with Serbia in January 2014 at the latest. In the reporting period (October 2012 to September 2013), Serbia has continued to build a satisfactory track record in implementing the political criteria, including the normalization of relations with Kosovo. The report stresses that Serbia made a significant steps towards visible and sustainable improvement of relations with Kosovo which resulted in a number of irreversible changes on the ground. In regard to economy, the report notes the slow progress in economic reforms. The report suggests that Serbia is nowhere close to the fulfilment of the 1993 Copenhagen criteria, especially in regard to the existence of a functioning market economy. Finally, the analysis of the ability to take on the obligations from the EU membership shows an uneven progress in the adoption of EU's acquis. In February 2013, Serbia adopted a National Plan for the Adoption of the Acquis (NPAA) for the period 2013-2016.

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1. INTRODUCTION

The Progress report (hereinafter: the report) is the document annually issued by the European Commission. The report is submitted to the European Parliament and the Council, and generally covers the relations between the candidate country and the European Union, the fulfilment of the political and economic criteria, as well as the capacity of the candidate country to take on the obligations from the EU membership, which generally means the adoption and implementation of the EU's acquis. This report is issued in October 2013, and covers the period from October 2012 to September 2013.

This analysis will provide a brief overview of the 2013 Progress report for Serbia, and will follow the logic of the report itself. Firstly, the analysis will provide a short background of the Stabilization and Association Process (SAP) to date. Secondly, it will offer a general assessment of the progress made in the reporting period. Thirdly, it will focus to the fulfilment of the political and economic criteria, as well as the ability of Serbia to take on the obligations from the membership.

2. BACKGROUND

Serbia, after the dissolution of the common state with Montenegro in 2006 and Kosovo's declaration of independence in 2008, is currently led by reformed former allies of Milosevic turned pro-European, while its political elites are searching for a way to escape the dilemmas over state and nationhood issues. Still, Serbia lags behind other European countries in terms of consolidation of democracy and the accession to the EU. While three countries, Romania and Bulgaria in 2007 as laggards of the 2004 enlargement, and Croatia in 2013, joined the EU, the remainder of the South-Eastern Europe (SEE) region – including Serbia – remains excluded with no foreseeable accession date in sight. In addition to the dual political and economic transformation from communist rule and a planned economy to democracy and market liberalism, most countries of SEE, in particular the successor states of former Yugoslavia are weak states with dysfunctional institutions, notwithstanding the considerable diversity among these states. Furthermore, the transformation in former Yugoslavia was shaped by state dissolution and the legacy of violent conflict, including the need for a long period of reconstruction and reconciliation. These multiple challenges are crucial to explaining the delay in the EU integration process in the Western Balkan countries (WBCs). The EU sought to account for these particularities with the Stabilization and Association Process (SAP).

However, in spite of the fact that the SAP was launched more than a decade ago, the WBCs must still be characterized as weak states. After losing the momentum of change gained after the October 2000 democratic revolution in Serbia, the current situation can best be

described as the 'consolidation of unconsolidated democracy' (Bieber 2012, Gordon, Kmezcic and Opardija 2013), or 'facade democracy' (Pavicevic 2012). Although seemingly liberal democratic SEE governments strongly identify themselves with the EU, they often remain overshadowed by the high number of formal and informal economic and political elites that continue to exercise state capture in an effort to preserve their private economic interests and grip over political power. The reconciliation after the violent conflicts of the 1990s is still not fully achieved in any of the WBCs, while a climate of revenge, fear and hatred still drives decisions of the political elites and, more importantly, the attitudes of common people.

Nevertheless, during the last twelve years, all WBCs have improved significantly in their program of reforms and achieved important results in the implementation of the priorities from the Thessaloniki Agenda and their individual European Partnerships. The main accomplishments include stabilization of the region, improvement of internal and external security, strengthening of democracy. Elections as a basis for the formation of government became a routine in most of them; regional cooperation is strengthened; the most of refugees and internally displaced persons have returned to their homes or integrated in the host country. Market economy is being established although with difficulties, the inflation rate is generally decreased, free trade among the countries of the region is improved. The citizens of all countries in the region, except for the citizens of Kosovo, enjoy visa-free regime with the countries of the Schengen Agreement.

The Stabilization 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.

3. PROGRESS REPORT 2013 FOR SERBIA – OVERVIEW

In the reporting period (October 2012 to September 2013), Serbia has continued to build a satisfactory track record in implementing the obligations of the SAA. 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. In February 2013, it adopted a National Plan for the Adoption of the Acquis (NPAA) for the period 2013-2016.

An important element of the Serbian European integration path is the normalization of relations with Kosovo, under the EU sponsored process. This process resulted in the 19 April 2013 "*First agreement on principles governing the normalization of relations*", complemented in May by a comprehensive Implementation plan. Although some problems remained, *i.e.* the participation of Kosovo in regional initiatives was not fully reached due to some procedural

obstacles Serbia insisted on, the report concludes that significant steps towards “visible and sustainable improvement of relations with Kosovo” were made, and this resulted in a “number of irreversible changes on the ground”. The progress in Serbia-Kosovo relations was generally perceived as historic.

4. POLITICAL CRITERIA

The report reviews the fulfilment of the political criteria in three key areas: (1) democracy and the rule of law, (2) human and minority rights and (3) regional issues and international obligations. In regard to the first key area, democracy and the rule of law, the report has identified progress in the most of areas covered, but also notices some deficiencies and even some setbacks compared to the previous reporting period.

Democracy and the rule of law. The Constitution of Serbia generally remains in line with the European standards. However, the 2007 and 2013 Venice Commission recommendations, in particular on the role of parliament in the judicial appointments, were not followed. The role and importance of parliament remains insufficient. Although some actions were taken in terms of increasing the transparency of its work, particularly in regard to the work of the parliamentary committees, the general impression is that parliamentary work, its findings and recommendation are rarely followed or considered. Also, Serbia has not yet enacted changes to the parliamentary electoral framework as recommended by OSCE/ODIHR. The Government of Serbia was generally commended for its efforts in delivering on expectation in regard to the process of European integration and the progress in other key areas and issues, most notably Kosovo. The problems that remain source of concern is the lack of transparency in preparing and drafting of the new legislation, insufficiencies in monitoring and implementing the enacted legislation, and the lack of coordination of sectoral policies and effectiveness of policy-making between ministries. The lack of transparency and coordination equally applied to the public administration reform, in spite of the re-establishment of the PAR Council. In terms of the judicial system, the report emphasizes that the legislative and constitutional framework still allows undue political influence on the judiciary. Some positive steps include the re-appointment of the judicial officials from the previous failed reform, as well as the adoption of the five-year strategy for the judiciary. While some progress in the fight against corruption is commended (top-level cases against former ministers, adoption of the anti-corruption strategy in July), the report indicates that the full capacities of the Anti-corruption Agency are yet to be achieved, the law enforcement bodies still lack capacities and expertise, there is no efficient mechanism for the protection for whistle-blowers. The report finds that the continuous political support for the fight against corruption remains essential. In regard to the fight against organized crime, the report notes that although the institutional framework is in place, the final convictions are rare. The report also notes that the capacities of law enforcement bodies to carry out complicated financial

investigations are weak, and that they too much depend and rely on the work of the intelligence agency.

Human and minority rights. The report generally recognizes the observance and respect for fundamental rights in Serbia. However, three areas were outlined as weak spots that hamper the progress in the area of human and minority rights. The first is the situation in Serbian media, with almost no progress in the implementation of the media strategy, the lack of transparency in media ownership, as well as too frequent and orchestrated media campaigns against individuals, announcing investigations, even arrests, based almost without exception on certain “unidentified” leaked sources. Secondly, the report criticises the ban of the Pride parade for the third consecutive year and calls for the greater political support. Thirdly, the report emphasizes the need for the improvement of minority rights in the areas of education, use of language and media and religious services in minority languages.

Regional issues and international obligations. The report provided a satisfactory assessment on the fulfilment of Serbian international obligations, most notably the full compliance with the Dayton/Paris Peace Agreement, as well as with the requirements of the International Criminal Tribunal for Former Yugoslavia. Serbia is regarded as a country that generally maintains good neighbourly relations and participates in the regional cooperation initiatives. Some concerns remain over unresolved bilateral issues with some of the neighbouring countries, as well as little progress in resolving the fate of missing persons, and the lack of identifying and communication on the exhumed human remains from mass graves in Serbia.

5. ECONOMIC CRITERIA

The report reviews the fulfilment of the economic criteria in two key areas: (1) the existence of the functioning market economy, and (2) the capacity to cope with competitive pressure and market forces within the Union. The progress in pursuing economic reforms in Serbia is the most negative part of the report. It generally presents the progress in economic reforms in the framework of the overall economic situation, characterized by the economic downturn and the slow recovery from the double dip recession. The overall assessment is that the economic reforms have progressed slowly. State presence in the economy is still significant, while the private sector is weak and unprotected as the rule of law is not systematically observed. Domestic and external deficits remain high and there are significant structural rigidities and obstacles to growth.

The existence of the functioning market economy. The report emphasises the slow progress of the economic reforms:

- After the 2012 economy contraction of 1.7%, the GDP is slowly growing in 2013, although the growth is weak, uneven and narrowly based (to only several industrial sectors);
- External imbalances have decreased but remain significant, the government borrowing is the main source of financing current account deficit;
- The unemployment rate increased to 23.9% and the employment has reached the eleven-year low, with only one person over the age of 15 employed;
- Rigid labour market;
- Inflation remains volatile as it is heavily dependent on the food prices; dinar has stabilised;
- Most measures on revenue side of the budget failed to deliver and the budget deficit remains a challenge (latest figures show the estimated budget deficit is 5.3% of GDP, way over targeted 3.6%);
- Unsustainably high level of expenditure goes on pensions and wages;
- Government deficit went way over the legal limit of 45% of GDP, to over 60% in 2012, and continued to rise in 2013;
- State control of the prices remains significant, although some liberalization of prices took place;
- State share and presence in the economy remains significant, privatization was not considerably revived, the state holds predominant control in the energy, transport and telecommunication sectors;
- Red tape and the system of endless permits continues to hamper business development and investments in production expansion;
- Slow and inefficient law enforcement has a negative impact on the cost of doing business in Serbia;
- The informal economy remains strong and represents the major hindrance to the competition and business development;
- While the banking sector capitalization and liquidity is strong, the credit activity stagnated, the percentage of non-performing loans is high, and non-banking finance sector is still mainly underdeveloped.

The slow progress in economic reforms suggests that Serbia is nowhere close to the fulfilment of the 1993 Copenhagen criteria on the existence of a functioning market economy.

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

The report addressed the issue of the capacity to cope with markets in the EU through the analysis of four factors: human and physical capital, sectoral and enterprise structure, state influence on competitiveness and the economic integration with the EU. Serbia still needs further efforts to connect education system with markets, as the education system does not correspond to the needs of economy. The youth unemployment remains high and the programs for entering the

job market seem not to be sufficient and do not resolve the issue of long term youth unemployment. Physical infrastructure in Serbia also remains a challenge, both in terms of the transport infrastructure (e.g. main transport corridors are yet to be completed) and energy infrastructure. The economy is dominated by services, which amount to 61% of GDP, while the portion of agriculture remains high, all coupled with the significant informal sector which is source for concern. The issue of state aid, mostly via tax breaks and heavy subsidies to state monopolies and state run enterprises and companies, represents a grave problem that affects the overall competitiveness of the Serbian economy. The EU remains Serbia's main trade partner, with close to 60% of all exports and imports going to and coming from the EU. The remaining almost 35% of exports goes to the Central European Free Trade Agreement (CEFTA) countries, with about 10% imports. The report concludes that the trade integration with EU remains high.

6. ABILITY TO TAKE ON OBLIGATIONS FROM THE MEMBERSHIP

The final part of the report deals extensively with the progress in the adoption and implementation of the EU's acquis. The chapters of the acquis (presently 35 chapters) will form the basis of the accession negotiations for Serbia, and they correspond to the different EU policy areas. In the course of the accession negotiations, Serbia will be expected to adapt its administrative and institutional infrastructures and to bring its legislation in line with EU legislation in these areas. These chapters will each be evaluated and monitored regularly throughout the accession process, even after some chapter is provisionally closed.

Chapter 1: Free movement of goods. Progress made. Preparations (for membership) are moderately advanced:

- 94% of the EU standards in this area are already adopted;
- Better policy coordination between Serbian bodies and authorities needed.

Chapter 2: Freedom of movement for workers. Little progress. Preparations are moderately advanced:

- Preparation for Serbia's participation in the European Employment Services (EURES) network made;
- The National Employment Service's vacancy database incomplete;
- Preparations as regards the European Health Insurance Card not started.

Chapter 3: Right of establishment and freedom to provide services. Little progress. Preparations are moderately advanced:

- Service Directive not transposed;

- Legislation on mutual recognition of professional qualifications yet to be adopted;
- The Post needs corporatisation.

Chapter 4: Free movement of capital. Limited progress. Preparations are moderately advanced:

- Further harmonization needed in short-term capital movement, real estate and payment system.

Chapter 5: Public procurement. Good progress made. Preparations are moderately advanced:

- Budgetary Inspectorate of the Ministry of Economy and Finance took action against irregularities in public procurement procedures;
- The administrative capacity of the Private Public Partnership Commission remains limited;
- The new Law on Public Procurement further aligns the legislation with the acquis and improves public procurement.

Chapter 6: Company law. Progress made. Preparations are well advanced:

- Two new laws were adopted, further alignment with the EU's acquis achieved;
- Electronic registration process not operational.

Chapter 7: Intellectual property law. Limited progress. Preparations are advanced:

- Enforcement was improved;
- 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 a step back.

Chapter 8: Competition policy. No progress. Preparations are moderately advanced:

- The capacity of the Competition Protection Commission insufficient;
- The capacity of judiciary to address complex cases needs to be strengthened;
- Competition advocacy needs to be advanced;
- The legislation on state aid not aligned with the EU's acquis;
- Competition law undermined by other practices (e.g. price regulation).

Chapter 9: Financial services. Some progress made. Preparations are moderately advanced:

- Steps were taken to address the issue of non-performing loans and bank restructuring, but more efforts are needed.

Chapter 10: Information society and media. Some progress made. Preparations are moderately advanced:

- Several action plans for the implementation of strategies on information society and e-communications adopted;
- Competitive safeguards in electronic communications need implementation;
- Media implementation strategy needs to be implemented;
- Agreement with Kosovo in regard to telecommunications needs to be implemented;
- E-commerce legislation needs to be further aligned with EU's acquis.

Chapter 11: Agriculture and rural development. Some progress made. Preparations at an early stage:

- The law on agricultural and rural development subsidies provides for a clearer and more predictable planning framework for rural operators;
- Agricultural and Rural Development Strategy needs to be adopted;
- Additional capacity building for the implementation of IPA rural development program needed.

Chapter 12: Food safety, veterinary and phytosanitary policy. Little progress made. Preparations are moderately advanced:

- The “Aflatoxin crisis” showed the lack of well established national reference laboratory;
- No progress regarding registration of cattle;
- Animal by-product management weak;
- Plant passport system established;
- GMO Law has not been aligned with EU acquis although it is a key condition for the Serbian membership in the World Trade Organization.

Chapter 13: Fisheries. Little progress made. Preparations are moderately advanced:

- A national catch certification scheme for imports and exports of fishery products need to be set up;
- A system for the collection of market data needs to be set up.

Chapter 14: Transport policy. Some progress made. Preparations are moderately advanced:

- New Law on Railways providing for the reform of Zeleznice Srbije adopted;

- Sava and Danube River Information Services (RIS) implemented;
- No concerns regarding Air Serbia mentioned in the report.

Chapter 15: Energy. Progress made. Preparations are moderately advanced:

- South Stream regulation raises concerns on its compatibility with Energy Community Treaty;
- The agreement with Kosovo needs to be implemented according to plans;
- Internal energy market progressed well.

Chapter 16: Taxation. Some progress made. Preparations are moderately advanced:

- Serbian Tax Administration (STA) continued to implement its corporate strategy for 2011-2015
- Excise taxes on cigarettes and oil derivatives were further harmonized; other EU excised goods remain outside of scope;
- Modernisation of the IT system and communication with taxpayers continued, but needs further strengthening.

Chapter 17: Economic and monetary policy. Some progress made. Preparations are moderately advanced:

- Amendments to the NBS Law positive step;
- Serbia continues to participate in pre-accession economic surveillance;
- Capacity for economic policy formulation remains insufficient.

Chapter 18: Statistics. Good progress made. Preparations are advanced :

- The population and agriculture censuses were successful;
- Sectoral statistics have been further developed;
- Statistical Office of Serbia requires more staff;
- Issue of regional statistical classification (future NUTS classification) remains open due to the need to clarify its territorial scope. Kosovo still present in NUTS classification system.

Chapter 19: Social policy and employment. Some progress made. Preparations have only started:

- More flexible labour market needed;
- EcoSoc Council hampered by member selection problem;
- Weak social dialogue;
- Large pension fund deficit;

- Employment and social policies continue to be affected by adverse economic conditions and scarce public finances.

Chapter 20: Enterprise and industrial policy. Some progress made. Preparations on track:

- Small and Medium Enterprises (SME) Council is understaffed;
- Further alignment with the EU acquis on the SME definition;
- Regulatory impact assessments (RIA) applied systematically;
- Access to finance framework improved, further efforts needed;
- Serbia continues to implement the Small Business Act in an appropriate manner.

Chapter 21: Trans-European networks. Some progress made. Preparations are moderately advanced:

- Financing key interconnections between transport and energy networks remains the challenge;
- Serbia continues to develop its transport and energy networks;
- Serbia participates actively in the work of the South-East Europe Transport Observatory (SEETO), and of the Energy Community.

Chapter 22: Regional policy and coordination of structural instruments. Progress made. Preparations are moderately advanced:

- Decentralized Implementation System (DIS) certification in the final stage;
- Lack of sectoral strategies for sector IPA actions;
- IPA programming needs improvement, especially in terms of preparing a solid investment project pipeline based on relevant strategies.

Chapter 23: Judiciary and fundamental rights. Some progress made. Preparations require further efforts:

- Reforms in judiciary and fundamental rights on track, will be major tests on Serbia's willingness and preparedness;
- Comprehensive functional analysis of the judiciary in terms of cost, efficiency and access to justice needed;
- Constitutional amendments on judiciary needed;
- Need for the improvement the legal framework and the efficiency of anti-corruption institutions;
- The law enforcement bodies need to gain expertise, in particular in financial investigations;
- No efficient protection of whistle-blowers;

- Defamation was decriminalised;
- A law on mental disability was enacted;
- The ban of Pride parade for the third consecutive year on security grounds demonstrates the lack of political support for dealing with radical violent groups;
- The implementation of the media strategy remains to be stepped up;
- Conditions in prison system need to be improved;
- Protection of minorities 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;
- Efforts needed to improve the situation of the Roma, refugees and displaced persons.

Chapter 24: Justice, freedom and security. Some progress made. Preparations are moderately advanced:

- Number of asylum seekers still high;
- 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;
- 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;
- Serbia actively involved in international police and judicial cooperation;
- Track record of investigations and convictions in organised crime cases to be established;
- Coordination between law enforcement and the judiciary in carrying out financial investigations to be improved.

Chapter 25: Science and research. Limited progress. Preparations are on track:

- Research and development (R&D) investments lower than planned;
- Serbia successful in FP7;
- Innovation Fund operational.

Chapter 26: Education and culture. Good progress made. Preparations are moderately advanced:

- Implementation of education reforms needs improvement;
- Reform of vocational education profiles (VET) system needed.

Chapter 27: Environment and climate change. Little progress made. Preparations require considerable efforts:

- An investment pipeline linked to strategic priorities needs to be developed;

- 105 out of an estimated 161 integrated pollution prevention and control (IPPC) installations submitted requests for integrated permits, with only six issued;
- More efforts 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;
- Public participation and consultation in the decision-making processes need to be strengthened;
- Strengthening administrative capacity and inter-institutional cooperation and awareness-raising needed.

Chapter 28: Consumer and health protection. Some progress made. Preparations are moderately advanced:

- Consumer protection strategy adopted;
- Mediation and settlement procedures need strengthening.

Chapter 29: Customs union. Some progress made. Preparations are well on track:

- Law on customs service needs to be adopted;
- Pan-Euro-Med Convention ratified;
- Post-clearance controls and risk analysis systems implemented;
- Upgrading of the customs declaration processing system and the customs laboratory remains the challenge.

Chapter 30: External relations. Limited progress. Preparations are moderately advanced :

- WTO remains the key issue due to the opposition to Serbia's WTO membership by the USA and Ukraine;
- Trade policy needs better inter-institutional coordination.

Chapter 31: Foreign, security and defence policy. Progress made. Preparations are well on track:

- EU and Serbia have continued regular political consultations;
- Serbia aligned itself with 31 out of 35 EU declarations and Council decisions (89% alignment);
- Serbia continued to implement the UN Security Councils' restrictive measures;
- Serbia continued to participate in EU civil and military crisis management operations.

Chapter 32: Financial control. Some progress made. Preparations are moderately advanced:

- Development of public-sector financial management and control based on the underlying concept of managerial accountability needed;
- Development of full external audit capacity needed.

Chapter 33: Financial and budgetary provisions. No progress made. Preparations are at an early stage:

- A coordinating body to ensure calculation, accounting, forecasting, collection, payment and control of own resources yet to be established.

Chapter 34, on “Institutions”, addresses the final stage of the accession negotiations, when the allocation of votes and seats in EU institutions is set to accommodate the accession of a new member state. Chapter 35, on “Other issues”, will have the special relevance in case of Serbia, as the progress in normalization of relations with Kosovo will be placed under this chapter. In this report, the issue is extensively elaborated in the introductory section.

7. CONCLUSION

Progress report 2013 for Serbia is generally perceived as one of the most positive reports to date. Part of the reasons is related to the progress made in the reform agenda. However, the progress made in the normalization of relations between Serbia and Kosovo was considered a major breakthrough in the Serbian European integration path. The Brussels Agreement of April 2013, supplemented with a comprehensive Implementation plan of May 2013, resulted in a “visible and sustainable improvement of relations with Kosovo”, with “a number of irreversible changes on the ground”.

The fulfilment of the political criteria in the areas of democracy and the rule of law, human and minority rights and regional issues and international obligations was also advanced, with few setbacks noted in relation to the previous reporting period. In the reporting period (October 2012 to September 2013), Serbia has continued to build a satisfactory track record in implementing the obligations from the SAA.

The progress in economic criteria was weak, uneven and generally unsatisfactory. The slow progress in economic reforms suggests that Serbia is nowhere close to the fulfilment of the 1993 Copenhagen criteria on the existence of a functioning market economy.

In regard to the ability to take on the obligations from the membership, Serbia has showed an uneven progress in different policy areas. The fulfilment of conditions for the full membership is moderately advanced in most of the policy areas (chapters). In the areas of intellectual property, company law, statistics, customs union and foreign and security policy,

Serbia has achieved a substantial and satisfactory fulfilment of the EU membership criteria, while particularly weak chapters are those on agriculture and rural development, employment and social policy, judiciary and fundamental rights, environment and climate change, and budgetary and financial provisions. In these policy areas, much more efforts and results are expected in order to meet the EU membership criteria.