



EUROPEAN COMMISSION

Brussels, 12.10.2011  
SEC(2011) 1208

**COMMISSION STAFF WORKING PAPER**

**ANALYTICAL REPORT**

*Accompanying the document*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**Commission Opinion on Serbia's application for membership of the European Union**

{COM(2011) 668}

## TABLE OF CONTENTS

A.	Introduction.....	3
a)	Application for membership .....	3
b)	Relations between the EU and Serbia .....	4
c)	Contents of the Analytical Report.....	7
B.	Criteria for membership .....	8
1.	Political criteria .....	8
1.1.	Democracy and the rule of law .....	8
1.1.1.	Parliament .....	9
1.1.2.	The executive .....	11
1.1.3.	Public administration .....	14
1.1.4.	Judicial system .....	16
1.1.5.	Anti-corruption policy .....	20
1.1.6.	Civilian oversight of security forces .....	22
1.2.	Human rights and the protection of minorities .....	23
1.3.	Regional issues and international obligations .....	33
1.4.	General evaluation .....	37
2.	Economic criteria .....	40
2.1.	Economic developments .....	40
2.2.	Assessment in terms of the Copenhagen Criteria .....	43
2.2.1.	The existence of a functioning market economy .....	43
2.2.2.	The capacity to cope with competitive pressure and market forces within the Union .....	51
2.3.	General evaluation .....	54
3.	Ability to assume the obligations of membership.....	54
3.1.	Chapter 1: Free movement of goods .....	55
3.2.	Chapter 2: Freedom of movement for workers .....	57
3.3.	Chapter 3: Right of establishment and freedom to provide services .....	60
3.4.	Chapter 4: Free movement of capital .....	61
3.5.	Chapter 5: Public procurement.....	63
3.6.	Chapter 6: Company law.....	65

3.7.	Chapter 7: Intellectual property law.....	66
3.8.	Chapter 8: Competition Policy.....	68
3.9.	Chapter 9: Financial Services.....	70
3.10.	Chapter 10: Information society and media.....	72
3.11.	Chapter 11: Agriculture and rural development.....	74
3.12.	Chapter 12: Food safety, veterinary and phytosanitary policy .....	77
3.13.	Chapter 13: Fisheries.....	79
3.14.	Chapter 14: Transport policy .....	80
3.15.	Chapter 15: Energy .....	82
3.16.	Chapter 16: Taxation.....	85
3.17.	Chapter 17: Economic and Monetary Policy .....	87
3.18.	Chapter 18: Statistics.....	89
3.19.	Chapter 19: Social Policy and employment.....	91
3.20.	Chapter 20: Enterprise and industrial policy.....	95
3.21.	Chapter 21: Trans European Networks.....	97
3.22.	Chapter 22: Regional policy and coordination of structural instruments .....	98
3.23.	Chapter 23: Judiciary and fundamental rights .....	100
3.24.	Chapter 24: Justice, freedom and security .....	105
3.25.	Chapter 25: Science and research .....	111
3.26.	Chapter 26: Education and Culture.....	113
3.27.	Chapter 27: Environment.....	114
3.28.	Chapter 28: Consumer and health protection.....	120
3.29.	Chapter 29: Customs Union.....	122
3.30.	Chapter 30: External relations.....	125
3.31.	Chapter 31: Foreign, Security and Defence Policy.....	127
3.32.	Chapter 32: Financial Control.....	129
3.33.	Chapter 33: Financial and budgetary provisions.....	131
3.34.	General evaluation .....	132
	Statistical Annex .....	135

## **A. INTRODUCTION**

### **a) Application for membership**

Serbia presented its application for membership of the European Union on 22 December 2009. Subsequently, on 25 October 2010, the Council of the European Union requested the Commission to submit its opinion on this application, in line with the procedure laid down in Article 49 of the Treaty on European Union, which states: *'Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.'*

Article 2 states that *'the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.'*

This is the legal framework within which the Commission submits its Opinion and the present analytical report.

The Feira European Council in June 2000 had acknowledged that Western Balkan countries participating in the Stabilisation and Association Process were 'potential candidates' for EU membership. The European perspective of these countries was further confirmed by the Thessaloniki European Council in June 2003, which endorsed the "Thessaloniki Agenda for the Western Balkans". This agenda remains the cornerstone of the EU policy towards the region.

The European Council of December 2006 renewed the EU's commitment *"that the future of the Western Balkans lies in the European Union"* and reiterated that *"each country's progress towards the European Union depends on its individual efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process. A country's satisfactory track-record in implementing its obligations under a Stabilisation and Association Agreement (SAA), including trade related provisions, is an essential element for the EU to consider any membership application"*. At the Sarajevo EU-Western Balkans ministerial meeting on 2 June 2010, the EU reiterated its unequivocal commitment to the European perspective of the Western Balkans and that the future of these countries lies in the European Union.

In line with the Treaty requirements, the current assessment is made in terms of the conditions of eligibility laid down by the European Council. In Copenhagen in June 1993, the European Council concluded that:

*"Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions required."*

*Membership requires:*

*that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union; the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union".*

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries.

In December 1995, in Madrid, the European Council referred to the need *"to create the conditions for the gradual, harmonious integration of [the applicant] countries, particularly through the development of the market economy, the adjustment of their administrative structures and the creation of a stable economic and monetary environment"*.

The Stabilisation and Association Process (SAP) conditionalities were defined by the Council on 31 May 1999. They include co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and regional co-operation. As a fundamental element of the SAP, these conditions are integrated into the Stabilisation and Association Agreement (SAA) with Serbia, currently under ratification, as well as in the Interim Agreement (IA) on trade and trade-related matters, which entered into force on 1 February 2010.

In December 2006, the European Council agreed that *"the enlargement strategy based on consolidation, conditionality and communication, combined with the EU's capacity to integrate new members, forms the basis for a renewed consensus on enlargement"*.

In the present Opinion, the Commission analyses Serbia's application on the basis of the country's capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditionality of the Stabilisation and Association process. Serbia's track-record in implementing its obligations under the Stabilisation and Association Agreement and the Interim Agreement on trade and trade-related matters, is also being examined.

In line with the renewed consensus on enlargement, this Opinion also identifies key policy areas likely to require particular attention in the event of the accession of Serbia and provides initial impact estimates with regard to the policies and sectors concerned. The Commission will provide more detailed impact assessments for these key policy areas at later stages of the pre-accession process. In addition, an accession treaty for Serbia would involve a technical adaptation of the EU institutions in the light of the Treaty on the European Union.

## **b) Relations between the EU and Serbia**

Relations between the EU and Serbia have developed since the democratic changes of 2000, initially with the Federal Republic of Yugoslavia and from 2003 onwards with the State Union of Serbia and Montenegro. The EU continued its relations with the Republic of Serbia as the successor state of the State Union when Montenegro became independent in 2006.

Serbia is participating in the Stabilisation and Association Process. The **Stabilisation and Association Agreement** provides a framework of mutual commitments on a wide range of political, trade and economic issues. It was signed, along with the **Interim Agreement** on trade and trade-related matters, in April 2008. EU ministers agreed to submit the SAA to their parliaments for ratification and to implement the Interim Agreement as soon as the Council

decided that Serbia was fully cooperating with the International Criminal Tribunal for the former Yugoslavia. Serbia started on 1 January 2009 to implement the Interim Agreement. The Interim Agreement entered into force on 1 February 2010. At the 14 June 2010 Foreign Affairs Council, Ministers agreed to submit the Stabilisation and Association Agreement to their parliaments for ratification. The process is ongoing.

A **European Partnership** with Serbia was adopted by the Council in 2004 and updated in 2006 and 2008.

**Political dialogue** meetings at ministerial level have been held since 2003. Policy dialogue between the European Commission and the Serbian authorities has been taking place in the framework of the **Enhanced Permanent Dialogue** (EPD) since 2003. Inter-parliamentary meetings between representatives of the European Parliament and of the Serbian parliament have been held annually since 2006.

Serbia has built a positive track record in implementing the obligations of the Stabilisation and Association Agreement and the Interim Agreement on trade and trade-related matters. An interim committee and a number of sub-committees meet annually, including on the internal market, competition, transit traffic, trade, customs, taxation, agriculture and fisheries. Several sub-EPD meetings are covering all sectors of the SAA that are not included in the Interim Agreement, such as energy, environment, social policy, justice, freedom and security. In general terms, Serbia does respect its SAA commitments in these areas and cooperation is progressing well.

Serbia participates in the economic dialogue with the Commission and the EU Member States. The aim of this dialogue is to prepare Serbia for participation in the multilateral surveillance and economic policy co-ordination currently in place in the EU as part of the Economic and Monetary Union. In this framework, Serbia presented in January 2011 an update of its annual Economic and Fiscal Programme (EFP).

**Visa liberalisation** for Serbian citizens travelling to the Schengen area was granted by the Council, after consultation with the European Parliament, as of 19 December 2009. This decision was based on substantial progress in the areas of justice, freedom and security and fulfilment of the specific conditions set out in the roadmap for visa liberalisation. The rules for visa-free travel have been respected by the vast majority of travellers. To ensure the continued implementation of the commitments, a post visa liberalisation monitoring mechanism was established in view of increased numbers of asylum seekers from the region. The Commission presented its first monitoring report to the European Parliament and the Council in June 2011. An agreement on readmission between the European Union and Serbia has been in force since January 2008.

Serbia continued to be an active participant in **regional initiatives**, including the South East European Cooperation Process (SEECP) of which it has assumed the chairmanship in 2011, and the Regional Cooperation Council (RCC). Serbia held the Chairmanship of CEFTA in 2010.

Serbia signed the Energy Community Treaty in October 2005 and the European Common Aviation Area (ECAA) agreement in June 2006.

In October 2008, the Government of Serbia adopted the National Programme for the Integration of Serbia in the European Union for the period 2008-2012. A revised and updated version of this document was adopted in December 2009. In December 2010, the Government

adopted an Action Plan on the fulfilment of priorities under the European Commission 2010 Progress Report, with the aim of increasing focus and achieving additional results on the reform agenda, ahead of the present Opinion.

As regards **trade**, Serbia has been a member of CEFTA since May 2007 and the negotiations for its accession to WTO are in a final stage. The EU is, with CEFTA, the main trading partner of Serbia. Trade integration with the EU is high. In 2010, 56% of Serbian imports worth €7.1 billion came from the EU (8.5% from CEFTA), mostly consisting of mineral fuels, chemicals, machinery and transport equipment, and manufactured goods. 57% of Serbian exports, or goods worth €4.2 billion, went to the EU (29% to CEFTA), consisting mainly of food products, cereals, basic metals, machinery and transport equipment. Serbia's trade deficit with the EU amounted to €2.9 billion in 2010.

The share of EU investments to Serbia is high, reaching in a peak of almost 88% of total FDI in 2010.

Serbia has been receiving **EU financial assistance** since 2001. Overall, between 2001 and 2011, the EU committed over €2 billion to Serbia in the form of grants and €5.8 billion in the form of soft loans. From 2001 to 2006, Serbia benefited from EU CARDS assistance worth €1,045 million. Since 2007, CARDS has been replaced by the Instrument for Pre-Accession Assistance (IPA), under which Serbia received assistance worth €974 million between 2007 and 2011.

The assistance under IPA is designed to support the reforms undertaken as part of the European integration process, with a focus on the rule of law, institution building, approximation with the EU *acquis*, sustainable economic and social development, and support to civil society.

The Commission adopted in June 2011 a Multi-Annual Indicative Planning Document for the IPA programme in Serbia for the period 2011-2013. It introduces a new sector-based approach, focusing assistance on the following seven sectors: justice and home affairs; public administration reform; social development; private sector development; transport; environment, climate change and energy; agriculture and rural development.

Financial aid under IPA is structured under two components. Component I focuses on political and socio-economic development (rule of law, alignment with the *acquis*, education, transport, energy, environment, agriculture etc.), while Component II focuses on cross-border cooperation (environment, culture, research, security etc.). Serbia received €100 million in the form of budgetary support under the 2009 IPA programme, to help it alleviate the socio-economic impact of the economic downturn. An Agreement on Macro Financial Assistance was signed in July 2010 between EU and Serbia and €100 million were disbursed in July 2011.

IPA assistance is currently managed centrally by the EU Delegation in Belgrade. Serbia is preparing for decentralised management of IPA funds. Further extensive efforts, including the strengthening of administrative capacities, remain necessary before Serbia is in a position to take over responsibility.

Serbia participates fully in a number of EU programmes: the 7th Framework Programme for research and technological development, PROGRESS, the Competitiveness and Innovation Programme, the Information and Communication Technologies Policy Support Programme,

the Culture Programme, the Customs Programme and the Fiscalis Programme. IPA funds are used to meet part of the costs of participation in these programmes.

### c) Contents of the Analytical Report

The analytical report takes account of the conclusions of the European Council in Copenhagen in 1993 and subsequent European Council conclusions. The report:

Describes the relations between Serbia and the Union;

Analyses the situation in respect of the political conditions established by the European Council (democracy, rule of law, human rights, protection of minorities; regional issues and international obligations);

Assesses the country's situation and prospects in respect of the economic conditions established by the European Council (functioning market economy, capacity to cope with competitive pressure);

Addresses the question of the capacity of the country to adopt the obligations of membership, i.e. the total body of EU legislation as expressed in the Treaty, the secondary legislation, and also the policies of the Union (*acquis* of the European Union);

Provides, in line with the December 2006 European Council conclusions, initial impact estimates in the fields of freedom of movement for workers (chapter 2), agriculture and rural development (chapter 11), regional policy and coordination of structural instruments (chapter 22), and financial and budgetary provisions (chapter 33). These have been identified as the main policy areas likely to require particular attention in the case of Serbian accession.

In assessing Serbia's situation with regard to the economic criteria and its capacity to assume the obligations of the *acquis*, the Commission has also estimated the progress which could reasonably be expected in the years ahead, before possible accession, taking account of the fact that the *acquis* itself will continue to develop.

The Commission has drawn on a number of sources of information: answers given by the Serbian authorities to a detailed questionnaire and additional follow-up questions, consultations with the EU Delegation in Serbia, reports of expert missions, reporting by the Member States' Embassies in Belgrade, European Parliament reports<sup>1</sup>, assessments by international organisations (including the Council of Europe, OECD, OSCE, IMF, World Bank), as well as local and international non-governmental organisations.

This Opinion has been prepared following a methodology similar to that used in previous Opinions. The Commission organised a number of expert missions in Serbia, which were concentrated mainly in the fields covered by the political criteria. This methodology allowed a sound assessment to be made of the administrative capacities of Serbian institutions and of the way legislation is implemented, and it helped to better identify the remaining challenges and priorities for future action. The Commission has analysed both the present situation and the medium-term prospects. For the purpose of this Opinion, and without prejudging any future date of accession, the medium-term perspective has been defined as a period of five years.

---

<sup>1</sup> The rapporteur for Serbia is Mr Jelko Kacin.

## **B. CRITERIA FOR MEMBERSHIP**

### **1. POLITICAL CRITERIA**

The European Council in Copenhagen in 1993 set a number of political criteria for accession to be met by applicant countries. A country must have achieved 'stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'. In the case of the Western Balkans the conditions defined by the Stabilisation and Association Process are also a fundamental element of EU policy, which will be assessed in this report. These include regional cooperation, good neighbourly relations and compliance with international obligations, such as cooperation with the UN International Tribunal for the former Yugoslavia (ICTY).

The political criteria established in Copenhagen derive from the fundamental values on which the EU is founded, as set out in Article 2 of the Treaty on European Union. These principles are emphasised in the Charter of Fundamental Rights of the European Union. Article 6(1) of the Treaty states that: *'The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties'*.

The assessment set out below examines the main ways in which public authorities are organised and operate, and the situation with regard to protection of fundamental rights. It is not confined to a formal description, but seeks to ascertain the way in which democracy and the rule of law actually function in practice.

#### **1.1. Democracy and the rule of law**

The Republic of Serbia continued as a successor state of the former State Union of Serbia and Montenegro, following Montenegro's proclamation of independence in June 2006.

A new **Constitution** was adopted by an overwhelming majority in parliament and in a subsequent referendum, and entered into force in November 2006. The Constitution lays down the rules of parliamentary democracy, separation of powers and independence of the judiciary. It defines the fundamental principles of rule of law, social justice, respect for human and minority rights, and prohibits capital punishment and discrimination of any kind. The Constitution establishes the right to constitutional appeal and the Ombudsman. It sets out the principle of democratic and civilian control of the armed forces. It provides that Serbia can only conclude international treaties that are compatible with the Constitution<sup>2</sup>. A two-thirds majority vote is required in parliament to both launch and approve a revision of the Constitution. The process of aligning the legal framework with the new Constitution has been almost completed.

---

<sup>2</sup> According to Article 182 of the Constitution 'Kosovo and Metohija' is an Autonomous Province (*"In the Republic of Serbia, there are the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija"*) and is referred to as a constituent part of Serbia's territory in Article 114 (as part of the presidential oath). Serbia is prevented from exercising administrative authority over the territory of Kosovo since UNSCR 1244/1999 placed Kosovo under interim administration. Kosovo declared its independence on 17 February 2008. The Council noted in its conclusions on 18 February 2008 *"that Member States will decide, in accordance with national practice and international law, on their relations with Kosovo"*.

The Constitution is largely in line with European standards. However, some provisions would still need to fully reflect the recommendations of the Venice Commission in its Opinion of March 2007, in particular those allowing control by political parties over parliamentary mandates (See also section *infra*) and those providing for an excessive role of parliament in appointments and dismissals, in particular in the judicial system.

*Overall*, the Constitution lays down the necessary principles for a parliamentary democracy based on the rule of law and the separation of powers. It is largely in line with European standards.

### *1.1.1. Parliament*

The Serbian **Parliament** is unicameral, with 250 members elected by direct universal suffrage for a four-year term. The Constitution guarantees the right to vote to all Serbian citizens over the age of 18. The Law on the Election of Members of Parliament provides for proportional representation, according to the D'Hondt method, of candidate lists which have achieved a five per cent threshold of votes; in order to facilitate their representation, no threshold is applied to lists representing national minorities. Serbia is regarded as a single constituency.

The parliamentary **elections**, held in May 2008, were assessed by OSCE/ODIHR as being overall in line with international standards. The work of the election administration was good and transparent. However, significant shortcomings of the electoral legislation against EU standards were noted, particularly provisions that allowed political parties to appoint Members of Parliament (MPs) after the vote without adhering to the order of the lists of candidates presented to the voters. In April 2010, the Constitutional Court ruled similar provisions in the Law on Local Elections to be unconstitutional.

The electoral legislation has since been brought into line with European standards. The 2000 Law on the Election of Members of Parliament was amended in May 2011 and now requires that the appointment of MPs should follow the order of the lists. It also puts an end to the practice of 'blank resignations', by which MPs were tendering resignation letters to their parties. Similar changes were also introduced in the Law on local elections in July 2011. The 2009 Law on a Single Voters Register will also improve the accuracy and security of data when it enters into force in December 2011. The Law on Financing of Political Activities adopted in June 2011 covers the financing of electoral campaigns with provisions on transparency of funding sources, allocation of state funding and enhanced control prerogatives for the Anti-Corruption Agency.

The Speaker of Parliament is elected for a four-year term. Among the six deputy speakers, four are currently from the opposition. There are 30 standing committees, 12 of which are chaired by MPs from the opposition. Debates in committees are open to the media and plenary sessions are broadcast. The President of the Republic can dissolve parliament on a proposal from the government and shall dissolve parliament when it fails to elect a new government following its resignation or a motion of non-confidence. Women account for 22% of the number of MPs, a proportion which will be increased to at least 30% in the next legislature, in accordance with the May 2011 amendments to the electoral law. Requests to waive the immunity of an MP in cases involving criminal offences have recently begun to be processed.

Legislative proposals can be tabled by each MP, the government, the Assembly of the Autonomous Province, an initiative supported by 30,000 voters and, in their respective areas

of competence, by the Ombudsman and the National Bank of Serbia. Laws are normally adopted after four readings: two in the relevant committees, followed by two readings in the plenary comprising, respectively, a general debate on the rationale, objectives and essential elements of the proposed legislation and a detailed debate on those articles that are the subject of amendments, before final adoption. A single debate may be organised for a number of bills that are related. An urgent procedure, which shortens the deadlines of readings and the length of debates, may be used under exceptional circumstances, including for the purpose of alignment with the EU *acquis*. A fast-track procedure, with similarly abbreviated stages, can be applied to legislation aimed at achieving harmonisation with the EU *acquis*. Laws are generally adopted by a simple majority vote and with the proviso that a majority of MPs are present.

The 2010 Law on the National Assembly established the budgetary autonomy of parliament, a "collegium" composed of the bureau of parliament and the heads of political groups, which meets occasionally, and rules on the transparency of parliamentary bodies. The first autonomous budget was approved in December 2010; an office for budget planning and analysis was established and an internal auditor was appointed in April 2011. The rules of procedure adopted in 2010 clarified the legislative procedures, introduced public hearings and enhanced the existing instruments of control over the executive. Under these rules the number of standing parliamentary committees will be reduced to 19 as from the next legislature. Amendments adopted in 2010 allowing MPs to hold other public functions were deemed invalid by the Constitutional Court in July 2011 and concerned MPs had to choose between their mandates in September 2011.

Twenty-one political parties are currently represented in parliament; four parties representing national minorities have constituted a parliamentary group. They took part in the parliamentary elections of May 2008, either individually or as part of coalition lists. The largest opposition party split after the elections into two separate political groups. The 2009 Law on Political Parties established stricter rules for party registration, including the obligation to collect 10,000 signatures (1,000 for parties representing national minorities). Following its entry into force, a total of 81 parties have been registered, of which 45 represent national minorities.

Parliamentary business has run more smoothly and effectively under the current legislature than previously. Since 2008, parliament engaged in extensive legislative activity aimed at establishing a systemic legal framework in line with European standards. New procedural rules have streamlined the parliamentary agenda and reduced the previously widespread practices of parliamentary obstruction. There was also an intense mobilisation in 2011 on the priorities of the government's Action Plan aimed to address the challenges identified in the 2010 Commission Progress report. Nevertheless, urgent and other abbreviated procedures were applied in many instances, including for key pieces of legislation, thereby limiting parliamentary and public debate. Stricter criteria should be applied to urgent and fast-track procedures aimed at harmonisation with the EU *acquis* in order to limit their application to measures of technical alignment with the EU *acquis*. There is no consistent approach to the consultation of stakeholders. Not enough attention is paid to the quality of legislation. As a result, the Constitutional court invalidated parts of several important pieces of legislation. Appointments that fall under the competence of parliament are often late and in some instances based on unclear criteria.

A Committee for European Integration has been in place since May 2004 and is tasked with verifying the compatibility of proposed legislation and other measures with European

standards. Since 2009 it has held regular hearings of the government on the implementation of the National Plan for European Integration.

There has been a gradual improvement in parliament's role of oversight and control of the government. It is exercised mainly by means of parliamentary questions addressed to the government, to one or more ministers and to the Prime Minister, during sessions held on a monthly basis. There is provision for interpellations, votes of confidence and the establishment of committees of inquiry. The Government presents an annual report. Individual ministers provide specific reports and attend hearings of the relevant committees. Although the use of oversight tools has developed, it remains largely formal. Parliament adopted amendments to its rules of procedure in February 2011 that clarified its relations with independent regulatory bodies. It still needs to develop the use of their findings to enhance its own oversight over the executive.

The work of committees remains weak and largely reactive due to limited resources and expert staff. This hampers the ability of parliament to scrutinise draft legislation in depth, including its financial implications, and to monitor the implementation of legislation. A European Integration Department, with some initial capabilities, was established in the parliamentary service to support the work of the Committee for European Integration.

*Overall*, elections have been consistently conducted in accordance with international standards for democratic elections since 2001. The electoral legislation has recently been brought into line with European standards and consolidates the free exercise of parliamentary mandates, a principle which also needs to be fully enshrined, in due course, in the Constitution.

There has been a marked improvement in the functioning and the legislative activity of parliament in the current legislature. There was a striking mobilisation of efforts in the last year, which led to substantial results. Improved rules of procedure helped to streamline the debates, while at the same time reducing obstruction. Further efforts are needed in order to enhance the legislative process, including the conduct of proper impact assessments and a consistent approach to the consultation of stakeholders. Oversight of the government, including the monitoring of the implementation of legislation, has still to be strengthened.

#### *1.1.2. The executive*

The **President** of Serbia is elected by direct, universal suffrage for a five-year term of office, which is renewable once. The unity of the State is vested in the President. The President represents Serbia nationally and abroad, promulgates laws and may exercise a suspensive veto. He proposes a Prime Minister-designate to the Parliament. He appoints one third of the members of the Constitutional Court. The President may dissolve the Parliament upon a proposal from the Government. The President appoints and dismisses ambassadors and other diplomatic representatives upon a proposal from the Government, and grants amnesty and performs other duties laid down in the Constitution. He is the commander of the armed forces and has the power to appoint, promote and dismiss military officers. The President enjoys equivalent immunity to that of Members of Parliament and may not perform any other public function or professional activity. The President may be impeached for violation of the Constitution under a parliamentary procedure initiated by at least one third of MPs and confirmed by a two-thirds majority vote, following an opinion of the Constitutional Court.

The current President is Boris Tadic, who was elected in June 2004 as President of the Republic of Serbia within the State Union of Serbia and Montenegro, and elected in February 2008 as President of the Republic of Serbia.

The decision to appoint the Prime Minister is taken by parliament on a proposal by the President. Parliament approves the composition of the **government** and its programme by an absolute majority, on a proposal by the Prime Minister-designate. All government members, including the Prime Minister, enjoy immunity due to their function, but are accountable to parliament. Their position is incompatible with being an MP or holding executive or representational functions at the level of an autonomous province or local self-government.

The current government is led by Prime Minister Mirko Cvetkovic and was appointed in July 2008. It was restructured and downsized in March 2011. It has 21 members, of whom three are women, and it includes a Vice Prime Minister and three Deputy Prime Ministers, one of whom is in charge of EU integration. The Prime Minister currently also assumes the functions of Minister of Finance.

The government's powers, internal organisation and working procedures are regulated by the Constitution, the Law on Government, the Law on Ministries, the Law on Public Administration and its rules of procedure. The government is supported by a General Secretariat. There are rules on the coordination of public appearances and statements of ministers relating to the work and decisions of the government. The government, as well as all other public administration bodies, are bound to provide public access to information on their work, pursuant to the Law on free access to public information. Transparency of decision-making and access to sensitive information, such as appointments and salaries in public companies, have yet to be improved.

The government conducts Serbia's domestic and foreign policies and implements legislation. It steers the country's reforms, coordinates the work of public administration bodies, and adopts policy guidelines and strategies. The government meets and takes decisions in regular weekly sessions. It works on the basis of an annual work programme, including a legislative programme and a budget memorandum defining the fundamental objectives of public finances and of macroeconomic policy.

The government's rules of procedure were strengthened in June 2010 as regards the practice of drawing up for each legislative proposal a statement of compliance with the EU *acquis*, which is now mandatory and must also include a table of concordance. Such legislative proposals must also include an impact assessment with an estimate of their financial implications. Government is supported by a Legislative Secretariat, which checks the constitutionality and legality of draft measures, and an Office for Regulatory Reform and Regulatory Impact Analysis, established in November 2010, to assist in developing impact assessment. The Ministry of Finance reviews the financial implications of draft legislation.

In spite of those recent improvements, the government's capacity for strategic policy planning has yet to be developed. Inter-ministerial and inter-agency coordination need to be improved and compartmentalisation reduced. The quality of legislation prepared by government remains uneven. A more consistent and fully transparent approach to the consultation of stakeholders is needed for the preparation of draft legislation, as well as sufficient consideration of its enforceability. There is room for improvement of the consideration given to suggestions made by relevant state institutions and independent regulatory bodies.

The Serbian European Integration Office (SEIO) was established in 2004 and has since developed its capacities and demonstrated great ability to coordinate government activity in relation to the EU agenda of reforms. A structure comprising a high-level coordination body supported by an expert group and 35 expert sub-groups covering all chapters of the *acquis* was established in 2007. The government adopted a National Programme for EU Integration (NPI) in 2008 and revised it in 2009. It is a comprehensive planning document that encompasses the legislative and administrative reforms that are considered necessary in order to prepare for EU membership. In December 2010, the government adopted an Action Plan aimed to address the challenges identified in the 2010 Commission Progress report. The SEIO monitors the implementation of commitments identified in the NPI and the Action Plan, and reports on them on a quarterly basis. The rules of procedure of the government were adapted in May 2010 to step up the process of harmonisation of legislation with the *acquis*, in line with the stated priority attached by the government to the European integration process. A robust network of EU integration correspondents and departments in line ministries will be needed to help Serbia progress in its EU integration process.

Serbia has two main levels of government – central and **local self-government** – as well as the autonomous province of Vojvodina. A Law on Territorial Organisation, the Law on Local Government and the Law on the Capital City were adopted in 2007. Serbia encompasses 122 municipalities, 22 towns and the city of Belgrade, as a special territorial unit. As regards the Province of Vojvodina, a new Statute was adopted by the Provincial Assembly in 2008; the Statute and the Law determining the competences of Vojvodina were approved in the National Assembly in 2009. A Law on public property which entails transfers of competences to the Province of Vojvodina, as well as to municipalities, was adopted in September 2011. *(See also political criteria – Human Rights and the protection of minorities – property rights.)*

Central authorities have delegated competences to units of local self government in areas such as building permits, utilities, culture, education, health, social and child welfare, protection of the environment and agricultural land. A law on fiscal decentralisation was adopted in June 2011 which aims at providing municipalities with additional funding through allocations stemming from the income tax. However, a complete overview and inventory of the functions delegated to municipalities remain to be established. Transfers have been made without ensuring sufficient capacity and resources at local level, in part because of the impact of the economic crisis on public finances which meant that municipalities' own revenues were also shrinking. The National Council for Decentralisation was established in 2009, but has been mostly inactive since. There has been insufficient consultation with local authorities in the decision-making process relating to the development of new legislation or amendments to existing laws that have implications at the local level.

*Overall*, Serbia has a well-established functioning system of executive power. Serbia attaches high priority to the European integration process and the government has adapted its procedures accordingly. The Serbian European Integration Office plays a central and valuable role in the coordination of the EU reform agenda. Serbia has established a Statute for the province of Vojvodina and has taken steps to increase competencies at municipal level. The government's capacities for policy planning and coordination need to be seriously overhauled. Further efforts are needed in order to make effective use of the regulatory impact assessment and improve public consultation in the legislative process, particularly with regard to civil society and local self-government. Implementation of laws needs to be better prepared and monitored. Transfers of competences at local level should be backed up by corresponding resources and appropriate attention paid to sound financial management.

### *1.1.3. Public administration*

The legal framework providing for public administration reform (PAR) is largely in place in Serbia and administrative capacities are generally well developed, in particular at central level. A Strategy for PAR was adopted by the Government in 2004 and supplemented by an Action Plan covering the period 2009-2012. The aim of the Strategy and Action Plan is to create a public administration oriented towards the citizens and based on the principles of depoliticisation, professionalisation, rationalisation, modernisation and decentralisation. The two main actors involved in coordinating and monitoring the reform are the Council for PAR, established in 2002, and the Ministry for Human and Minority Rights, Public Administration and Local Self-Government. The PAR Council is chaired by the Prime Minister and brings together the ministers holding the main responsibilities in the reform program. It ensures the strategic coordination of the PAR strategy. The Ministry is entrusted with the day-to-day coordination and monitoring of reforms. In order to ensure the coordination of all actors, reform coordinators/teams have been appointed in each relevant body of the public administration.

The implementation of the Strategy is making slow progress. The PAR Council has met several times since April 2009, but mainly to consider administrative and technical issues. A stronger political commitment and a strengthened strategic approach to reform are needed. Enhanced coordination is necessary because responsibilities are divided between several actors, and the monitoring of PAR implementation needs to be improved. Sufficient human and financial resources have to be allocated to the Ministry in order for it to efficiently carry out its PAR coordination tasks.

The Law on Civil Servants (LCS), adopted in 2005, regulates the position of employees in the public administration. The Law was subsequently amended to establish educational requirements for civil servant posts, aimed at increasing professionalism and reducing the risk of political influence and nepotism. However, the LCS exclusively regulates the legal regime of civil servants in state authorities and does not apply to local self-government employees. A significant number of appointments for senior civil servant positions are still pending. Selection procedures are not applied uniformly and, in the absence of criteria for final recruitment decisions, managers still have excessive discretionary powers when choosing candidates from lists prepared by the competitions' selection panels. Competence and professionalism in appointments at management and lower levels in the administration need to become the rule. Temporary employees are not recruited according to competitive criteria and contracts are allocated without internal or public competition.

A Human Resources Management Service was established in 2006, in charge of: internal advertising and public competitions for non-management jobs; checking staffing plans for Government bodies; keeping records of the central public administration personnel and overseeing the general professional training programme for civil servants. A Strategy for the professional training of civil servants for the period 2011- 2013 was adopted in July 2011. The Strategy aims at creating a new system of training, through the establishment of a central institution in charge of the implementation of training programmes for civil servants. A fifth annual training programme was adopted in January 2011. The programme embraces a wide range of topics, including development of senior management and EU integration. However, only a small percentage of civil servants, and in particular a very small percentage of managers, takes part in this training. Induction training is not provided.

The Law on Administrative Disputes, regulating the judicial control of administrative acts and the competences of the Administrative court, was adopted in December 2009. The Administrative court, as a court of special jurisdiction, became operational as of 1 January 2010. The adoption of a new Law on Administrative Procedures, aimed at introducing simplified procedures in order to reduce the caseload, is still pending. The Law on Administrative Disputes allows only individual administrative acts to be challenged before the administrative court, which is not in line with European standards on the judicial review of administrative acts.

In recent years, Serbia created all of the necessary **independent regulatory bodies** (IRBs). Rules governing relations between parliament and IRBs were clarified in February 2011 to better acknowledge the role and independence of IRBs. It provides for a parliamentary review of the regular annual reports of the Ombudsman, the Commissioner for Free Access to Public Information and for Data Protection, the State Audit Institution, the Anti-corruption Agency and the Equality Protection Commissioner. Such reviews were held in July 2011 on the bodies' 2010 reports and provided valuable information for parliament to exercise its oversight powers over the executive. IRBs have slowly but surely been given additional resources to exercise their mandate. They have overall a clear basis for their funding and a satisfactory degree of autonomy for planning and implementing the budget. Despite recent improvements, Parliament has given only limited attention to legislative proposals tabled by IRBs, including in cases when they are making use of a statutory right of initiative. There is room for improving the transparency and timeliness of appointments of heads of IRBs, members of boards or executive directors. Several IRBs continue to be faced with logistical constraints, such as limited available space in current premises which slows down recruitment, and rigidities in the application of the law on civil service which does not allow remuneration that is commensurate with the expertise and qualifications required. Auditing of expenditure of IRBs needs to be ensured.

The first State **Ombudsman** was appointed by parliament in 2007 for a period of five years. There is also a specific ombudsman for Vojvodina and several others at municipal level with whom the State Ombudsman has established cooperation. A local field office was opened in Southern Serbia in June 2010. The public have demonstrated increasing interest and confidence in the Ombudsman. Ombudsman offices at both state and provincial level were very active and led to a greater awareness among the general public, which resulted in an increase in the number of complaints. The number of complaints has significantly increased each year. So far, the State Ombudsman has received almost 6,000 complaints from citizens, two third of which were resolved. The majority of complaints relate to social and economic rights and to the lack of responsiveness on the part of the administration. Since 2007, the State Ombudsman issued some 270 individual and 50 general recommendations, of which nearly 80% were satisfactorily followed up. He also proposed legislative changes, issued general recommendations, visited various institutions and was active in promoting the protection of human rights and minority rights.

The Commissioner for Free Access to Information of Public Interest was established in 2004. The Commissioner was appointed by parliament for a seven-year term. The 2008 Personal Data Protection Act extended its powers, and further amendments adopted in 2010 introduced a mechanism for enforcing its decisions. From the outset, the Commissioner has been very active and has enjoyed the confidence of the public. However, his recommendations are still not being followed up sufficiently.

The State Audit Institution (SAI) is the body in charge of auditing public funds in Serbia. It was established by the 2005 Law on the State Audit Institution and has been a member of the International Organisation of Supreme Audit Institutions (INTOSAI) since November 2008. The SAI performed its first audit in 2008, which was the first time the state budget had been audited since 2001. Since then, the SAI has steadily improved its performance; its cooperation with other independent regulatory bodies and the status of the auditors have improved, although its recruitment plan needs to be completed in order for the SAI to perform its tasks fully.

*Overall*, administrative capacity is in general well developed at central level and a strategy for public administration reform is in place under the auspices of a Council reporting to the Prime Minister. There is a need for further alignment of legislation and more effective implementation of the existing legal framework and strategy. Progress remains slow and is affected by a lack of coordination among stakeholders and insufficient managerial capacities. The establishment of a merit-based recruitment and career system is not yet complete and appointments remain vulnerable to politicisation. Public administration is weak at the local level. Independent regulatory bodies have been established in all important areas. The follow-up of their findings and decisions should be strengthened.

#### *1.1.4. Judicial system (See also Chapter 23 – Judiciary and fundamental rights)*

The Serbian judiciary is organised in a three-tier court system, which broadly respects the key requirements of independence, impartiality, accountability and efficiency. In 2010, the judicial budget amounted to 182 M € (0.61 % of the GDP). There are 34 Basic Courts, 26 Higher Courts, 4 Appellate Courts and the Supreme Court of Cassation. Courts of special jurisdiction are the 16 Commercial Courts and the Appellate Commercial Court, as well as 45 Misdemeanour Courts and the Higher Misdemeanour Court. An administrative court was established recently. The organisation of the public prosecution is hierarchical and reflects the structure of the general court system. The Republic Prosecutor's Office is the highest public prosecutor's office. Public prosecutor's offices of special jurisdiction have been established for war crimes and for organised crime and corruption.

The Constitutional Court was established in 2008, following the adoption of the 2006 Constitution. It has 15 judges with a renewable nine-year term of office; five of them are appointed by parliament, five by the President of the Republic and five by the general session of the Supreme Court of Cassation. The latter five judges were appointed as recently as April 2010. The Court rules on the constitutionality of legislation and on constitutional appeals for violation of human rights by individual acts or actions of state authorities. The Court faces a large backlog of cases. On 15 September 2011, the Court had 8,549 pending cases compared to some 7,000 in September 2010. Given the limited efficiency of the Court, urgent measures are needed to handle the increasing inflow of cases.

The *independence* of the judiciary is guaranteed by the Constitution and is generally ensured. Serbia launched an ambitious reform of the judiciary based on a national strategy adopted in 2006 and a package of judicial laws in 2008. The High Judicial Council and the State Prosecutorial Council were established as the key bodies for stronger self-administration of the judiciary and were set up in their transitional composition in June 2009 and in their permanent composition in April 2011. The High Judicial Council and the State Prosecutorial Council consist of eleven members, of whom three are ex officio members: respectively the President of the Supreme Court of Cassation or the Republic Public Prosecutor, the Minister of Justice and the President of the Parliamentary Committee for Judicial Affairs. The other

eight members are appointed for five years by parliament: six of them are proposed after a secret ballot respectively among judges and public prosecutors; two are prominent lawyers – one representative of the bar and one professor of law selected by the relevant parliamentary committee. The Councils are responsible for defining the total number of positions and for the selection, appointment, promotion, dismissal and disciplinary measures concerning judges and deputy prosecutors respectively. They are also responsible for the administration of the budget for courts and prosecution offices. However, in the absence of sufficient capacities, the handing over of the management of the budget from the Ministry of Justice has been postponed.

Amendments of 2011 to the Law on Judicial Academy strengthened the merit based approach to recruitments, making the completion of a vocational training programme a general precondition for the appointment of basic court and misdemeanour judges, as well as for deputy basic prosecutors. The Judicial Academy is competent for the vocational training and continued professional development of judges, prosecutors and judicial staff. A first vocational training course started in September 2010. A proper merit-based career system for judges and prosecutors needs to be fully developed. It is still possible to enter the judicial profession, in particular at higher levels, on the basis of unclear criteria without having passed the Judicial Academy. Regular performance evaluations are only starting to be introduced. The Judicial Academy operates on scarce resources and has not yet finalised its curricula.

The constitutional and legislative framework still leaves some room for undue political influence on the judiciary. Parliament appoints and dismisses the President of the Supreme Court, who is also *ex officio* president of the High Judicial Council, and the Republic Public Prosecutor for a renewable six-year term of office, upon a proposal from the government and the opinion of the relevant parliamentary committee. Parliament also appoints court presidents and public prosecutors for a renewable six-year term on the basis of non-binding proposals by the respective Councils, as well as first time judges and deputy prosecutors for a probation period of three years. The prosecution service is vulnerable to political influence due to its hierarchical organisation and the ongoing practice of issuing oral instructions, despite the legal obligation for written instructions.

A re-appointment procedure for all judges and prosecutors, aimed at raising professional and integrity standards and removing unsuitable persons from the system, was carried out during the second half of 2009 and took effect as of January 2010. As part of this systematic exercise, the number of judges was reduced from 2,686 in 2009 to 1,972, out of which 1,802 posts were initially filled. Previous misdemeanour judges were integrated into the normal court system, which led to an overall number of 2,587 judges' posts. A total of 871 new judges entered the system, 292 of whom were first time judges with a three-year mandate and 579 were previous misdemeanour judges. In July 2011, 2,405 judges' positions were filled. The number of clerical staff in courts was reduced to some 12,900 positions. The number of prosecutors was reduced from 129 to 67 and the number of deputy prosecutors from 670 to 586. The prosecution service has some 1,400 clerical staff. Significant shortcomings affected the re-appointment procedure, which was carried out in a very short period of time. Both the High Judicial Council and the State Prosecutorial Council acted in their transitory forms and not all members had been appointed, which did not ensure adequate self-representation of the profession. Judges and prosecutors, as well as first time candidates, were not heard during the procedure. Criteria were applied in a non-transparent manner and reasoned decisions were not issued in a timely manner. Problems arose with the calculation of the number of necessary posts, which were reduced in the first stage and increased again at later stages. The right for non re-appointed judges and prosecutors to appeal was limited to taking their case to the

Constitutional Court. Some 1,500 appeals were filed, but the Court lacked the capacity to deal with the large number of cases within a reasonable time.

Given the initial shortcomings, the Serbian authorities launched a review of the procedure at the end of 2010. Legislative amendments were adopted in December 2010, transferring the cases back from the Constitutional Court to the High Judicial Council and the State Prosecutorial Council. Respective guidelines for the review procedure for non re-appointed judges and prosecutors were adopted in May 2011 by the High Judicial Council and the State Prosecutorial Council in their permanent form. Broad consultation of all stakeholders was conducted on the guidelines. These guidelines include clear and transparent criteria and provided a sound basis for the review procedure which was launched at the end of June. In the 837 cases concerning non re-appointed judges, 375 hearings had been conducted and 155 cases decided by mid September. As regards the 157 cases of prosecutors, 127 decisions had been made. While written justifications yet have to be issued for most cases, the review on judges has been so far conducted in a satisfactory manner. Despite some procedural shortcomings, the majority of decisions were generally taken in line with the guidelines. As regards prosecutors, certain procedural shortcomings occurred and remaining doubts on the observance of the guidelines will have to be dispelled by the written decisions. The review for newly elected judges and prosecutors and for those re-appointed despite ongoing disciplinary procedures is under preparation. The review process of re-appointment of judges and prosecutors still needs to be brought to a satisfactory conclusion.

The *impartiality* of judges is broadly ensured. Legal provisions on conflict of interest are in place. Cases are generally allocated on a random basis, which is more difficult in small courts or court units with only a few judges.

The regulatory and institutional framework ensuring the *accountability* of the judiciary is generally in place. A code of ethics for judges was adopted in 2010. Internal inspections on technical and administrative matters are carried out by the Ministry of Justice, based on reports from the court president and on the spot visits. Presidents of higher courts are also entitled to inspect lower courts. The Republic Public Prosecutor is accountable for the work of the prosecution service to parliament, which also decides on his re-election for another (six-year) term and on termination of office. A track record of effective inspections still needs to be established.

There is a twin-track procedure for ordinary disciplinary offences (leading to disciplinary sanctions) and serious disciplinary offences (which can result in dismissal). The competent bodies are the Disciplinary Prosecutors and Disciplinary Commissions, established by the respective Councils. Procedures for ordinary offences are launched by the Disciplinary Prosecutors, decided by the Disciplinary Commissions and can be appealed against before the Councils. Dismissal procedures are conducted by the respective Councils, which also decide in the case of judges and deputy prosecutors. For court presidents and public prosecutors, the final decision is taken by the parliament upon recommendation of the respective Council. The High Judicial Council set up the disciplinary authorities in December 2010. Until 15 September, 104 complaints were examined and one disciplinary case was opened, but has not yet been finalised. The State Prosecutorial Council has not yet set up the relevant disciplinary bodies. The double-track procedure for disciplinary offences should be streamlined in order to avoid possible gaps between the proceedings. Disciplinary authorities for the prosecution service need to be set up and a track record of effective disciplinary procedures developed.

Judges and prosecutors, as well as the elected members of the two Councils, enjoy functional immunity. Procedures for lifting immunity are in the hands of parliament, and prior approval of the High Judicial Council is needed for judges. In practice there were only five cases, two concerning judges and three concerning prosecutors, in which the immunity has been lifted since the entry in force of the new Constitution in 2006. This low number raises concerns over too high protection for judges and prosecutors from criminal investigations.

Another key step in the judicial reform process was the overhaul of the court network in order to rationalise the system and increase its *efficiency*. The previous 138 municipal courts were replaced by 34 basic courts as of January 2010. District courts were abolished and their competences divided between Higher Courts and Appellate Courts. Competences of the previous Supreme Court were divided between the Appellate Courts and the Supreme Court of Cassation. The reduction of the number of courts had positive effects towards a more equal distribution of work between the courts. New laws on enforcement of judgements – introducing private bailiffs – and on public notaries were adopted in May 2011. Additional measures included the launch of a programme to reduce the number of old cases in five pilot courts, as well as improvements to the infrastructure and equipment. The newly-established Administrative Court with 33 judges took over the entire backlog from the previous administrative section of the Supreme Court and succeeded in processing a large number of cases, despite the continuously high inflow of new cases.

New Civil and Criminal Procedure Codes have been adopted in September 2011. The Civil Procedure Code aims at streamlining civil procedures and is generally a good basis to increase the efficiency of the Serbian judiciary. The Criminal Procedure Code profoundly changes criminal proceedings by giving the lead of investigations to the prosecution service and introducing an adversarial system. In a first stage, it will only be applied to proceedings carried out by the special prosecutors for organised crime and for war crimes, before extending it to the whole system. There are concerns over insufficient procedural safeguards in the new Code.

Serbia continues to face a large backlog of old cases. On 30 June 2011, some 1.9 million pending cases were older than 9 months. Many of these relate to the enforcement of both civil and criminal decisions, with an average duration of over 600 days for civil cases. The present system of enforcement of civil cases relies on an insufficient number of court agents. Serbia needs to pursue the establishment of public notaries and private bailiffs, foreseen under the new laws, without further delays. The impact of the rationalisation of the court network has not yet reached its full potential. There continue to be significant differences in the workload between courts, with a particularly high influx of cases in the Belgrade courts. Basic courts maintained court units dealing with civil cases in the locations of the previous municipal courts. Continued operation of court units still creates maintenance costs for the buildings and travelling expenses of judicial staff and can entail some risks to the security of the proceedings, in particular in view of the need to transport files and to secure the court unit buildings. The IT based case management system is not fully operational for the entire court network.

*Overall*, substantial reforms of the judiciary have been pursued in Serbia since the adoption of the national strategy in 2006, and were intensified in 2009 and 2010. Independence and self-administration were strengthened with the establishment of the new High Judicial and State Prosecutorial Councils. The restructuring of the court network, including the creation of an administrative court, and a new law on enforcement of court decisions were appropriate steps for increasing the efficiency of the judiciary. The initial significant shortcomings identified in

the re-appointment procedure are in the course of being addressed through a review process, for which there are clear guidelines. The review process remains to be satisfactorily completed in a transparent manner, in line with these guidelines. At the same time, the Serbian judiciary still faces a number of challenges. Constitutional and legal provisions on appointments, promotion and dismissals in the judiciary will need in due course to be brought into line with European standards. Further efforts are needed in order to increase public confidence in the judiciary, improve the effectiveness of disciplinary proceedings, reinforce the execution of judgements and further reduce the large backlog of pending cases.

#### *1.1.5. Anti-corruption policy (See also Chapter 23 – Judiciary and fundamental rights)*

Serbia has established the relevant institutional and legal framework to combat corruption. Its main components are the 2008 Law on the Anti-Corruption Agency, the 2009 Law on the Organisation and Competence of the State Authorities in Suppressing Organised Crime, Corruption and other especially serious criminal offences, the 2008 Law on Seizure and Confiscation of the Proceeds from Crime, amendments of 2007 to the Criminal Procedure Code regarding special investigative measures, the Law of 2005 on Civil Servants, and the amendments of 2009 to the Law on Free Access to Information of Public Importance. However, implementation of legislation and practical results are still lagging behind.

The government adopted a National Anti-Corruption Strategy and a respective Action Plan in 2005. The Strategy and Action plan have been implemented slowly and need to be updated. The current Strategy does not cover the education and health sectors, which are areas prone to corruption. The Action Plan does not precisely define activities and does not set clear indicators. The Strategy and the Action Plan are in the process of being revised. The Minister of Justice was appointed anti-corruption coordinator in May 2011 to improve the so far inadequate cooperation between the stakeholders involved in the fight against corruption.

The Anti-Corruption Agency became operational as the central anti-corruption body in 2010. It is managed by a Director, who is appointed by an Anti-Corruption Board whose members are appointed by parliament. The Agency reports annually to parliament. The powers of the Agency are focused on the prevention of corruption. They include supervision of the implementation of the National Anti-Corruption Strategy and Action Plan, conflicts of interest, declarations of assets and gifts, financing of political parties, revision of draft legislation to identify and eliminate corruption risks, integrity plans, and education on corruption. The Agency took over the responsibilities of the Republic Board for the Resolution of Conflicts of Interest, which was phased out from that point. The Agency has no mechanism to ensure the enforcement of its decisions. Currently, the Agency lacks capacity with only 60 employees, when its organisation chart has provision for 96 posts. The Agency was allocated adequate premises in September 2011, which will enable it to complete its recruitment plan.

The Agency has been very active in some of its areas of responsibility, particularly in the verification of asset declarations. By the end of 2010, over 18,000 asset declarations had been received from the 25,000 public officials who are required to fulfil that obligation. The Agency processed 3,500 of these. Between October 2010 and September 2011, the Agency initiated misdemeanor procedures in 8 cases and criminal procedures in 2 cases; 2 cases were transferred to the prosecution service. In the area of conflict of interest, the Agency issued some 800 decisions and received over 4,000 requests from officials asking to retain their dual functions. However, the capacity and powers to investigate fraudulent declarations and discrepancies between income and assets are lacking. Not all relevant data have been entered

into the Assets Registry on the Agency's website, thus preventing the public from gaining full insight into the property disclosure reports of public officials.

A new Law on the Financing of Political Activities was adopted in June 2011. It covers both the regular financing of political parties and the funding of electoral campaigns. The law enhanced the transparency of funding sources and the allocation of state funding. It considerably strengthened the investigative powers of the Anti-Corruption Agency. The Anti-Corruption Agency had previously carried out controls on the electoral campaigns of five parties or coalitions and submitted six misdemeanour complaints due to the failure to report funds collected and spent in election campaigns. In March 2010, the Agency issued rules on the content of the records and financial reports of political parties. It still has to establish a track record of effective control of party funding.

The Anti-Corruption Council, an advisory body to the government, was established in 2001 with the task of proposing legislative changes and other measures aimed at combating corruption and assessing on-going anti-corruption activities. The Council continued to raise public awareness of high-profile cases of corruption, mostly in the media and in public events. It filed two criminal charges against high profile politicians and well-known businessmen. It has also identified a number of, mainly large, privatisation transactions in which there were suggestions of corruption, but only a few were investigated and even fewer were prosecuted. The State Audit Institution performed the second partial audit of state finances in 2010, which widened the scope of the audited entities, and also included some public enterprises. Internal control systems need to be strengthened and the capacities of the State Audit Institution significantly increased.

The law enforcement bodies and the judiciary have enhanced their specialisation on corruption cases. The competences of the prosecutor for organised crime were extended to higher level corruption cases in January 2010. In 2011, its office significantly increased its activities; until mid September, it launched investigations in some 330 corruption cases. These include several medium to high level cases. The police have the means and the ability to carry out basic investigations. Its capacities for proactive investigation of such cases have yet to be developed. An internal control sector has been established in the police with some initial results and an increasing number of cases of corruption being detected within the police. The Head of the Directorate for internal control and the Head of the Sector for internal control were appointed in June 2011. The customs authority has been increasingly active in combating corruption amongst customs officials and has taken a number of disciplinary measures against wrongdoers. Preventive measures against corruption need to be strengthened in the judiciary. Further efforts are needed overall in order to establish a track record of proactive prosecutions and final convictions, in particular in high-level cases resulting in significant harm to state funds. The capacities of law enforcement bodies to conduct financial investigations need to be strengthened.

Corruption continues to affect many areas, particularly public procurement, privatisation procedures and public expenditure, as well as the health and education sectors. While the 2008 Public Procurement Law contains specific anti-corruption rules, the coordination between all stakeholders needs to be strengthened in order to ensure effective prevention and processing of corruption cases in the area of public procurement. Stronger political will and further efforts are needed in order to process corruption cases more effectively, from investigations to final convictions, in particular in relation to the spending of public money.

Integrity plans are envisaged for a number of State institutions, public bodies and State-owned companies on the basis of guidelines issued in 2010 by the Anti-Corruption Agency. In spite of the legal obligation and in the absence of a legal deadline, the majority of bodies failed to appoint a person in charge of the preparation and implementation of the integrity plans.

Amendments in 2010 to the Law on the Anti-Corruption Agency and the Law on Free Access to Information of Public Importance have strengthened the legal basis for the protection of whistleblowers. A rulebook on whistleblowers, produced by the Anti-Corruption Agency, entered into force in August 2011. However, whistleblower protection is only applicable in cases where no classified information has been disclosed. Practical implementation remains weak.

*Overall*, Serbia has put in place the legal and institutional framework to combat corruption, including an Anti-Corruption Agency and a new law on funding of political parties in line with European standards. The Minister of Justice was appointed anti-corruption coordinator. The authorities have launched a review of the outdated strategy and action plan for the fight against corruption. Steps have been taken towards specialisation of the law enforcement agencies and a greater number of cases have been prosecuted. Corruption remains prevalent in many areas and continues to be a serious problem. Stronger political will is needed in order to significantly improve the performance in combating corruption. The competences and capacities of the Anti-Corruption Agency need to be strengthened. Law enforcement authorities need to adopt a more pro-active approach in investigating and prosecuting corruption and the judiciary needs to gradually and significantly build up a track record of final convictions, including in high level cases.

#### *1.1.6. Civilian oversight of security forces*

Civilian control of the security forces is regulated by an extensive legal framework. According to the Constitution, the armed forces are under democratic and civilian control and parliament must authorise their use outside Serbian borders. As part of the constitutional adjustments, a Law on the Army of Serbia, a Defence Law and a Law on Basic Principles of Establishment of Security Services were adopted in December 2007. The Defence Strategy, the National Security Strategy and the Law on the Military Security Agency and the Military Intelligence Agency were adopted in October 2009. The legislative framework also includes the Law on the Military, Labour and Material Obligations, the Law on Civilian Service, the Law on the Use of the Army and other Defence Forces in Multinational Operations outside Serbia and the Decision abolishing compulsory military service.

Security forces are divided into three main categories: the armed forces, the police forces and the security services. Security services are civilian, the Security-Information Agency (BIA), and military, the Military Security Agency (VBA) and Military Intelligence Agency (VOA). The Defence Inspectorate is the administrative body in the Ministry of Defence which *inter alia* inspects the implementation of public procurement rules and deals with citizens' complaints. The armed forces assist civilian authorities in countering security threats, including terrorism, organised crime, natural and man-made disasters.

The police, including the gendarmerie, is in charge of internal security and the prevention and suppression of all forms of crime. It is organised through the general police directorate at central level, the City of Belgrade police directorate, regional police directorates and police stations at municipal level. The reform of the police is based on the 2005 Law on Police and

the development strategy for the Ministry of Interior for the period 2011-2016. It includes a border police that is responsible for the protection and control of the state border. The accountability of the police is enforced through the work of the sector for internal control, which has established close working relations with the State Ombudsman.

The Security-Information Agency is a separate state agency in charge of the protection of Serbia's internal security and constitutional order. It is accountable to the government and parliament and provides regular reports at least twice a year. The government appoints and dismisses its Director. In 2010, the State Ombudsman reviewed the legality of the Agency's activities and their implications in the area of human rights and protection of minorities. Its overall assessment was that the Agency abided by the legal order, but that further legislative and procedural improvements were needed in order to better regulate the agency's procedures related to the protection of the guaranteed human rights. The Military Security Agency and the Military Intelligence Agency are accountable to the government and parliament. An Inspector General, in charge of their oversight, was appointed by the government in February 2011 for a five-year term.

Parliament has the key role in the oversight of the security forces. The Defence and Security Committee currently performs this function, reviews proposed legislation and conducts inspection visits to the three security agencies. Under the new Rules of Procedure, the oversight will be performed by two standing bodies as from the next legislature: the Committee for Defence and Internal Affairs and the Committee for the Oversight of Security Services. A Council for National Security, chaired by the President of the Republic, reviews issues relevant to national security, and steers and coordinates the work of the security services.

Parliamentary oversight remains weak, as the Committee does not have the resources, expertise and specialised staff to deal with the wide range of jurisdiction which currently covers defence, internal affairs and security issues. Its work is mainly reactive and limited to routine periodic hearings as required by law. A law regulating access to state security files has not yet been adopted. The internal control department in the Ministry of Interior needs to be reinforced and coordination with the department in charge of prevention of corruption enhanced. Unlike most EU intelligence agencies, the Serbian security agencies have investigative powers. This raises serious concerns, as they are in the position of controlling intelligence material used in criminal investigations.

*Overall*, an extensive constitutional and legal framework for the democratic civilian oversight of security forces is in place. Further efforts are needed in order to strengthen parliamentary capacity and expertise. The ability of security agencies to carry out special investigative measures in criminal investigations gives rise to serious concerns.

## **1.2. Human rights and the protection of minorities** *(See also Chapter 23 – Judiciary and fundamental rights)*

### *Observance of international human rights law*

The legislative framework on human rights and the protection of minorities is in place and generally in line with EU standards. The Constitution guarantees a wide range of human rights and fundamental freedoms. It also provides for the possibility of filing a Constitutional appeal as a final remedy for the protection of human rights. A number of laws relating to the promotion, implementation and protection of human rights and the prevention of

discrimination have also been introduced. Serbia has signed and ratified all significant **international human rights instruments** that are relevant for the protection of human rights.

Following the dissolution of the State Union with Montenegro in 2006, Serbia became the successor state in the Council of Europe and took over its obligations and commitments, including under the European Convention for the Protection of Human Rights and Fundamental Freedoms. On 1 September 2011, 5,704 allocated applications regarding Serbia were pending before the **European Court for Human Rights** (ECtHR). Between October 2010 and September 2011, there were five judgments finding violations of the Convention. The largest numbers relate to the violation of the right to a fair trial and to the length of proceedings, including non-enforcement of judicial decisions.

Several State bodies and institutions are responsible for the **promotion and enforcement of human rights**. The Ministry for Human and Minority rights was merged with the Ministry for Public Administration and Local Self-Government in March 2011. The Ministry is tasked with the preparation and coordination of the periodic reports on the implementation of the main international instruments. Investigations into threats and violence against human rights defenders have been slow. Although a number of investigations relating to high profile cases were initiated by the police or prosecution, only a few resulted in a final conviction and an appropriate sentence. Public officials often refrained from publicly condemning such attacks.

Besides the Ministry, the institutional framework providing for the promotion, monitoring and protection of human rights includes other bodies: the various Ombudsman offices – at state and local level – the Commissioner for the Protection of Equality and parliament's Committee on Human and Minority Rights and Gender Equality. Training programmes on human rights standards have been organised for judges, prosecutors, legal practitioners, police and prison officers and other relevant professionals. The direct enforcement of ratified international treaties has still to be improved. Access to information is supervised by the Commissioner for Free Access to Information of Public Importance and Personal Data Protection.

#### *Civil and political rights*

The Constitution prohibits the **death penalty**. Serbia has ratified Protocol No 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances.

The Constitution prohibits **torture and ill-treatment**. In July, the Parliament adopted legislative amendments establishing a national prevention mechanism for the implementation of the Optional Protocol of the Convention Against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment and designating the State Ombudsman to perform these prerogatives. The national prevention mechanism is not yet operational. Poor conditions in police custody facilities are a matter of concern. Regular independent inspections should be carried out to ensure prevention of potential ill-treatment.

Efforts have been made to improve conditions in the **prison system**, but significant challenges remain due to the increasing overcrowding. A strategy on overcrowding was adopted in July 2010. The decision to establish the Parliamentary Commission in charge of oversight of prisons was adopted in May 2011 and its members were appointed in September 2011. Efforts have been undertaken to build new prisons, improve outdated prison infrastructure and train prison staff, as well as to amend treatment rules, respecting the rights of prisoners and improving medical care. Enforcement of alternative sanctions started in 2008

and house arrest under electronic surveillance was introduced in 2010 as a new procedure for serving prison sentences for minor offences. However, overcrowding of prisons continued to increase. The actual prison population amounted to 11,500 persons in 2010, while prison capacities are between 4,500 and 6,000 places. Alternative penalties are only used in a few cases, while short term imprisonment sentences of up to six months are still frequent. The large number of pre-trial detainees, which stands at 3,500, is due to the broad application of such pre-trial detention and to lengthy court proceedings. The majority of prisons in Serbia are outdated and lack adequate facilities. Poor and deteriorating living conditions, unsatisfactory healthcare and lack of adequate treatment programmes in prisons are causes of serious concern. The prison service is facing problems of ensuring security due to insufficient numbers of frontline prison staff. An internal control mechanism for prisons has yet to be established. Programmes for education and rehabilitation are only available for a few prisoners.

The Constitution guarantees **access to justice**. However, the length of court proceedings and the backlog of cases remain issues of concern. Legislation and funding for an effective system of free legal aid need to be developed.

**Freedom of expression** is guaranteed by the Constitution and broadly ensured. The media landscape is diverse and pluralistic. Independent investigative journalism exists. The Law on Public Information, amended in 2009, defines the rights of freedom of expression, the right to access public information and to distribute information through media and broadcasting agencies. The law prohibits incitement to violence or racial, ethnic or religious hatred. The Law on Broadcasting, adopted in 2009, lays down broadcasting standards and prohibits unauthorised media concentration. A code of ethics for journalists was adopted in 2006 and the establishment of a Press Council as self-regulatory body for print media was agreed in 2009 between the representatives of journalists and media associations. Prison sentences for libel cases were abolished in 2005.

Violence and threats against journalists remain a matter for concern. The Serbian authorities provided police protection to journalists and media outlets which received threats, but reactions by the government, including public condemnation, remained weak. Investigations into the murders of journalists dating back to the late 1990s/early 2000s and into recurring threats against journalists have been unable to identify the perpetrators. A more comprehensive and proactive approach by the police and the judiciary are essential. Application of existing legislation in court judgments is not always consistent as regards the scope of journalistic freedom and the level of sanctions; civil and criminal libel cases are sometimes used to exert undue pressure on journalists. Gaps prevail in the supervision carried out by the Republican Broadcasting Agency, in particular as regards the monitoring of discriminatory or hate speech. The procedure by which its members are appointed raises concerns about the independence of this body and creates a risk of politicisation. Advertising access to media is under the influence of a few key players, which creates a significant risk of political and economic influence on the media and of increasing self-censorship. The lack of transparency in media ownership hampers effective monitoring and creates a risk of hidden media concentration. A long awaited Strategy for the Development of the Media Sector (media strategy) was adopted in September 2011. It aims at increasing editorial independence and better protecting media outlets from undue influence. It also lays down the foundations for forthcoming legislative changes which should clarify the market environment in which media outlets are operating.

**Freedom of assembly and association** are guaranteed by the Constitution. Assemblies are covered by the 1992 Law on Public Assembly. Public gatherings in the open are subject to registration, but do not require authorisation, while gatherings indoors do not even need to be registered. Police may only prohibit public gatherings for the purposes of protecting public health, morality, security or the rights of others. Provisional prohibition, pending a final court decision, is possible in cases involving threats to the constitutional order or violation of human rights. Legislation banning gatherings of far right organisations and prohibiting the use of national-socialist and fascist symbols was adopted in 2009. There have been improvements in cooperation and action by the Serbian police to provide protection during public gatherings. A first Belgrade Pride Parade took place in October 2010, representing a step forward in the promotion of constitutionally guaranteed fundamental rights. The police took appropriate action, including making a number of arrests, in response to violent incidents by rioters protesting against the Parade. A second parade which was scheduled to take place on 2 October 2011 had to be called off for security reasons. Rules regulating the prevention of sports related violence have been tightened up and the reaction by law enforcement agencies to sports incidents has improved. The trial in connection with the murder of a French football fan in September 2009 was concluded in first instance in 2011 and the perpetrators were given long prison sentences. The Law on Public Assembly needs to be updated in order to reduce the requirements for the registration of assemblies, to lessen restrictions imposed regarding locations of assemblies and to limit the liabilities of organisers.

Freedom of association is respected on the whole. The Constitution prohibits secret and paramilitary associations. A decision banning an association may be made by the Constitutional Court on grounds prescribed by the Constitution. The 2009 Law on Associations introduced rules regulating foreign associations. Army and police officers, judges, prosecutors and the State Ombudsman are prohibited from being members of a political organisation. Members of the police are allowed to establish trade unions and professional associations. Activities of extreme right-wing organisations and of violent groups of so-called sports fans are a major cause of concern. One such organisation was banned in June 2011 following a Constitutional Court ruling.

Civil society organisations are well developed and play an important role in the social, economic and political life of Serbia. Some 8,500 associations have so far completed the registration procedure. NGOs are exempted from the 2.5% of taxes on gifts and donations provided they are performing activities of public interest. An Office for cooperation with civil society, aimed at improving cooperation between public administration and civil society organisations was established in April 2010. The first Director of the Office was appointed in January 2011. However, the Office is still not fully operational. Cooperation between state bodies and civil society organisations remains on an ad hoc basis and is unevenly developed across Serbia, with civil society activities still predominantly Belgrade-centred. Awareness-raising on human rights is needed most at local level. NGO activists dealing with sensitive issues, in particular war crimes and the fight against organised crime, as well as human rights defenders, continue to be subjected to threats, verbal abuse and even physical attacks.

**Freedom of thought, conscience and religion** is guaranteed by the Constitution and laws, and is respected in practice. The number of religiously motivated incidents has decreased over the past years. The Constitution prescribes separation between the state and the church and prohibits a state religion. Conscientious objection is guaranteed and the relevant law was adopted in October 2009. The Constitution prescribes equality of churches and their freedom to organise themselves independently. A decision on a possible ban of a religious organisation may be made by the Constitutional Court, on strictly defined grounds. The key systemic act in

this area is the 2006 Law on Churches and Religious Communities. However, the law differentiates between the seven 'traditional' churches, automatically assigned legal status and registration by the law, and other religious organisations, which have to apply for registration in the procedure regulated by a Ministerial act. The lack of transparency and consistency in the registration process is one of the main obstacles preventing some smaller religious groups from exercising their rights. The constitutionality of the law is currently being assessed by the Constitutional Court. Sporadic graffiti and vandalism on places of worship or graveyards persist. The response to such acts by police and prosecutors has been insufficient, and such cases continue to be referred to as minor offences. Extremist organisations and right-wing groups continued to propagate anti-Semitic comments and publications and hate speech against smaller churches. The Republic Broadcasting Authority intervened in early 2011, for the first time, in a case of anti-Semitic language on television and instructed TV stations to cease live broadcasting of certain programmes.

*Overall*, the legal and institutional framework for the protection of civil and political rights is in place, is broadly in line with European standards and is generally respected. The Ombudsman and the Commissioner for access to information and data protection are playing an increasingly effective role in oversight of the administration. Implementation and full enforcement of the guaranteed rights need to be further developed. Particular efforts are needed in order to display public support to journalists and the media in view of threats and violence. A newly adopted media strategy aims to address important shortcomings in the media sector. Conditions in prisons are a matter of serious concern.

*Economic and social rights (see also Chapter 19 – Social policy and employment)*

As regards **women's rights and gender equality**, gender equality is guaranteed by the Constitution. Serbia is party to the UN Convention on the Political Rights of Women and the Convention Concerning Equal Remuneration of Men and Women for Work of Equal Value. The National Strategy for Improving the Position of Women and Enhancing Gender Equality for 2009-2015, adopted in 2009, identifies six of the most critical areas: improvement of the economic position, health, representation in public life, equality in education, suppression of violence against women and elimination of gender stereotypes in media. A National Strategy for the Prevention and Suppression of Violence against Women in Families and Partner Relationships was adopted in 2011. A Law on Gender Equality was adopted, providing for measures aimed at preventing and eliminating discrimination based on sex and gender. At the level of the Province of Vojvodina, the Strategy for the Protection from Domestic Violence and Other Forms of Gender Based Violence for the period 2008 – 2012 was adopted in 2008. However, implementation of the national strategies in this area remains slow. Disabled women, single mothers, older women and those living in rural areas are most affected by discrimination. Women's average wages are generally lower than those of men on the labour market, although the extent of the pay gap varies significantly between sectors. Domestic violence often goes unreported and there is insufficient response from the responsible institutions or reliable data.

**Children's rights** are explicitly recognised by the Constitution and the legislative framework has been largely aligned with international standards. Serbia ratified the international Convention on the Rights of the Child in 2001 and its two optional protocols. The National Plan of Action for Children covers the period 2004-2015 and defines the policy towards children. The Law on Juvenile Justice was adopted in 2006. The regulatory framework to prevent and protect children from violence has been adopted. There are several relevant institutions to promote and monitor children's rights - the National Council on Child Rights,

the Deputy Ombudsman Office, the office of the Children's Ombudsman in Vojvodina, the Commissioner for Equality, and a Parliamentary Working Group on Child Rights. Training programmes are being implemented, aimed at capacity building and awareness raising for judges, prosecutors and the police. Several shelters for street children were set up. However, difficulties regarding children's rights persist. Roma children remain the most vulnerable. Implementation of the legal framework remains insufficient. Further efforts are needed in order to protect children from domestic violence. The level of coordination between the relevant institutions and bodies included in the system of child protection needs to be improved.

The legislative framework for the protection of **socially vulnerable persons and/or persons with disabilities** is broadly in place. The rights of persons with disabilities in Serbia are explicitly protected by the Constitution. In 2009, Serbia ratified the Convention of the Rights of Persons with Disabilities and the Optional Protocol. In addition to the general anti-discrimination framework, a Law on preventing discrimination against persons with disabilities was adopted in 2006 and a Law on vocational rehabilitation and employment of persons with disabilities in 2009. The 2009 Law on the foundations of the education system includes comprehensive provisions for inclusive education for children with disabilities, learning difficulties and disadvantages. The 2010 Law on Social Welfare fosters deinstitutionalisation, the development of community-based services, including day care services and residence in a supportive environment with an emphasis on independent living. However, implementation of the legislative framework remains a challenge. Authorities do not actively follow up infringements of the rights of persons with disabilities and court decisions are not always adequately implemented by the public administration. Institutionalisation of persons with mental health problems and elderly people remains widespread. 3,750 persons are placed in the 13 institutions for adults with mental health problems; there are five large psychiatric hospitals with 3,000 beds. The availability of community-based services across the country is still limited. Persons with disabilities often face unemployment. Although access to public buildings for persons with disabilities has advanced in urban areas, there are still important shortcomings in rural areas.

As regards **anti-discrimination policies**, the legal and institutional framework is largely in place. A comprehensive Anti-discrimination Law prohibiting any kind of discrimination was adopted in March 2009. A Commissioner for the Protection of Equality was appointed in May 2010. The Commissioner acts upon complaints of discrimination and may initiate a law suit, promote and monitor equality, initiate the adoption and amendments of regulations in the area of discrimination, and recommend measures aimed at ensuring equality of public bodies. Awareness raising activities were carried out in August 2011. However, the anti-discrimination law still has to be brought further into line with EU legislation, in particular as regards exceptions for religious communities. In practice, those most exposed to discrimination are Roma, women, persons with disabilities and the LGBT population. They are frequently victims of intolerance, hate speech and even physical attacks. Public officials have been reluctant to publicly condemn such incidents.

As regards **labour and trade union rights**, freedom to join trade unions and any other form of association is guaranteed by the Constitution and is further regulated by the Labour Law. Serbia has ratified the major labour rights conventions of the International Labour Organisation (ILO) as well as the revised European Social Charter. Only persons serving in the armed forces are not allowed to join trade unions. The issue of the representativeness of trade unions at the level of a company, a specific branch of economic activity and nationally, is regulated by the Labour Law which defines specific criteria for each level. In the case of

labour-related disputes, the Labour Law and the Law on Amicable Resolution of Labour Disputes, together with the Law on Mediation, provide the possibility of resolving individual and collective industrial disputes through conciliation, arbitration and mediation. The right to strike is guaranteed by the Serbian Constitution, which provides for the right to strike for employees in accordance with the Labour Law and collective agreement. However, the Law on strike from 1996 is not in line with the ILO conventions and EU standards, in particular as regards possible limitations to the right to strike; a new law is under preparation. Several registered trade unions are not recognised and concerns remain as to the criteria for employers' organisations. Social dialogue has been limited and needs to be further improved. At national level, tripartite social dialogue has had to contend with a lot of problems. Its impact on the economy was rather limited, as consultations between the partners have not taken place regularly. At a lower level, this dialogue has been non-existent in most municipalities, as it was not possible to establish local economic and social councils mainly owing to the lack of representative social partners, particularly on the employers' side. Even in those municipalities where the councils have been established, tripartite dialogue remains very weak.

**Property rights** are protected by the Constitution. Expropriations are regulated by the Law on Expropriation, which was amended in 2009; they are only allowed if there is a public interest and if fair compensation is provided. However, nationalisations under the communist regime, which have been mainly carried out in the 1940s, 50s and 60s, have been dealt with in a fragmented manner. Agricultural land was partially handed back in the 1990s and a law on the restitution of church property was adopted in 2006. The 2009 Law on planning and construction provides for the transformation of usage rights into full ownership. This transformation of usage rights constituted *de facto* restitution in kind in cases where the beneficiary is the former owner, while it pre-empts such restitution in cases where the beneficiary is not the former owner. This situation led to uncertainty on ownership rights and negatively affected the investment climate. In September 2011, a general Law on restitution was adopted. The law establishes the principle of in kind restitution. In cases where in kind restitution is not possible or excluded, financial compensation, with an overall cap of €2 billion, is foreseen. It needs to be ensured that restitution is carried out without further delays and in a non discriminatory and transparent manner. Once properly implemented, the law should address the previously unclear situation of ownership rights and provide legal certainty. It should also end the fragmented manner in which restitution previously had been dealt with. A Law on public property, which was adopted in September 2011, provides for the transfer of ownership from state to provincial and municipal level and sets the rules for public ownership of property. However, implementation still faces important challenges. In the absence of a reliable overview on state owned properties, the transfer of state property to provincial and municipal level leaves room for potential corruption and fraud.

*Overall*, the legal framework for the protection of economic and social rights is in place and Serbia has acceded to a number of international conventions in this area. A long awaited law on restitution as well as a new law on public property were adopted. Transparent and non discriminatory implementation of both laws has to be ensured and further measures taken to fully establish legal clarity over property rights. The Commission will monitor the implementation and application of these laws. Combating all kinds of discrimination calls for greater efforts in practice.

*Respect for and protection of minorities and cultural rights*

Respect for and protection of **minorities** is guaranteed by the Constitution. Serbia ratified the framework convention for the protection of national minorities and the European Charter on Regional and Minority Languages. The 2009 Law on National Councils of National Minorities regulates the election, powers, functioning and funding of the national minorities' councils – bodies through which national minorities exercise their right of self-government in the area of education, use of language, information and culture. The 2009 Law on Political Parties provides for a smaller number of signatures for the registration of minority political parties; 45 minority parties have been registered. In addition, the 2007 Law on Local Self-Government envisages for ethnically mixed municipalities the establishment of councils for inter-ethnic relations, to deliberate issues regarding the exercise, protection and promotion of ethnic equality. The official use of language and scripts of national minorities on the territory of local self-government units where national minority members traditionally live is guaranteed. Also, the conditions for usage of the mother tongue for minority representatives in the republic and provincial parliament are provided for.

Serbia has signed bilateral agreements on the protection of national minorities with Romania, Hungary, Croatia and the former Yugoslav Republic of Macedonia. Commissions with Hungary Croatia and Romania have been formed and are operational.

The Ministry for Human and Minority Rights and Public Administration and Local Government is competent for the protection and promotion of minorities. Besides the Ministry, other bodies such as the Ombudsman and the Commissioner for Equality Protection are involved in this area. A Republican Council for National Minorities was established in 2002 with the task of coordinating cooperation between minority national councils and state bodies.

In line with the Law on National Minority Councils, the first direct elections for the National Minority Councils were organised in 2010. Nineteen national minorities elected their respective councils. All national minority councils have been constituted and started to be operational, except the Bosniak one. While some irregularities were reported during the elections of the national minority councils, they did not significantly affect the overall results. The inter-ethnic situation is good overall. During the past years, recorded ethnically-based incidents have been decreasing in numbers and were generally minor.

However, the implementation of the legal framework in this area has still to be improved. The Republican Council has met only twice since it was established. The functioning of the national minority councils still has to be strengthened if they are to be able to carry out their mandate effectively and ensure proper management of their financial resources. The Ombudsman, the Commissioner for the Protection of Personal Data and the Commissioner for Equality Protection made a number of recommendations with a view to improving the electoral framework for the national minority councils, which remain to be followed up. Information and education in minority languages needs to be further improved and consistently ensured throughout the country.

The inter-ethnic situation in the Autonomous Province of *Vojvodina* is good and there has already been a further decrease in the limited number of incidents. In line with the Constitution, the new Provincial Statute and other sectoral laws, the Provincial authorities have important powers for regulating the enforcement of human rights, including the protection of minorities. The legal and institutional framework for the protection of minorities in the areas of culture, education, information and official use of language is secured, but the implementation of these provisions is in some cases inconsistent. The 13 national minority

councils which have their seat in Vojvodina are working well. There is a specific Council of national communities which acts as a consultative body in the Provincial Assembly. Good cooperation has been established between the State and Provincial authorities in activities for promoting tolerance. Police investigation of inter-ethnic incidents and police sensitivity to treat them as a criminal offence of incitement to ethnic, racial and religious hatred, as opposed to the previously referring to them as ordinary incidents, has improved. However, both the system of monitoring such cases and their legal processing needs to be further improved.

As regards the municipalities of *Presevo, Bujanovac and Medvedja*, the situation is overall satisfactory, but there are a number of outstanding issues which have not been dealt with for a long period that still have to be resolved. The security situation is broadly stable. In general, incidents have been infrequent and their number continues to fall. The government's coordinating body for that area was restructured in 2009. It has yet to become fully effective. Bilingual branches of faculties of law and of economics were opened in Medvedja in October 2009. A Task Force, facilitated by the OSCE High Commissioner for National Minorities, has been working with a view to opening a multilingual branch in Bujanovac. Serb political representatives were integrated and a multiethnic municipal administration was set up in Bujanovac in December 2010. The Government adopted a decision on the opening of a maternity ward in Presevo. The office of the State Ombudsman opened local branches in the municipalities of Presevo, Bujanovac and Medvedja. There is a well-established local multi-ethnic police. ABC books in Albanian language were delivered in September 2011 for elementary schools. The decision of July 2010 opening up additional vacancies in public administration and bodies to contribute to the integration of Albanians remains to be fully implemented. A sustainable solution remains to be found and implemented to the issue of the acceptance of diplomas issued by the University of Pristina. Although in the 2011 census the recruitment of Albanian enumerators and the availability of corresponding linguistic versions of census materials have been ensured, some Albanian politicians have called for a boycott of the census. The government needs to demonstrate greater commitment to the economic development of the area, which is one of the poorest in Serbia.

Regarding the *Sandzak* area, the situation has been tense and occasionally unstable. While inter-ethnic incidents are rare, the divisions among the Bosniak community have led to recurring incidents. The police response needs to be improved, as investigations are too rarely initiated. Follow up by the judiciary does not often lead to final convictions. After the minority councils' elections of June 2010, the Bosniak council has still to be established, due to a number of open issues related to its constitution. The Ombudsman noted inconsistencies in the implementation of the right to officially use the Bosniak language in certain municipalities. The number of educational institutions needs to be further increased. Bosniaks remain underrepresented in the public administration bodies at local level, including the police. The area suffers from a lack of basic infrastructures which seriously hampers its economical development. The unemployment rate is high and foreign investment is scarce. Government should pay more attention to the challenges facing Sandzak and a regional strategy development has yet to be established.

As regards the **Roma**, Serbia is actively taking part in the Decade of Roma Inclusion 2005 – 2015. There are several bodies competent for improvement of the status of the Roma: the Ministry for Human and Minority Rights and Public Administration and Local Government, a Roma Council, chaired by a Deputy Prime Minister, as well as a Roma National Minority Council. A Roma Inclusion Office has been established at the level of Vojvodina Province and has been particularly active in the area of education and employment. A national strategy for the improvement of the Status of Roma and a related action plan were adopted in 2009.

Education, health and employment policies and measures are largely in place. Infant and child mortality among children living in Roma settlements has been halved during the past five years. A number of measures in the education sector have resulted in a significant improvement in enrolment and completion of primary education, as well as initial encouraging results in higher education. Seventy-five Roma health mediators and 175 pedagogical assistants have been employed so far and a system of health cards has been put in place. Awareness-raising activities for Roma inclusion have continued. A series of measures were taken between May and September 2011 aiming at alleviating existing obstacles to the registration of "legally invisible persons" and improving access to basic rights: the administrative fee for subsequent registration of births was abolished; new possibilities to register under a provisional address were introduced.

However, implementation of the legislation and policies currently in place need to be strengthened so that efforts can be felt on the ground. Widespread discrimination and marginalisation of the Roma continue in practice. Roma have been the subject of several ethnically motivated attacks or threats over the past years. The national Roma strategy needs further funds for its implementation. The rate of Roma employment is very low, including in the public administration. Roma women and children are subject to exploitation and family violence, which often goes unreported. A large number of Roma live in illegal settlements under unacceptable conditions. There is still no systematic approach to the relocation of illegal Roma settlements, which is often conducted inappropriately, resulting in serious violations and breaches of basic human rights.

Serbia hosts approximately 73,000 **refugees** and 210,000 **internally displaced persons** (IDPs), according to the United Nations High Commissioner for Refugees. There is a legal and institutional framework in place for refugees and internally displaced persons. The National Strategy for Resolving Issues of Refugees and IDPs was adopted in 2002 and revised in March 2011. Amendments to the Law on Refugees have enabled refugees since 2010 to buy apartments that were built from donations. The programme to support the municipalities which prepared local action plans for the improvement of the status of refugees and IDPs that opted for local integration has been implemented for several years, yielding positive results including as regards the housing situation. A Housing Agency was established in August 2011 in order to streamline the management of the funds allocated to social housing. The number of collective centres has been gradually reduced, from 388 in 2002 to 29 as of September 2011. These centres continue to provide accommodation for almost 800 refugees and over 2,500 IDPs in poor conditions. Around 97,000 of the IDPs remain in need of assistance for housing, employment and personal identification documents. Roma IDPs are the most disadvantaged segment of the IDP population and are facing serious displacement-related needs.

*Overall*, the legal and institutional framework on the respect and protection of minorities in Serbia is in place. The Constitution guarantees to members of national minorities specific rights in addition to the rights guaranteed to all citizens, and introduces the National Minority Councils as a constitutional category. At State level, the Ombudsman and the Commissioner for Equality are exercising their prerogatives in this area. However, the implementation of the legal framework still needs to be improved. The situation in the Sandzak area has been tense and occasionally unstable. Further efforts are necessary in order to improve the status and socio-economic conditions of the Roma, who continue to be the most vulnerable and marginalised minority. The situation of refugees and IDPs remains particularly worrying.

### 1.3. Regional issues and international obligations

There are no outstanding issues in connection with Serbia's compliance with the **Dayton/Paris Peace Agreement**. In 2006, in line with the provisions of the Dayton Agreement, Serbia and Republika Srpska (BiH) signed an Agreement on special parallel relations, which established a Cooperation Council at presidential and prime ministerial level, as well as cooperation between governments and parliaments. Serbia consistently acknowledges the territorial integrity of Bosnia and Herzegovina.

Cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** has greatly improved since 2008. After the fall of Milosevic, the Federal Republic of Yugoslavia had initially actively engaged in cooperation with the ICTY; the search for fugitives was largely ineffective in the years that followed the assassination of Prime Minister Djindjic, although several fugitives gave themselves up voluntarily. Since 2008, Serbia substantially stepped up its cooperation to a now fully satisfactory level as it responded to a total of 46 requests from the ICTY for handing over indictees, including the arrests and handovers of Radovan Karadzic in July 2008, Ratko Mladic in May 2011 and Goran Hadzic in July 2011.

A Law on Cooperation with the ICTY was adopted in 2002 and one on the freezing of assets of ICTY fugitives in 2006. Two main bodies were established: the National council for cooperation with ICTY (NCCI), established in 2002, which has been effectively cooperating on access to archives, documents and witnesses; and the Team for the implementation of the Action plan for completion of cooperation (Action team), formed in 2006, responsible for measures aimed at arrests and handovers of the remaining fugitives. An appeal judgment from July 2011 ordered a re-trial of an important case against a network of Mladic's aids, who were acquitted in first instance on the basis of the statute of limitation and insufficient evidence. Serbia is advanced in the processing of the cases transferred by the ICTY. Further efforts to explain and defend the role of the ICTY and confront the past are essential for a lasting reconciliation. Full cooperation with the ICTY remains an essential condition for membership of the EU, in line with the Council conclusions of 25 October 2010.

The investigative capacity of the police in the area of **war crimes** has become increasingly professional. It would benefit from additional expert staff such as military analysts and intelligence officers. Problems of extradition and recognition of sentences with some countries of the region continued. The activation by Serbia of indictments of war crimes issued by military courts, during the conflicts of the 1990s, against citizens of Croatia and of Bosnia and Herzegovina, has occasionally burdened relations with these countries. Serbia has initiated a review of these indictments.

Serbia ratified the Rome Statute establishing the **International Criminal Court** in 2001 and adopted the Law on Cooperation with the International Criminal Court in 2009. In line with the EU's guiding principles and EU Common Positions on the integrity of the Rome Statute, Serbia does not have any bilateral immunity agreement.

The Parliamentary Assembly of the **Council of Europe** has monitored Serbia's fulfilment of its membership obligations since 2003. In June 2009, the Committee of Ministers ended its post-accession monitoring in the light of the progress achieved by Serbia in meeting its membership commitments and obligations. This monitoring was replaced by a lighter regular stocktaking of cooperation and progress. Serbia chaired the Committee of Ministers from May to November 2007.

Serbia does not recognise **Kosovo**<sup>3</sup>'s unilateral declaration of independence. In July 2010, the International Court of Justice (ICJ) issued an advisory opinion on a case initiated by Serbia, concluding that the declaration of independence of Kosovo adopted on 17 February 2008 did not violate general international law and UN Security Council Resolution 1244/1999. The UN General Assembly adopted on 9 September 2010 a resolution tabled jointly by Serbia and the 27 EU Member States which acknowledged the content of the ICJ advisory opinion and welcomed the readiness of the European Union to facilitate a process of dialogue between the parties as a factor for peace, security and stability in the region and to promote cooperation, achieve progress on the path to the European Union and improve the lives of the people. The dialogue, which started in March and was conducted in a generally constructive spirit until September, has led to agreements on several issues: free movement of goods and persons, civil registry and cadastre. The Serbian authorities have started to implement the agreement reached on 2 September on the acceptance of the Kosovo customs stamps notified by UNMIK to allow the entry or transit in Serbia of goods from Kosovo. But Serbia interrupted its participation in the dialogue at the end of September, in the light of tensions in northern Kosovo. Further results of the dialogue remain to be achieved, in order to implement, as a matter of priority, the principle of inclusive regional cooperation and to provide sustainable solutions on EU-related matters in sectors such as energy and telecoms. The agreements reached to date need to be implemented in good faith.

Serbia generally cooperates with EULEX at an operational level, including with regard to administrative cooperation, as well as on war crimes related to Kosovo. It needs to improve implementation of the police protocol and exchange of information in the fight against organised crime. Control and surveillance of the administrative boundary line with Kosovo needs to be improved, in particular in view of regional organised crime activities. The situation in northern Kosovo and the issue of the control of the administrative boundary line have led to tension in the summer and beyond, including several outbreaks of violence which resulted in casualties. The situation has also led to more frequent inflammatory rhetoric by the Serbian leadership. The EU has called on both parties to defuse tensions and help re-establish free movement of persons and goods which would benefit the lives of the people in the region. Serbia needs to cooperate actively with EULEX in order for it to exercise its functions in all parts of Kosovo.

Serbia maintains its structures in Kosovo and organised parallel municipal by-elections in May 2008, which is inconsistent with UNSCR 1244/1999. Serbia failed to play a constructive role in the return of Kosovo Serb and Kosovo Albanian judges and prosecutors to the Mitrovica District Court, which remains staffed only by EULEX personnel. Declarations by some Serbian government officials, in early 2011, discouraging the participation of Kosovo Serbs in the census in north Kosovo had a detrimental effect, which contributed to the census not taking place in northern Kosovo. Serbian mobile operators maintained the activities of unlicensed branches in Kosovo. Similar activities in the provision of electricity were also maintained. There were a number of statements by high officials advocating partition of Kosovo.

Serbia has restored its relations with EU Member States and its neighbours that recognised Kosovo's independence. The disagreement over Kosovo's representation is undermining regional cooperation generally and hampering Kosovo's participation in regional meetings and

---

<sup>3</sup> Under UNSCR 1244/1999

initiatives. It is holding up the signature of the EU-Western Balkans Transport Community Treaty.

Significant progress was made with regard to the **Sarajevo Declaration Process**, launched through the Sarajevo Declaration of 31 January 2005. Bosnia and Herzegovina, Croatia, Montenegro and Serbia cooperate within this process to find solutions for refugees who were displaced as a result of the armed conflicts in ex-Yugoslavia between 1991 and 1995. Countries have continued to progress on a number of outstanding issues such as data exchange, civil documentation, public information, pensions and trust fund mechanisms, in the framework of the established regional working groups. Following the meetings of June and September 2011, Bosnia and Herzegovina, Croatia, Montenegro and Serbia agreed on a number of issues, including the text of a joint declaration to be signed at a ministerial conference in November 2011 in Belgrade. A regional multi-year programme, aimed at addressing the needs of the most vulnerable refugees, has also been agreed, together with a donors' conference to be held in the first half of 2012 in Sarajevo.

As regards **missing persons**, as of September 2011, there were still approximately 14,000 people missing from the conflicts in the region. Of these, some 10,000 were related to the conflict in Bosnia and Herzegovina, 2,000 to the conflict in Croatia and over 1,800 to the conflict in Kosovo. A working group between Belgrade and Pristina chaired by ICRC meets regularly, but progress on resolving cases has been hampered by the lack of information on gravesite locations. There has also been recent progress in the cooperation between Serbia and Croatia. The lack of information on new gravesites and difficulties in identifying the already exhumed remains have considerably slowed down the process of resolving the fate of missing persons.

**Regional cooperation and good neighbourly relations** form an essential part of the process of Serbia's moving towards the European Union. Serbia participates constructively in most regional initiatives and on the whole plays a stabilising role in the Western Balkans but an agreement remains to be found on a sustainable solution for the participation of Kosovo in regional fora. Serbia needs to fully implement the principles of inclusive and functioning regional cooperation.

In 2011 Serbia held the chairmanship of the South East Europe Cooperation Process (SEECPP), the Central European Initiative (CEI), the Adriatic-Ionian Initiative (AII), and the Migration, Asylum, Refugees Regional Initiative (MARRI). It held the Presidency of the Central European Free Trade Agreement (CEFTA) in 2010 and continues to play an active part in the Regional Cooperation Council (RCC), the Energy Community Treaty, the European Common Aviation Area Agreement and the EU Strategy for the Danube Region. In March 2011, within the framework of the SEECPP, Serbia endorsed the *Regional Strategic Document and Action Plan on Justice and Home Affairs 2011-2013*. Serbia supports the RECOM initiative on reconciliation. Serbia will host the 22nd session of the Igman Initiative in October 2011. Serbia has overall good **bilateral relations with other enlargement countries and with EU neighbouring states** Hungary, Romania and Bulgaria. Periodic high-level meetings in a trilateral format have been organised with Croatia and Slovenia, with Croatia and Hungary, and with Bosnia and Herzegovina and Turkey. In recent years Serbia has also taken significant initiatives aimed at regional reconciliation, including a number of landmark visits undertaken by the Serbian President in Bosnia and Herzegovina and in Croatia, as well as the adoption by parliament in March 2010 of a declaration condemning the crime in Srebrenica and referring to the International Court of Justice ruling on Srebrenica.

Relations with *Albania* have recently improved to a good level. In 2010, during the first visit of the Albanian Minister of Foreign Affairs in five years, an agreement on cooperation in fighting organised crime, international drug trafficking and international terrorism was signed. Both countries abolished visas between them in 2010.

Relations with *Bosnia and Herzegovina* have steadily improved and are good. President Tadic undertook his first official visit to Sarajevo in July 2011; he had attended the Srebrenica commemoration in July 2010. An Ambassador from Bosnia and Herzegovina took office in 2010 following three years during which the post was vacant. Agreements are in force in several areas, including economic cooperation, mutual legal assistance in criminal matters, police cooperation, culture and sport, as well as on determination of border crossings with Bosnia and Herzegovina. The Inter-State Cooperation Council has only recently been re-activated. The border demarcation remains an open issue.

Relations with *Croatia* have recently improved to a good level. Regular contacts and a good level of cooperation are established, most notably at presidential and government levels. In November 2010 President Tadic made a landmark visit with President Josipovic to Vukovar where they together paid their respects to Croat victims in Ovchara and to Serb victims in Paulin Dvor. A defence cooperation agreement was concluded and a good level of cooperation was established between war crimes prosecutors and between parliaments. A number of sectoral agreements are in force in areas such as protection of national minorities, extradition for serious crimes and police cooperation. Croatia handed over its translations of the EU *acquis* to Serbia. Border demarcation remains an outstanding issue and reciprocal genocide lawsuits are pending before the ICJ.

Relations with *the former Yugoslav Republic of Macedonia* are good. High-level visits take place at regular intervals. There are agreements in place on issues such as local cross-border traffic and the protection of national minorities. The Serbian authorities maintained their policy of non-recognition of the border demarcation agreement between the former Yugoslav Republic of Macedonia and Kosovo. Unresolved issues remain concerning relations between the Orthodox churches in the two countries.

Relations with *Montenegro* are good. The dissolution of the former State Union went smoothly overall. Reciprocal high level visits have taken place. Agreements were concluded in many areas, including defence and police cooperation, extradition and disaster preparation. Cooperation in the fight against organised crime remains to be improved. Issues stemming from the dissolution of the State Union, such as distribution of assets and liabilities, citizenship rights, border demarcation and relations between the Orthodox churches in the two countries, have still to be resolved.

Relations with *Turkey* are good. Reciprocal high-level visits take place. Trilateral meetings are held regularly, together with Bosnia and Herzegovina, at presidential and ministerial levels. In April 2011, the President of Turkey attended a three-party meeting of Turkey, Serbia and Bosnia and Herzegovina in Belgrade. Agreements are in place in areas such as economic cooperation, free trade, tourism, social security.

Serbia continues to enjoy good relations and cooperation with *Hungary, Romania and Bulgaria*. There is on-going high-level political dialogue with these countries. Bilateral agreements on protection of national minorities were signed and relevant Joint Inter-governmental commissions were established with Hungary and Romania respectively.

*Overall*, Serbia generally complies with its international obligations and the conditions of the Stabilisation and Association process. The arrest and transfer of Radovan Karadzic, Ratko Mladic and Goran Hadzic to the Hague tribunal represent major successes for Serbia's cooperation with the ICTY, which has greatly improved since 2008 to reach a fully satisfactory level. Regional cooperation has improved and Serbia made significant progress in its bilateral relations with other enlargement countries, particularly Croatia and Bosnia and Herzegovina, while continuing to have good relations with neighbouring EU member states. A number of outstanding bilateral issues, in particular regarding border demarcation, remain to be addressed. Serbia does not recognise Kosovo's unilateral declaration of independence. It maintains its structures in Kosovo and organised parallel municipal by-elections in May 2008, which is inconsistent with UNSCR 1244/1999. On the basis of the UN General Assembly resolution adopted on 9 September 2010, which had been tabled jointly by Serbia and the 27 EU Member States, a process of dialogue between Belgrade and Pristina started in March. It has been conducted in a generally constructive spirit until September and it has led to agreements on several issues: free movement of goods and persons, civil registry and cadastre. The agreements reached to date need to be implemented in good faith. Further results remain to be achieved to implement, as a matter of priority, the principles of inclusive and functioning regional cooperation and to provide sustainable solutions on EU acquis related matters in sectors such as energy and telecoms. All sides need to play their part in defusing the tension in north Kosovo and allow for free movement of persons and goods, for the benefit of the people of the region.

#### **1.4. General evaluation**

The present assessment is based on the Copenhagen criteria relating to the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, as well as on the conditionality of the Stabilisation and Association Process.

Serbia is a parliamentary **democracy**. Its constitutional and legislative framework is largely in line with European principles and standards and its institutions are well developed. Serbia is committed to its objective of membership of the European Union and since 2008 has increasingly focused its efforts on the EU-related reform agenda. The government has upgraded some of its procedures and parliament has become far more effective in its legislative activity under the current legislature. The legislative process would benefit from more thorough preparation and greater emphasis on consultation of stakeholders. Capacity for parliamentary oversight and governmental policy planning, coordination and implementation remains to be further developed. Serbia has set up all the necessary independent regulatory bodies. The rules governing the parliamentary review of their annual reports have been clarified even though the follow-up of recommendations by independent and regulatory bodies needs to be strengthened. The public administration is in general well developed, in particular at central level. The principle of a merit-based career system needs to be fully implemented. Serbia has established a Statute for the Province of Vojvodina and has undertaken to transfer some competences to the municipal level.

Since 2001, elections have been consistently conducted in Serbia in accordance with international standards. The electoral legislation was recently brought into line with European standards. It now provides that the appointment of MPs follows the order of the lists presented to the voters and it puts an end to the practice of 'blank resignations', by which MPs were tendering resignation letters to their parties at the beginning of their mandate. This

consolidates the free exercise of parliamentary mandates, a principle which needs, in due course, to be fully enshrined in the Constitution.

The legal and institutional framework for the **rule of law** in Serbia, including the fight against corruption and organised crime, has been enhanced, particularly following substantial reforms in the judiciary, the setting-up of the Anti-Corruption Agency and the stepping-up of international cooperation in criminal matters. This has led to initial results. The main challenges remain in the areas of the judiciary, the fight against corruption and the fight against organised crime. In particular, a proactive approach in the fight against corruption leading to a credible track record of opened investigations and final convictions remains to be built up. An extensive framework for civilian control of the security forces is in place.

Substantial reforms of the judiciary were pursued in Serbia following the adoption of the national strategy in 2006 and intensified in 2009 and 2010. Independence and self-administration were strengthened with the establishment of the new High Judicial and State Prosecutorial Councils, which have been functioning in their permanent compositions since April 2011. A re-appointment procedure for all judges and prosecutors was undertaken in December 2009, aiming in particular at raising their professional and integrity standards. The initial significant shortcomings identified in that procedure are in the course of being addressed by a review process for which there are clear guidelines. The review process remains to be satisfactorily completed in transparent manner in line with these guidelines. A revision of the role given by the Constitution to parliament on appointments and dismissals in the judiciary will need to be undertaken in due course, to further reduce the risk of undue political influence. Several steps have been taken to increase the efficiency of the judicial system. The court network was restructured and the number of courts reduced, leading to a better distribution of workload. An Administrative Court was set up and a Law on enforcement of court decisions adopted in May 2011. Further efforts are still needed to improve the functioning of the judiciary, reap the full benefits of the restructured network of courts and ultimately increase public trust. Efforts to strengthen the execution of judgments and further reduce the important backlog of pending cases are to be pursued.

The legal and institutional framework for fighting corruption is, overall, in place in Serbia. An Anti-Corruption Agency was established and is competent in the areas of integrity of public officials and control of party funding. Its resources were recently further increased. An enhanced framework for controlling financing of political parties' activities and electoral campaigns has been established in line with European standards. The Minister of Justice was appointed coordinator for the fight against corruption. The authorities have launched a review of the outdated strategy and action plan for the fight against corruption. The State Audit Institution has started to play a useful role in controlling public expenditure and uncovering irregularities. The customs administration and the police have stepped up their internal controls resulting in a greater number of cases being investigated and sanctioned. Steps have also been taken towards specialisation of the law enforcement agencies and a greater number of cases have been prosecuted. Corruption remains prevalent in many areas and continues to be a serious problem. Stronger political will is essential in order to significantly improve performance in combating corruption. Enhanced investigation capacity and coordination of law enforcement bodies are indispensable. The track record of investigations, prosecutions and final convictions in corruption cases at all levels needs to be gradually and significantly built up. There are also concerns regarding supervision of public procurement, privatisation, spatial planning and construction permits.

In the fight against organised crime, the legal framework developed by Serbia is generally adequate and capacity has improved, including on international cooperation. This has led to significant results, such as the dismantling of a major international drug-trafficking ring. Money laundering and drug smuggling are key areas of concern and the track record of investigations and convictions needs to be built up further. Capacity for proactive and better coordinated investigations and enhanced cooperation at regional and international levels also remain to be further developed. Technical capacity to carry out special investigative measures should be developed within the law enforcement bodies, under the direct control of the judiciary.

The legal and policy framework for **human rights and the protection of minorities** in Serbia is, overall, in line with European standards. The Constitution guarantees a wide range of human rights and fundamental freedoms and recognises the possibility of filing a Constitutional appeal as the final remedy for protection of human rights. However, implementation of the legislation needs to be stepped up. Advanced training of the administration, the police and the judiciary remain to be developed to ensure more active and consistent application of standards in this field.

Human rights are generally respected in Serbia. The Ombudsman and the Commissioner for access to information and data protection are playing an increasingly effective role in the oversight of the administration. The legal framework to combat discrimination has been substantially improved and mechanisms have been set up to oversee its implementation, which is at an early stage. The authorities have also been paying growing attention to safeguarding the respect of the freedom of assembly and freedom of association and the role of civil society. The newly adopted media strategy aims at substantially clarifying the legal and market environment in which media outlets are operating. More comprehensive and proactive action is expected from the relevant institutions in cases of threats and violence against journalists and media, emanating notably from radical groups. The current prison conditions are a matter of serious concern. A long awaited law on restitution as well as a new law on public property were adopted. Transparent and non discriminatory implementation of both laws has to be ensured and further measures taken to fully establish legal clarity over property rights. The Commission will monitor the implementation and application of these laws.

The legal and institutional framework for respecting and protecting minorities in Serbia is in place. The Constitution guarantees specific rights to members of national minorities in addition to the rights guaranteed to all citizens and provides a legal basis for the National Minority Councils. Political representation of minorities is ensured. At State level, the Ombudsman and the Commissioner for Equality are exercising their prerogatives in this area. Serbia has established a comprehensive strategy for the integration of Roma and is currently progressing in its implementation. Active social inclusion measures have been taken, in particular in the fields of health, education and housing. Measures have recently been taken to alleviate obstacles to the registration of 'legally invisible persons' which will improve their access to basic rights. Further serious efforts, including financial resources, are needed in order to improve the status and socio-economic conditions of the Roma, who continue to be the most vulnerable and marginalised minority, as illustrated by the high number of illegal settlements. The situation of refugees and internally displaced persons remains a concern, even though significant progress was achieved in recent years in reducing the number of collective centres.

Serbia generally fulfils the conditions of the **Stabilisation and Association Process**. Cooperation with the International Criminal Tribunal for the former Yugoslavia has greatly improved since 2008 to a now fully satisfactory level, as best illustrated by the arrests and transfers to the Hague tribunal of Radovan Karadzic in 2008, Ratko Mladic and Goran Hadzic in 2011. Serbia is committed to pursuing this cooperation at the same level. It participates actively in regional initiatives and has taken significant steps to foster reconciliation. The agreement reached with Bosnia and Herzegovina, Croatia and Montenegro in the Sarajevo Declaration Process on durable solutions for refugees and IDPs is a major achievement. Serbia has made good progress in its bilateral relations with other enlargement countries, particularly Croatia, Bosnia and Herzegovina and Montenegro, while continuing to maintain good relations overall with neighbouring EU Member States. A number of outstanding bilateral issues remain with its neighbours, in particular regarding border demarcation.

Serbia does not recognise Kosovo's unilateral declaration of independence. It maintains its structures in Kosovo and organised parallel municipal by-elections in May 2008, which is inconsistent with UNSCR 1244/1999. On the basis of the UN General Assembly resolution adopted on 9 September 2010, which had been tabled jointly by Serbia and the 27 EU Member States, a process of dialogue between Belgrade and Pristina started in March. It has been conducted in a generally constructive spirit until September and it has led to agreements on several issues: free movement of goods and persons, civil registry and cadastre. The agreements reached to date need to be implemented in good faith. Further substantial results remain to be achieved to implement, as a matter of priority, the principles of inclusive and functioning regional cooperation and to provide sustainable solutions on EU *acquis*-related matters in sectors such as energy and telecommunications. All sides need to play their part in defusing the tension in northern Kosovo and allow for free movement of persons and goods, for the benefit of the people of the region.

## **2. ECONOMIC CRITERIA**

In 1993, the European Council in Copenhagen defined the following economic criteria for accession to the EU:

- the existence of a functioning market economy,
- the capacity to cope with competitive pressure and market forces within the Union.

These criteria are interlinked. A functioning market economy will cope better with competitive pressure and, in the context of membership of the Union, the market of reference is the internal market.

Following a brief overview of economic developments and policies in a historical perspective, the report goes on to consider the extent to which Serbia fulfils the two economic criteria established by the Copenhagen European Council.

### **2.1. Economic developments**

Serbia is a relatively small economy with a population of approximately 7.3 million, living on a territory of around 77,500 square kilometres. The country is endowed with fertile arable land and natural mineral resources, including one of Europe's largest reserves of copper and up to one tenth of the world's stock of antimony. It has significant coal resources and the potential for hydroelectric-power generation.

Serbia's gross domestic product (GDP) at current prices was close to €30 billion in 2010, accounting for 0.25% of EU-27's GDP. GDP per capita in purchasing power parity (PPP) terms was 35% of the EU-27 average. The regional disparities in income are very high, with a difference of 1:10 between the capital and certain municipalities in the south.

### *Macroeconomic background*

Serbia was the largest constituent of the Socialist Federal Republic of Yugoslavia in terms of surface and population. It was a medium developed republic. In the wake of the break-up of the former Yugoslavia in 1991, when moves had already been made towards liberalisation and the development of private sector, Serbia began the transition period with higher living standards than many other transition economies. However, the result of the loss of its traditional markets and the breakup of the existing supply chains as well as the imposition of international sanctions, against a backdrop of regional conflicts, was a severe recession. Poor economic governance, which reversed many market-oriented reforms from the 1980s, devastated the production capacity of the economy. Workers stayed formally employed, but were *de facto* on long-term leave. The informal economy became widespread. During 1992 and early 1994, one of the highest levels of hyperinflation in history paralysed the banking system and undermined the economic activity. In spite of a monetary reform in 1994, which partly stabilized the new dinar, the Deutsche Mark acted as a parallel currency throughout the 1990s. In 2000, GDP was less than half of its 1989 level, while other central and eastern European countries were making significant progress on the path of transition.

The economic imbalances began to slowly subside as Serbia re-launched the transition process as part of the democratic changes in 2000. The reforms included an overhaul of the institutional framework, liberalisation of the trade regime and privatisation as well as adjusting economic policies to a market economy. Starting from a very low base, Serbian real GDP rose steadily during the period 2001-2008 at an average yearly rate of around 4.5%, reaching a peak of 9.3% in 2004. Growth was lent impetus by the initiation of the privatisation process, which attracted foreign direct investment, and by the rebuilding of confidence in the banking system.

The National Bank of Serbia (NBS) put in place adequate prudential mechanisms and, together with the government, consolidated the banking sector, which led to the closure of four major state-owned banks and the subsequent establishment of new banks with fresh capital. Against the background of tight monetary policy, inflation gradually subsided, but in regional terms it remained high – at two-digit levels. In 2006, the NBS declared price stability to be its main policy objective and to that end started pursuing inflation targeting.

Post-2000 reforms were also geared towards establishing a comprehensive, transparent and accountable public finance management system. A set of new tax laws was introduced with the aim of modernising the tax administration and improving tax collection. In particular, the replacement of the sales tax by VAT in 2005 boosted tax revenues. Large budgetary deficits, which were mainly funded by the International Financial Institutions, began to decline in step with favourable economic conditions, and the deficits turned into a surplus in 2005.

On the other hand, economic growth that was largely fuelled by domestic demand weighed on Serbia's external balance. As imports rallied, the trade gap continued to widen, driving the current account deficit to over 20% of GDP by 2008. Given the large gap between domestic investment and savings, the private sector increasingly resorted to borrowing abroad, which led to a rapid rise in Serbia's foreign indebtedness.

One of the main concerns was also the weak labour market. The restructuring of companies after 2000, which involved rationalisation or closure of facilities, resulted in massive layoffs. Low labour activity, with the employment rate barely reaching 50%, became entrenched, as insufficient effort was made to remove labour market rigidities and improve the business environment.

The dependence of growth on foreign financial resources and a number of unresolved structural shortcomings exposed Serbia's economy to adverse spill-overs of the global crisis in 2009. Macroeconomic stability has been broadly preserved thanks to the implementation of an economic recovery programme agreed with the IMF under a Stand-by Arrangement (SBA). With further support from the EU and other International Financial Institutions, including the World Bank and EBRD, Serbia avoided a financial meltdown. However, the recession that followed a severe contraction of manufacturing and construction activities, in particular, substantially eroded public finances and led to a deterioration in living standards. With around 400,000 jobs lost, an unemployment rate of above 20% and the poverty rate rising above 9% in the aftermath of the 2009 crisis, Serbia's economy is faced with the need to tackle urgently a number of acute weaknesses if it is to withstand the competitive pressures.

### *Structural change*

Serbia began the transition process in the early 1990's as an industrialised economy. The manufacturing sector, which included a productive automotive industry, collapsed as a consequence of the trade shocks related to the dismantling of the former Yugoslav markets and the international embargo, the war-inflicted damage to infrastructure and the mismanagement of public assets. After 2000, the economic revival was mainly based on services, which now account for almost two thirds of Serbia's output. While agriculture has seen its share of GDP halve to around 10%, the share of industry fell more gradually to less than a quarter. Given the prevalence of mostly unskilled labour- and capital-intensive sectors at the low-end of the production chain the export base remains shallow, limiting the share of exports in GDP to only about 30%. Yet Serbia has been increasingly reorienting its exports towards the EU markets, which accounted for around 56 % of total exports in 2010.

Since 2001, a liberalisation of trade and prices has been underway but the process has been occasionally challenged by state interference in dealing with market disturbances. The system of administered prices has allowed the state and local authorities to control prices of all major utilities, which are often below cost-recovery levels.

Another privatisation process was initiated in 2002 which covered some 500 state enterprises (excluding public enterprises and banks which were considered strategic) and around 2,500 socially owned companies. While in the 1990s, insider shares were distributed among the employees, in the second stage the sale of assets was carried out by public auction and tender procedures. However, the process has been slow and, with the 2009 crisis, it has lost momentum or even gone backwards as a result of the repeal of numerous sale contracts on the grounds of breach of contract obligations. The share of the private sector remains low, at around 60% of GDP. Progress in the restructuring of enterprises, including the development of modern corporate governance, and the improvements of the regulatory framework were also limited.

The banking sector underwent major structural changes in the period 2000-2005. The number of banks was halved as a result of mergers and acquisitions and revoked licences to insolvent and illiquid banks. Further consolidation and privatisation attracted international private

banks, which currently hold around three quarters of the total assets of the banking system. In keeping with sustained economic growth, financial intermediation expanded vigorously but, as a legacy of the monetary instabilities from the 1990s, the bulk of deposits and loans continued to be in, or indexed to, foreign currency. A high degree of 'euroisation', within the framework of a flexible exchange rate regime, makes Serbia's economy vulnerable to exchange rate volatility. Nevertheless, the banking system has emerged largely unscathed thanks to a conservative lending policy and adequate supervision and prudential regulations put in place by the central bank.

Given its limited domestic financial resources, Serbia has had to rely heavily on foreign capital. The liberalisation of long-term capital movements and privatisation opportunities attracted significant foreign direct investment (FDI) in the period to 2006. After 2008, FDI inflows dried up, partly as a result of the crisis.

Road and, in particular, rail transport infrastructure remain insufficiently developed. Following the rehabilitation of the power production and transmission systems, the present electricity demand has been met. However, the existing capacities are far from sufficient in the light of future needs. Investment in new infrastructure and production facilities is part of Serbia's new development strategy, which is looking towards a shift to more export-driven growth, based on higher-tech industries and domestic resources. To that end Serbia needs also to enhance its human capital.

## **2.2. Assessment in terms of the Copenhagen Criteria**

### *2.2.1. The existence of a functioning market economy*

The existence of a functioning market economy requires that prices, as well as trade, should be liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and a consensus on economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of significant barriers to market entry and exit improve the efficiency of the economy.

#### *Economic policy essentials*

Since 2000, there has been a broad political consensus on the fundamentals of a market economy and economic policies required by EU membership. Serbia has been included in the EU's economic and fiscal surveillance arrangements applying to potential candidate countries since 2006. An appropriate framework for economic policy co-ordination among national stakeholders is in place. The commitment to reforms has been forged by several technical and financial agreements with the EU, IMF and the World Bank. Macroeconomic stabilisation and recovery in the aftermath of the 2009 global crisis have been anchored by the programmes agreed with the IMF: notably a Stand-By Arrangement in the period from January 2009 to April 2011 and a new 18-month precautionary programme .

Serbia has implemented important market-oriented reforms over the past ten years. However, structural rigidities persist. The new post-crisis development strategy devised by the authorities for the period up to 2020, which is geared to long-term, sustainable and balanced growth, has stepped up efforts to strengthen the economic fundamentals. In particular, significant strides were made towards improving the framework of public finances. *Overall*, there is consensus on the economic policies required for establishing a market economy, but the remaining structural adjustments need to be implemented without delay.

### *Macroeconomic stability*

After the political changes in 2000, the economic revival regained momentum, with steady and robust average growth of 4.5% per annum in real GDP. Growth was fuelled by domestic demand, which was to a large extent financed by foreign capital. There was a boom in investment activity, in particular, leading to an increase in the share of gross fixed capital formation in GDP from just above 10% in 2001 to close to 24% in 2008. Services, in particular retail trade, telecommunication, financial intermediation and real estate, were the main drivers of growth. The upward trend was interrupted in 2009 as domestic demand failed to provide the usual stimulus in the face of the global financial turmoil. Serbia's output shrank by 3.5% in real terms. The sectors hardest hit by the crisis were construction and manufacturing. The economy bounced back in 2010, with GDP up by 1%, thanks to vigorous export growth while domestic consumption and investment remained constrained. As economic recovery gradually got underway among Serbia's main trading partners, and the dinar continued to depreciate, exports rallied. In 2011, an export-led economic upturn was continuing, but is poised to be affected by the fragile international environment. Its sustainability will depend on the strengthening and expansion of the tradable sector as household consumption and investment have been picking up only slowly given the constraints on disposable incomes. *Overall*, the global crisis has revealed the vulnerabilities of a growth pattern based on domestic demand and financed by foreign capital inflows. In order to enhance the economy's resilience through sustainable export-led growth, Serbia needs to step up its structural reforms.

Against the background of the pre-crisis growth pattern, which involved a sustained surge in imports to meet accelerating domestic demand, Serbia's balance of payments position deteriorated sharply. The current account deficit increased to over 20% of GDP by 2008. The trade gap widened to 26% of GDP as import growth continued to outpace export growth, which was constrained by low value-added products and low market diversification. The current account deficit narrowed to about 7% of GDP in 2009, following a sharp contraction in foreign trade in the aftermath of the crisis, and also due to a surge in current transfers, mainly in the form of higher net inflows of remittances. Since imports fell much more sharply than exports, the trade deficit was also significantly lower than previous levels but, at 18% of GDP, it was still considerable. In 2010, contrary to expectations that the gradual pick-up in activity and trade would widen the current account deficit, the gap was contained at the 2009 level by strong export growth. As imports have begun to accelerate steadily in 2011 in step with buoyant industrial activity based on strong foreign demand, it remains to be seen whether the recent rebalancing will last. *Overall*, substantial external imbalances have been reduced in the wake of the crisis, but dependence on external financing remains high.

Serbia gained access to international capital markets following the agreement on debt restructuring with the Paris Club in 2001, by which two thirds of the debt accumulated during the 1990s were redeemed. Driven largely by privatisation, FDI strengthened steadily until 2006, when net inflows amounted to €3.3 billion or 14% of GDP, but diminished thereafter, dropping to a mere €860 million or 3% of GDP in 2010. This was the consequence of the unfavourable conditions abroad, as well as the weak domestic environment, characterised by impediments to doing business and limited privatisation opportunities. Nevertheless, in 2011 FDI has started to pick up.

Given the underdeveloped domestic capital markets, the Serbian corporate sector had to resort to foreign loans to finance its pre-crisis expansion. In the aftermath of the crisis, firms began to deleverage, while domestic commercial banks continued to borrow mostly long term.

Against a background of sizeable inflows of foreign resources, official foreign exchange reserves have been largely stable at around €10 billion, i.e. one third of GDP or sufficient to cover some eight months of merchandise imports. Owing to the increasing private borrowing abroad, Serbia's gross external debt grew rapidly. In 2010, it accounted for more than 80% of GDP, of which around one quarter was public debt. External sustainability is a point to watch, especially in the light of the lately modest financial and capital inflows. *Overall*, cross-border borrowing has led to a substantial increase in Serbia's external indebtedness that will need to be curtailed by attracting more foreign investment.

Despite high levels of economic growth, the labour market remained weak as a result of the restructuring of the economy and of a limited response of the private sector in job creation. The employment rate stayed below 50% and the activity rate at just under 60%. In the aftermath of the crisis, the number of employed persons dropped to a historic low and the unemployment rate soared from 14% to above 20%. Unemployment is a long-term phenomenon and reflects substantial regional disparities. It is particularly high among people under 35 years of age, who account for half of the unemployed persons. Many of the inactive and unemployed are graduates with secondary education or university degrees, which points to a major mismatch of skills. Structural unemployment, in particular among educated young people, suggests that structural rigidities have been hampering the functioning of the labour market. These include a regressive labour tax system and early retirement rules. The poor performance of the labour market has led to a deterioration in social conditions, which had gradually improved during the boom period as a result *inter alia* of the rapid rise in wages. Since 2009, wage moderation prevailed, largely due to the nominal freeze in public sector wages between 2009-2011. *Overall*, labour market weaknesses, such as high structural unemployment, a very low employment rate and widespread informal employment, are exacerbated by persistent structural rigidities.

The authorities used monetary policy as a tool to support macroeconomic and financial stability. In particular, the timely response of the National Bank of Serbia (NBS) after the outbreak of the global financial crisis was instrumental in quickly restoring confidence in Serbia's banking system. The guaranteed savings deposit was increased to €50,000, the reserve requirements were gradually relaxed and the tax on interest income from foreign currency savings was temporarily barred. The NBS has committed itself to price stability and since 2009 it has pursued inflation targeting by setting a broad band around the targeted consumer price index (CPI) inflation instead of core inflation, as previously. Under this framework inflationary expectations became broadly anchored and inflation was gradually brought back down to single digits. However, disinflation was interrupted in the middle of 2010 due to rising agricultural/food prices and the knock-on effects of the depreciation of the dinar. By the end of 2010, inflation soared to 10.3% year-on-year, overshooting the 6%±2% target range. The inflation pattern points to major structural shortcomings due to the fact that prices persistently over-react to common external shocks, and inflation remains much higher than in countries with comparable income levels. Following renewed inflationary tensions, the NBS reversed its course of gradually relaxing monetary conditions to embrace monetary tightening by increasing the key reference interest rate to 12.5% in April 2011. However, from mid-2011 the stance has been somewhat relaxed in view of signs that inflation is slowing and the dinar is strengthening, with the interest rate currently at 11.25%. *Overall*, achieving the price stability objective is a challenge in the face of volatile global commodity prices and structural shortcomings, in particular the slow process of price liberalisation and the knock-on effect of the exchange rate fluctuations.

In 2010, the NBS was actively engaged in preserving exchange rate stability as the pace of the dinar depreciation was deemed to be jeopardising the process of economic stabilisation. Operations on the foreign exchange market became more frequent, especially from mid-May when the pressure on the exchange rate intensified, following the fall out of the Greek debt crisis. In spite of a number of foreign exchange operations and substantial selling of currency reserves on the foreign exchange market, the dinar was on a depreciating path in both nominal and real terms during 2010. Serbia's export competitiveness therefore improved, which led to vigorous export growth. A period of strengthening at the end of 2010 and early 2011 was triggered by an interest rate rise and an increased demand for treasury bills against a lower risk premium. *Overall*, monetary policy is pursuing exchange rate stability as an implicit priority.

Public finances have been characterised by pro-cyclical fiscal policies during most of the last decade. The overall fiscal imbalance improved in the times of economic prosperity which generated tax-rich revenues and led to a budget surplus of 1% of GDP in 2005. However, since 2006, Serbia's public finances have been continuously eroded by expansionary policies and weak tax compliance. A relaxation of the tax burden was allowed as from 2007 as a result of a new income tax regime and adjustments of indirect taxes. The structure of general government expenditures remained heavily biased towards mandatory current spending, which accounted for over 90% of total public outlays. With a reduced fiscal space and significant pressures on public finances stemming from the economic crisis, Serbia's fiscal position deteriorated significantly after 2008. The expansionary fiscal policy became constrained by the SBA programme requirements. Expenditure savings came largely from a nominal freeze on public sector wages and pensions and restricted hiring in the public administration. Capital outlays were also reduced in order to buffer the dwindling revenues. In addition, an *ad hoc* temporary tax on mobile services was introduced and excise duties on cigarettes and on oil products were raised, but key tax rates remained unchanged. However, the corrective measures only partly compensated for the sizeable revenue shortfall in the face of a sharp economic downturn, prompting the adoption of supplementary budgets in both 2009 and 2010. In 2010, the fiscal deficit increased to 4.7% as the automatic stabilisers were allowed to come fully into play: additional social assistance and subsidies were provided in response to the weak labour market performance and poor living conditions. In 2011, the budgetary situation remained tense, as revenues underperformed given the slower-than-expected economic upswing. *Overall*, pro-cyclical fiscal policy undermined public finances and prompted the adoption of emergency fiscal adjustments to mitigate the deterioration in the wake of the crisis.

The widening budgetary gaps have prompted government borrowing in particular in dinars, in line with the debt management strategy. Higher borrowing and the depreciation of the dinar led to a surge in public debt to almost 43% of GDP in 2010, up by around 8 percentage points compared to the previous year. However, budgetary financing has been difficult given the lack of investor' interest in treasury bills with long-end maturities, due to the significant exchange rate risk. The first 10-year eurobond was issued in September 2011. Also, the recent attempts to raise privatisation proceeds by selling the remaining state owned enterprises were unsuccessful. The government resorted to borrowing from domestic commercial banks. At the end of 2010, foreign debt accounted for almost 60% of total public debt and was predominantly euro-denominated. The issuance of dinar-denominated treasury bills since 2009 has resulted in a steady increase in the share of dinar-denominated debt, as well as the share of short-term debt in the debt portfolio. Nevertheless, the repayment profile of the total public debt remains largely long-term and evenly distributed over time. *Overall*, public debt sustainability has become an issue of concern in the light of the recently large fiscal deficit,

especially given the uncertainties in the macroeconomic outlook, and the budgetary financing by largely short-term commercial borrowing.

Against the background of a significant fiscal deterioration, the authorities took steps to address some of the structural weaknesses of public finances. A multi-annual budgetary process, which is supposed to underpin a more rigorous and efficient medium-term planning, has been formalised in the revised Law on the budget system. The amendments adopted in 2010 established numerical fiscal rules and procedures, including the setting-up of a fiscal council, which determine the path of expenditure-driven fiscal consolidation. A set of general and specific fiscal rules commits the policy makers to cutting the fiscal deficit to 1% of GDP by capping the outlays for public sector wages and pensions, at 8 and 10% of GDP respectively, by 2015 and keeping public debt (without restitution costs) below 45% of GDP. The revised law also defined a new indexation formula for public sector wages and pensions, with three adjustments in 2011 and bi-annual indexation thereafter. The 2010 pension reform will also help in restraining public spending over the long term. The new law, which will be phased in gradually over the period 2011-2022, extends the working period and age for assuming pension rights, tightens up the rules on early retirement and adjusts the indexation mechanism. Although the recent adjustments are an important step forward, further reforms will be necessary in order to enhance the long-term sustainability of public finances. Serbia will need to make additional adjustments in the pension and healthcare systems, as well as to further improve the cost-effectiveness of the public sector. *Overall*, the recent efforts to strengthen the legal framework of public finances will need to be pursued by means of a rigorous implementation of the new fiscal responsibility provisions and backed by additional systemic changes over the medium-to-long term.

Pre-crisis growth based primarily on the non-tradable services sector, an expansionary fiscal stance and widening gaps in the current account, largely financed through borrowing abroad, have exacerbated the economy's vulnerability to adverse external shocks. The policy mix in place has shown itself to be limited in responding to the global crisis. Counter-cyclical fiscal policies, which would have been necessary to support a rapid recovery, have been constrained by the reduced room for manoeuvre. The effectiveness of monetary policy has been restricted as a result of the high level of 'euroisation' and the effective pursuit of dual objectives by the NBS, namely smoothing the exchange rate depreciation while being committed to inflation targeting. Yet some of the immediate negative effects have been cushioned by the timely stabilisation measures implemented under the IMF programme. The recent strengthening of the fiscal policy framework is an important step in improving the economic policy mix. *Overall*, the crisis has exposed the economic policy shortcomings and highlighted the need for fully-fledged structural adjustments to gear the economy towards a more sustainable growth path.

#### *Interplay of market forces*

Price liberalisation has been ongoing since 2000. However, the market formation of prices has occasionally been challenged as the government capped prices in the face of shortages of some basic food items (dairy products, cooking oil, some types of bread). The government continues to control prices of public utilities, either through government bodies (electricity and gas transmission, transport and distribution, oil pipeline transport, railway passenger transport, some postal services) or sectoral regulators (fixed telephony). The government also sets the limit on increases in the price of communal and public city transport services, which are under the control of the local authorities. As of 2011, oil derivatives imports have been liberalised. A small number of products remain subject to direct price control (medicines).

Administered prices account for more than 20% of the CPI inflation basket, with regulated energy prices accounting for around half of this share. *Overall*, the state control over prices is substantial, as price liberalisation has been slow and occasionally reversed.

Due to the slow progress of privatisation, the state influence in the economy has remained high, with the private sector currently accounting for around 60% of GDP and total employment. The privatisation process was given a boost in 2002 by allowing socially owned companies to be sold through tenders and auctions. The process led to the privatisation of more than 2,400 firms with over 340,000 employees, but it has not yet been completed. About 600 sale contracts signed between 2002-2009 were later cancelled due to non-compliance with some or all of the five standard contract obligations, which brought the number of annulled privatisations to almost one quarter of the firms initially earmarked for privatisation. Given the unfavourable market conditions in the wake of the crisis, the process has continued to be delayed well beyond the official deadline for finalising privatisation of the socially-owned companies by 31 December 2008. Privatisation of the state owned companies is largely incomplete; apart from Serbian Oil Company (NIS) no major firm has yet been reorganised or privatised. The state retains the majority shareholding in the large network industries, such as the national electric power company, the telecoms incumbent operator, the airports, and the air carrier. Although the government announced privatisation strategies for a number of companies, the planned sales did not materialise, as the tenders did not attract the expected demand. To facilitate the privatisation of those enterprises in which the state retains a stake, the government decided to distribute free shares worth 15% of the company's equity to those citizens who have not benefited from any free share distribution in the past. In 2010, the distribution of the remaining state shares was carried out only in the oil company NIS. Privatisation of about 500 utilities in the local communities has not yet begun, as the strategy for their restructuring and reorganisation has still to be defined. *Overall*, the unfinished privatisation and/or liquidation of socially and state owned enterprises and local utilities remains a challenge in Serbia's transition to a market economy.

#### *Market entry and exit*

Since 2005, new companies have been registered centrally with the Business Registers Agency, in line with the uniform registration procedure. For companies dealing with financial activities, prior approval and consent by the competent authority are required. In 2009, the registration procedure was improved by the introduction of the one-stop shop, which provided for simultaneous registration with the tax authorities, the social and health insurance fund and the employment agency. The new system has stimulated business start-ups by reducing the time necessary to register a new company from 23 to 5 days, on average, and by lowering administrative costs. However, the use of different identification numbers in the different state bodies remains an administrative obstacle. Further removal of barriers to doing business has been initiated by a comprehensive regulatory reform. Since its launch in 2009, around two thirds out of 304 recommendations have been adopted and around 36 recommendations are still the subject of parliamentary procedure. Setting-up a new business is hampered in particular by the delays in obtaining construction permits due to the slow and inconsistent implementation of the 2009 Law on planning and construction. Differences in administrative costs across municipalities create additional distortions. *Overall*, progress was made in facilitating market entry, but the business environment continues to be marred by complex legislation and red tape, as the implementation of the regulatory reform has been delayed.

A new bankruptcy law entered into force in 2010. At that time, many bankruptcy cases that were opened under the previous law had not been closed. The new law established automatic

bankruptcy in cases where the firm's accounts had been blocked for more than 3 years. This resulted in a significant increase in the number of opened cases, which totalled over 2,400 at end-2010. The authorities have initiated actions to regulate out-of-court settlements in order to lower the cost and speed up the privatisation process. *Overall*, the new bankruptcy law has improved market exit procedures, but the efficiency of the courts remains an issue of concern in view of the considerable backlog of bankruptcy cases.

### *Legal system*

A number of steps have been taken so far to establish a legal system which underpins the market economy. Nevertheless, the business environment has continued to be constrained by shortcomings in the enforcement of the rule of law and the so far unclear situation in relation to property rights. The reliability of land property ownership is being improved since late 2004 through the gradual introduction of the digital real estate cadastre and registration, which is due to be completed by the end of 2011. Amendments to the Law on planning and construction of March 2011 have to some extent addressed these previous shortcomings, in particular by means of simplification of procedures and easier legislation in the case of buildings constructed without permits. However, construction activities have been hampered by the slow implementation of the law.

Restitution of property has been dealt with in a fragmented manner. Agricultural land was already partially returned in the 1990s and a law on the restitution of church property was adopted in 2006. A general law clarifying restitution issues was adopted in September 2011. The new law is an important step to overcome legal uncertainty investors face when acquiring property under the privatisation process.

The scope of the informal economy in Serbia remains substantial. Despite some measures taken in recent years to strengthen the fight against corruption, informal methods of contract enforcement, which by-pass the legal system, continue to be widespread. This is abetted by the lengthy enforcement procedures for court decisions and the major backlog in this area. *Overall*, in spite of the effort to establish legal predictability, the so far existing lack of legal clarity in relation to property rights has had a negative impact on business activities. Delays and poor enforcement of court decisions and corruption undermine confidence in the legal system among economic operators and hinder investment.

### *Financial sector development*

Serbia's financial intermediation expanded rapidly until 2008, followed by a marked slowdown in financial activities at the onset of the crisis. In 2010, banking sector assets accounted for around 80% of GDP. At the end of 2008, the banking system was challenged by a mass withdrawal of household deposits. The run on the banks had limited effects thanks to ample liquidity and solvency reserves, which was a result of prudent monetary policy and adequate risk-based supervision by the NBS. After the initial financial stabilisation, the NBS adapted administrative and regulatory measures and eased monetary policy to provide additional liquidity in support of the macroeconomic stability. Credit activity to households and enterprises was also sustained as a result of the European Bank Coordination ('Vienna') Initiative, whereby foreign parent banks undertook to maintain their exposure in the Serbian subsidiaries at end 2008 level until April 2010, and keep it at least at 80% by the expiry in March 2011. *Overall*, the financial sector expansion has been driven largely by the rapid development of the banking sector, which remained relatively unscathed by the global crisis, thanks to a prudent monetary policy.

Currently, there are 33 banks in Serbia, of which 3 majority state owned, holding a 2.6% market share, and 21 are foreign owned. Foreign banks account for around 70% of the total assets of the banking sector. Subsidiaries of Austrian, Greek and Italian banks are in the top five banks. Among domestic private banks one is the second largest in the market. *Overall*, the consolidation and privatisation of the banking sector resulted in foreign-dominated ownership.

The banking sector expansion started from a low base and was driven by both the introduction of new products and the strengthening of the deposit base. Deposits, of which 70% are in foreign currency, account for almost 60% of the total liabilities of the banking sector. Similarly, loans account for some 60% of banking sector assets. Over three quarters of loans are denominated in foreign currency or are foreign-currency linked, predominantly in euros. Given the high level of 'euroisation' of the economy, the NBS has put forward a 'dinarisation' strategy. It has initiated steps, such as tightening of the eligibility criteria for foreign currency loans as of mid-2011, improving protection and diversifying financial instruments, with the aim of encouraging lending in dinars. More than half of the loans are granted to the corporate sector (mainly to trade and industry — around 20% each) and about one third to households. Since 2009, when dinar-denominated government securities were introduced, the banks have been increasing their investment in the treasury bills owing to higher yield. Credit growth for the private sector decelerated substantially, but began to pick up after the government put in place a support scheme to subsidise commercial bank loans to companies and households. *Overall*, the banks' balance sheets continue to be characterised by high 'euroisation', and the monetary authorities have taken steps to rebalance the loan portfolio.

Capitalisation of the banking sector is high due to intense capital growth prior to the crisis. The capital adequacy ratio stands at 20%, well above the 12% threshold imposed by the NBS. However, the asset quality of the banking sector has deteriorated following the modest and gradual rebound from the recession, high unemployment, accelerating inflation and the depreciation of the dinar. Gross non-performing loans (NPL) as a percentage of total loans rose to almost 17% at end-2010, largely due to an increase in the corporate NPL ratio. In the light of this portfolio deterioration and the substantial exchange rate risk related to the high degree of 'euroisation', the Serbian banks are vulnerable to credit risk. Yet the stress tests of the banking system carried out in 2010 concluded that the banks are still sufficiently resilient, given that they continued to be adequately capitalised and liquid. Liquid assets accounted for some 35% of total assets in 2010. Against the background of high capital and reserve requirements, the profitability of the Serbian banking sector was relatively stable but deteriorated slightly in the wake of the crisis; banks' return on assets (ROA) was around 1% and return on equity (ROE) was just below 6%. Despite the rise in NPL, the profitability of the banks improved in 2010 owing largely to sizeable net interest income. *Overall*, the banking sector is generally sound, but vigilance is required due to the impaired loan portfolio of the banks and a considerable exposure to exchange rate risk.

Non-banking financial institutions account for only a small share of financial intermediation. The insurance market has expanded gradually, albeit from a low base. The sector is supervised by the NBS. At end-2010, there were 26 active insurance companies, 22 in insurance and 4 in reinsurance. 7 insurance companies rely mainly on domestic capital, while 19 are in majority foreign ownership and hold the bulk of the market (more than 90% in non-life insurance and 60% in life insurance). Following a deterioration in performance due to the crisis, the sector saw a surge in profits in 2010. The market capitalisation of the Belgrade Stock Exchange was below €10 billion, i.e. around one third of GDP at end-2010, and annual turnover was at €220 million, down from a peak of over €2 billion in 2007 (90% in shares).

*Overall*, non-banking financial institutions and capital markets play a limited role in the financing of domestic companies.

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

The ability to fulfil this criterion depends on the existence of a market economy and a stable macroeconomic framework which allows economic agents to take decisions in a climate of predictability. It also requires a sufficient amount of human and physical assets. Enterprises need to invest to improve their efficiency and they need to innovate in order to adjust to a globalised and highly competitive external environment. The more an economy is integrated with the Union before accession, the better it will be able to assume the obligations of membership.

#### *Existence of a functioning market economy*

Serbia is a small economy with a state owned sector that is still significant and which remains to be restructured and privatised. Although foreign exchange and trade regimes are liberalised, price liberalisation has been slow. A comprehensive legal framework is in place, but its implementation is ineffective and inconsistent. Throughout the transition, the policy mix has been geared towards macroeconomic stability, but proved to be rather limited in responding to adverse external shocks, of the kind experienced during the recent global crisis. Serbia's economy gradually regained stability owing to the adoption of timely and adequate short-term corrective measures in agreement with the IMF. However, in the wake of the recession, the persistent structural imbalances and weaknesses, such as high and volatile inflation and a low employment rate, have become more pressing. Market mechanisms remain hampered by legal uncertainty, red tape, heavy state involvement, insufficient competition and sectoral distortions. Structural rigidities in the labour market, reflected in high unemployment and the very low participation rate, further constrain both actual and potential growth of the economy. *Overall*, Serbia has achieved a degree of macroeconomic stability which broadly allows economic operators to make decisions in a climate of predictability. However, Serbia needs to address the rigidities which are preventing the further development of a viable market economy.

#### *Human and physical capital endowment*

Serbia's human capital has been slowly strengthening, with a growing participation in all levels of education over time. In 2010, the number of those with high educational attainment stood at less than 9% of the total population and public spending on education was around 3.5% of GDP. Despite high unemployment, the economy suffers from a shortage of skilled labour. The large share of unfilled job vacancies and the persistent structural unemployment of persons with secondary or higher levels of educational attainment point to a major mismatch of qualifications and skills. The adoption of the Law on Education System Fundamentals in 2009 is poised to narrow the gap between demand for and supply of skilled workforce by embracing the entire education system, including vocational education and training (VET). However, supply has been only gradually adjusting to an increasing demand for highly skilled workers, especially in manufacturing. Although the employment agency has designed various programmes to promote cooperation between the labour market stakeholders, self-employment and vocational training – along with lifelong learning – structural rigidities remain important. Further effort will be needed in order to forge an effective link between the education system and vocational training programmes, on the one hand, and the labour market, on the other. Domestic resources devoted to the development of

a knowledge-based economy remain marginal; gross expenditure on science accounted for 0.3% of GDP in 2010. *Overall*, the ongoing skills mismatch continues to act as a drag on the development of new segments of the economy and requires further reforms of the education and training system that would respond better to labour market demand.

Serbia will need to invest significantly given the inadequate and low-quality physical capital stock that is hampering the productive capacity of the economy. After 2001, gross fixed capital formation accelerated steadily – with the share of GDP more than doubling between 2001-2007 – but it was largely fuelled by a boom in real estate. Green-field investment was modest. Given the large gap between savings and investment of the private sector, the expansion was mainly financed by foreign capital. By end-2010, the FDI inward stock since 2000 amounted to about €15 billion. After 2007, FDI lost momentum while domestic investment has been also declining as a result of scarce local source. However, since beginning of 2011, FDI has started to pick up. Investment was directed mainly to the non-tradable sectors, which also contributed to the growing external imbalances. In cumulative terms for the period 2001-2009, one third of total capital investment was to banks (€11.8 billion), less than one fifth each in the real estate sector (€6.2 billion) and manufacturing (€5.8 billion) and about one tenth each in trade (€4.5 billion) and transport and telecommunication (€4.1 billion). *Overall*, the previous orientation of investment to predominantly non-traded sectors increased the export capacity of the economy to only a limited extent.

The government has made the reliability of electricity supply through diversified sources of power one of its key priorities. It aims to mobilise financial resources for investment in the energy sector with the support of International Financial Institutions. However, energy efficiency is low and the electricity capacities are being used at levels close to their maximum potential, which is increasingly pushing Serbia to resort to energy imports. The average price of electricity, which was last adjusted in April 2011, is still below the cost-recovery level and is restraining new investment. *Overall*, energy infrastructure will need to be modernised and extended in order to strengthen industrial activity.

The telecommunications infrastructure is fairly well developed. Fixed telephony, operated by the telecoms incumbent in majority state ownership, has been partly digitalised. Mobile telephony density has increased, following the market entry of two foreign operators. However, access to broadband network and internet use by business remain low. *Overall*, telecommunications are not a constraining factor to doing business, but a higher broadband penetration is needed in order to develop higher value-added segments in the industry.

Transport infrastructure needs to be further developed in order to enhance the country's economic potential. The construction of new roads has been making very slow progress. The rail network is obsolete due to the lack of significant investment in past decades. There are plans for an upgrade of 750 kilometres of railroad, including the laying of a second track, along the Pan-European transport Corridor X with the support of International Financial Institutions. *Overall*, transport infrastructure has suffered from insufficient investment.

#### *Sector and enterprise structure*

The structure of Serbia's economy has undergone significant changes during the last two decades. Services currently contribute more than 60% of GDP, agriculture approximately 10% and industry 23%. While the metal, electronic and textile industries previously dominated, production became diversified during the last decade, especially into the food and beverages sector. The global crisis had an adverse impact on manufacturing and construction.

Public companies still generate around 40% of Serbia's output. However, their performance has been undermined by the crisis, with the erosion of capital and accumulated losses rising to over €3 billion, i.e. more than a quarter of their total capital at end-2010. Private companies account for the bulk of foreign trade. Around 75% of Serbia's exports are undertaken by companies that are predominantly under foreign ownership. The informal sector, taking advantage of weaknesses in tax and expenditure policies, and also in law enforcement, including the fight against corruption, remained significant. *Overall*, the structural adjustment of the economy has been lagging behind due to the very slow pace of the reform process, and performance has been marred by the economic crisis. The informal sector poses a major challenge.

Serbia's restructuring process has translated into a steady rise in the share of small and medium-sized enterprises (SMEs) in the economy. Currently, the majority of private enterprises are micro companies. SMEs contributed around 57% to the gross value added of the non-financial sector and accounted for about two thirds of overall employment. The sector has been facing diminishing demand, stricter financing conditions and increasing payment arrears since the crisis broke. This resulted in illiquidity and indebtedness which led the government to adopt measures aimed at facilitating access to financing, although so far this has had little effect. *Overall*, although SMEs have increased their share of the economy, they face constraints in both their current activities and in obtaining finance for investment.

#### *State influence on competitiveness*

State subsidies were cut from 3.3% of GDP in 2005 to 2.3% of GDP by 2009, but they surged to 2.6% of GDP in 2010 as a result of sizeable stimulus packages designed to support the economic recovery. The programmes, inter alia, included direct subsidies to companies for job-creating investment projects as well as financial assistance for concessional borrowing in dinars by business and citizens alike. The legislation regulating State aid control was adopted in 2009 and needs to be consistently enforced, in particular as regards effective monitoring by the State aid authority. The state-controlled monopolistic structures remain in place in a number of sectors, particularly in energy, telecommunication and postal services, but also in agriculture and tourism. *Overall*, state influence on competitiveness through legal and financial mechanisms is substantial.

#### *Economic integration with the EU*

Since 2000, Serbia has been continuously strengthening trade links with the EU, which accounts for almost 56% of Serbia's total merchandise trade; in 2010 the share of exports stood at 60% and that of imports at 55% of the respective totals. During the period 2005-2010, two thirds of total inward investment to Serbia originated from the EU and EFTA countries, with the largest FDI inflows coming from Austria, Greece and Norway. The pace of integration with the EU advanced in step with Serbia's international competitiveness. In the period 2001-2007, real wage growth was broadly in line with labour productivity growth, but the appreciation of the dinar against the euro led to rising real unit labour costs. During 2009-2010, export price competitiveness improved thanks to a rapid depreciation in the real effective exchange rate. *Overall*, improved export competitiveness since 2009 helped to further Serbia's economic integration with the EU.

### 2.3. General evaluation

The present assessment is made on the basis of the Copenhagen criteria related to the existence of a **functioning market economy**, as well as the capacity to cope with **competitive pressure** and market forces within the Union.

There is a broad political consensus in Serbia on the fundamentals of a market economy as well as a track record in the implementation of economic reforms. Serbia achieved a degree of macroeconomic stability that allows economic operators to make decisions in a climate of predictability. The economic policies of the past decade supported steady growth of close to 5% on average, gradually declining inflation and a general improvement of living standards. However, the global financial and economic crisis exposed the vulnerabilities of a growth paradigm, which was based on domestic demand financed largely by borrowing abroad, as well as the ensuing limitations of the policy mix to respond effectively to adverse external shocks. Recently, substantial progress has been made towards strengthening the financial framework and the quality of public finances, which would underpin a shift to more sustainable and balanced growth, driven by exports and investment. The free interplay of market forces has developed, albeit at a slow and uneven pace, through privatisation and liberalisation of trade and prices. Progress has been achieved in facilitating market entry and exit. Economic integration with the EU is high.

A number of structural weaknesses persist and hamper the economic performance. The state influence in the economy has remained high due to the slow progress of privatisation and price liberalisation. In spite of the steps towards establishing legal predictability and removing red tape, the business environment continues to be constrained by legal uncertainty. Lengthy enforcement procedures for court decisions undermine trust in the legal system. Lack of competition in certain sectors and significant infrastructure bottlenecks are a further drag on the economic potential. Foreign direct investment was relatively strong prior to 2008 and, following a substantial drop during the economic crisis, has started to slowly recover, but Serbia needs to further improve the investment climate. Against a modest economic recovery, unemployment remains high and the social situation strife. Serbia needs to urgently address structural rigidities on the labour market, including the mismatch between demand for and supply of skilled workforce. The informal economy remains an important challenge.

### 3. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

The European Council in Copenhagen in June 1993 included among the criteria for accession “the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union”.

In applying for EU membership, Serbia has accepted without reserve the basic aims of the Union, including its policies and instruments.

This part of the analytical report analyses Serbia's ability to assume the detailed obligations of membership — that is, the EU *acquis*, as expressed in the Treaties, the secondary legislation and the policies of the Union. It follows the structure of the 33 negotiating chapters into which the EU *acquis* has been divided for the purpose of conducting accession negotiations. Each chapter examines the current situation and prospects in Serbia.

As the European Union has developed, the EU *acquis* has become progressively more onerous and presents a greater challenge for future accessions than was the case in the past.

The ability of Serbia to implement the EU *acquis* will be central to its capacity to function successfully within the EU.

In this respect, alignment with the EU *acquis* is a necessary but not sufficient condition to meet the obligations of EU membership. Serbia must also take all necessary measures to create the requisite implementing structures, to bring its administrative capacity to the required level and to ensure effective enforcement. An analysis and assessment of the country's administrative capacity is therefore included in each of the chapters below.

For the purpose of this analytical report, and without prejudging any future date of accession, the medium-term perspective in the assessments has been defined as a period of five years.

### 3.1. Chapter 1: Free movement of goods

The principle of free movement of goods means that products must be traded freely from one part of the Union to another. In a number of sectors this general principle is supplemented by a harmonised regulatory framework, following either the 'old approach' (laying down precise product specifications) or the 'new approach' (setting general product requirements). Alignment with harmonised European product legislation accounts for the bulk of the obligations under this chapter. Smooth implementation and proper enforcement of the EU *acquis* require sufficient administrative capacity to notify restrictions on trade and to apply horizontal and procedural measures in areas such as standardisation, conformity assessment, accreditation, metrology and market surveillance.

Regarding **general principles**, Serbia needs to ensure that its legislation is compatible with Articles 34 to 36 of the Treaty on the Functioning of the European Union and the related case law of the European Court of Justice, with special emphasis on the principle of mutual recognition.

The Interim Agreement and, subsequently, the Stabilisation and Association Agreement (SAA) create a number of obligations in the field of free movement of goods, such as establishment of a free-trade area after a period of six years. The SAA also provides for gradual alignment with EU technical regulations and standards and metrology, accreditation and conformity assessment procedures.

In the case of **horizontal measures**, during 2009 and 2010 Serbia adopted new legislation on accreditation, standardisation and metrology, on general product safety and on technical requirements for products and conformity assessment, to harmonise with the EU principles and with the horizontal EU *acquis*. These measures have brought Serbian legislation substantially closer to the EU *acquis*.

In the area of *standardisation*, a framework Law was adopted in 2009 and, after a change of status, the Institute for Standardisation of Serbia (ISS) became a public institution at the beginning of 2010. The ISS is currently an affiliate member of the European Committee for Standardisation (CEN) and of the European Committee for Electrotechnical Standardisation (CENELEC). It is also full member of the international standardisation organisations ISO, IEC and IECEE and is a Codex Alimentarius contact point for Serbia. The ISS became the Serbian 'national standards body' in 2011 and is now also responsible for transposing the standards of the European Telecommunications Standards Institute (ETSI) as Serbian standards. The current staff of the ISS numbers 62 employees. Its financial and human resources have been improved. The ISS has approximately 250 technical committees. The Chairman and the Members of the supervisory board were appointed in August 2011. By

August 2011 a total of 12.216 EN standards had been adopted as Serbian standards. Serbia has repealed all mandatory standards.

As regards *conformity assessment*, the Serbian framework Law on technical requirements for products and conformity assessment, together with implementing legislation, were adopted in 2009, but some revision is necessary in order to take full account of the latest (2008) horizontal EU *acquis*. So far, five accredited conformity assessment bodies have been designated in accordance with the EU directives. In line with Regulation (EC) 765/2008, accreditation remains, in principle, voluntary for the designation of conformity assessment bodies unless prescribed otherwise in the sectoral laws. A vast number of laboratories and certification and inspection bodies which were authorised to carry out conformity assessment activities under the old legal framework were designated and accredited in accordance with the new Serbian horizontal legislation and the relevant international and European standards.

The *accreditation* framework was set by the 2010 Law on accreditation, aligning Serbia's policy with the EU principles. The Accreditation Body of Serbia (ABS) was set up as a not-for-profit public body, professionally and financially independent of its clients. It is in charge of accreditation of conformity assessment bodies. The ABS has a full-time staff of 32 but needs more human resources. It signed a cooperation contract with European Cooperation for Accreditation (EA) in 2007 and is preparing for signing a bilateral agreement with the EA under the conditions applicable to signatories of the EA Multilateral Agreement in the fields of testing and calibration laboratories and inspection bodies. It has later broadened its application to certification bodies for products, management systems and environmental management systems as well as medical laboratories. Serbia has 418 accredited conformity assessment bodies.

The framework law on *Metrology* was adopted in 2010. In 2011, Serbia adopted legislation on the control of objects made of precious metals. The Directorate for Measures and Precious Metals in the Ministry of Economy and Regional Development, which also acts as the national metrology institute, is in charge of implementation of the law and of legal and scientific metrology. The Directorate has been restructured in order to separate verification and market surveillance functions. Two of the laboratories of the Directorate, for calibration and for testing, have been accredited. The Directorate has a staff of 120.

As regards *market surveillance*, Serbia adopted legislation on general product safety in 2009. It has a Market Surveillance Strategy for the period 2010-2014. A national rapid information exchange system similar to RAPEX for providing information on dangerous products, known as NEPRO, was established in 2010. However, new legislation on market surveillance is needed in order to align further with the 2008 horizontal EU *acquis*.

In order to strengthen the capacity of the State Market Inspectorate, new professional examinations for market inspectors have started in 2011. Coordination between the different market surveillance authorities was initiated, including a common database. With this in mind, the Ministry of Economic Affairs and Regional Development, the Customs Administration and the Ministry of Trade signed a Memorandum of Understanding in March 2011. Serbia needs to make sustained efforts to establish a market surveillance system which is fully in line with the EU *acquis*.

Serbia has not yet aligned its legislation with the vast majority of sector-specific EU legislation. In areas covered by the '**Old Approach**' **product legislation**, discrepancies from the EU *acquis* remain to be addressed. Although Serbia has already adopted legislation on

motor vehicles, medicinal products for human use, medicinal products for veterinary use and chemicals, the alignment is only partial and further alignment is needed. Furthermore, legislation on cosmetics, pre-packaging, units for measurement, aerosol dispensers, emission of pollutants from non-road mobile engines, crystal glass, textiles and footwear also needs to be aligned with the EU *acquis*.

As regards the '**New and Global Approach**' product legislation, Serbia has started to align its legislation with the relevant directives. So far, it has adopted aligning legislation in the fields of low-voltage equipment, electromagnetic compatibility, medical devices, machinery and lifts. It has not yet aligned its legislation with the EU *acquis* on recreational craft, non-automatic weighing instruments, eco-design requirements for energy-related products, toys, noise emissions from outdoor equipment, personal protective equipment, equipment and protective systems intended for use in potentially explosive atmospheres, gas appliances, pressure equipment, simple pressure vessels, cableway installations, construction products, radio equipment, telecommunications terminal equipment and measuring instruments.

Regarding **procedural measures**, Serbia has aligned with the Directive on provision of information in the field of technical regulations and standards. In order to be fully in line with the EU *acquis*, some amendments are nevertheless required, in particular as regards standstill periods. As regards *external border checks*, the Serbian legislation does not yet meet all the requirements of the EU *acquis* on control of products from third countries. In the case of civil *firearms*, the Law on weapons and ammunition needs further amendment to bring it fully into line with the EU *acquis*. As regards the return of *cultural objects* unlawfully removed from the territory of EU Member States, Serbia has not aligned its legislation with the EU *acquis*.

### *Conclusion*

During the last few years Serbia has taken substantial steps to bring its horizontal legislation and administrative set-up into line with the principle of free movement of goods. New framework laws have been adopted on accreditation, standardisation and metrology, on general product safety and on technical requirements for products and conformity assessment. Serbia has established administrative infrastructure necessary to implement EU *acquis* under the chapter on free movement of goods. Standardisation, accreditation and metrology functions have been separated.

However, sustained efforts towards alignment with the EU *acquis* will be necessary. Major elements of the EU *acquis* are not yet in place. In particular, old and new approach product legislation still needs to be harmonised with the EU legislation. As regards horizontal and procedural measures, the framework legislation on technical requirements for products and conformity assessment procedures and on market surveillance needs to be aligned with the EU *acquis*. Procedural measures need to be addressed. Furthermore, administrative capacity and coordination need to be strengthened.

Overall, if Serbia undertakes additional efforts, it should be in a position to align with the EU *acquis* and to implement it effectively in the medium term.

## **3.2. Chapter 2: Freedom of movement for workers**

The EU *acquis* under this chapter provides that EU citizens of one Member State have the right to work in another EU Member State, to reside there for that purpose with their family and to be treated in the same way as national workers when it comes to working conditions

and social and tax advantages. Furthermore, the EU *acquis* includes instruments on coordination of the different national social security systems.

The *Stabilisation and Association Agreement* provides that, subject to the specific conditions and procedures applicable, Serbia and EU Member States will ensure that their nationals who are legally employed on the territory of a partner country are free from any discrimination based on nationality in aspects of employment such as working conditions, remuneration or dismissal.

As regards **access to the labour market**, the 2009 Law on employment and unemployment insurance (amended in 2010), along with the 2005 Labour Law (last amended in 2009), prohibit any direct or indirect discrimination against persons seeking employment or already employed, on grounds of their place of birth, language, race, skin colour, nationality, religion or other affiliation. This prohibition of direct and indirect discrimination also applies to migrant workers from the EU. In other words, they are protected from direct and indirect discrimination with regard to employment, termination of contracts of employment and pay. Families of EU migrant workers have the right to reside in Serbia for the same duration as the workers, and foreign nationals – including children of EU workers – are entitled to education on the same conditions as Serbian nationals.

The 1978 Law on the conditions for the employment of foreign citizens (last amended in 2005) and other labour laws draw no distinction between EU nationals and nationals of non-EU countries. Except in cases of specific agreements between Serbian and EU companies (on business and technical cooperation, long-term production cooperation, transfers of technology and foreign investment), the Law requires EU citizens to apply for a work permit. Upon accession to the EU, Serbia's national law will have to ensure that EU citizens will be able to look for and take up work in Serbia without any restrictions and without being subject to a work permit scheme.

The large majority of jobs in state and public administration, in local self-governments units as well as political functions, judges and public prosecutors are reserved for Serbian nationals. Future legislation will have to take into account the EU *acquis* in this field, in particular case law, which allows EU Member States to restrict posts in the public service to their own nationals only if they are directly related to the specific activities of the public service, i.e. involve exercising public authority and responsibility for safeguarding the general interests of the State.

Serbia needs to prepare for its future participation in the **EURES** (European Employment Services) network. A national vacancy database will have to be established and also made available in English. The language skills of potential EURES advisors will have to be checked. In order to increase territorial mobility, local and regional offices need to be able to share vacancy data not only with the central employment agency but also with each other.

As regards supplementary pensions, upon accession, Serbia will need to implement measures in line with EU legislation to guarantee equal treatment between EU migrants and nationals regarding preservation of vested second-pillar supplementary pension rights and payment thereof in another Member State. Moreover, posted workers must have the possibility to continue to pay contributions to a supplementary pension scheme in their country of origin for the duration of their posting, in which case they are exempt from contributing to such a scheme in the host Member State.

Concerning **coordination of social security systems**, the Serbian social security scheme includes all traditional branches of social security which fall within the scope of EU coordination rules. The system is based on the principle of compulsory insurance in the country of work. Serbia also has a number of special benefits for war victims.

Serbia has signed a number of bilateral social security agreements, including with 17 EU Member States (most recently with Slovenia in 2009). Agreements have also been signed with, amongst others, the former Yugoslav Republic of Macedonia, Croatia, Bosnia and Herzegovina and Montenegro.

In spite of the experience acquired in administering the existing bilateral agreements, the main challenge for Serbia will be to build up the administrative capacity necessary in order fully to apply the EU rules on coordination of social security systems upon accession. This will entail training staff from the Serbian Fund for Pensions and Disability Insurance, the Health Insurance Fund and the National Employment Service, along with investment in IT infrastructure.

Upon accession, and independently of national health cards, Serbia will have to issue the **European health insurance card** to persons entitled to healthcare in Serbia.

### *Impact*

The estimated impact of Serbia's possible accession on the EU labour market has to be related to a number of factors, such as the size of Serbia's working age population, unemployment, age structure and migration movements.

Serbia's total population was estimated at around 7.32 million in 2009. Based on the demographic projections, it is expected to stagnate or decrease slightly over the next ten years. As regards the age structure, the youngest (15 and under) at 15.3% (2009) is very close to the EU average of 15.5%.

Serbia's working age population (aged 15-64) in 2010 was estimated at 4.82 million, of whom an estimated 2.84 million were economically active. This is equal to around 1.5% of the EU working-age population and 1% of the EU economically active population. In 2010, the employment rate was estimated at around 47.2% (down from 53.7% in 2008 due to the economic crisis) compared with 64.2% in the EU. Labour force survey data point to an unemployment rate of 20% in October 2010. Furthermore, according to estimates, up to 1 million people are working in the informal economy.

Despite strong annual growth in real GDP over the last few years (higher than 5% since 2004 except in 2009 due to the economic crisis), based on 2009 data, large differences remain between GDP per capita in Serbia and the EU. Expressed in purchasing power parity, Serbia's GDP per capita stood at 35% of the EU-27 average in 2010.

Since the early 1990s large-scale migration movements have taken place from Serbia towards other countries, including EU Member States, particularly Germany. However, as a result of return migration, the overall number of Serbian nationals living in the EU has decreased since 2000. Estimates suggest that around 650,000 Serbian citizens currently (1 January 2010) live in the EU (with the largest numbers in Germany, Austria and Italy), making up 2% of the foreign population living in the EU (and 0.1% of the total EU population).

This preliminary assessment indicates that Serbia's membership of the EU would have a **relatively minor impact** on the EU labour market. However, this will need to be monitored closely, taking into account developments in Serbia and the EU.

### *Conclusion*

By the time of its accession to the EU, Serbia will have to adapt its rules in order to implement fully the EU *acquis* on freedom of movement for workers. Its national law will have to ensure that EU citizens will be able to look for and take up work in Serbia without any restrictions and without being subject to a work permit scheme. Furthermore, restrictions on access to jobs in the public sector and language skill requirements in certain professions will have to be reviewed. In relation to coordination of social security systems, Serbia already has experience of applying the EU principles, stemming from the high number of bilateral agreements in this area. However, further efforts will be needed to strengthen its administrative capacity in order to adjust it to new tasks in the context of EU accession.

Overall, Serbia will have to make additional efforts to align its legislation in the field of freedom of movement for workers with the EU *acquis* and to implement it effectively in the medium term.

### **3.3. Chapter 3: Right of establishment and freedom to provide services**

Member States must ensure that the right of establishment of EU nationals and legal persons in any Member State and the freedom to provide cross-border services, as provided for in Articles 49 and 56 of the Treaty on the Functioning of the European Union (TFEU), are not hampered by national legislation, subject to the exception stated in the Treaty. The core piece of EU *acquis* in this area is the Services Directive. The EU *acquis* also harmonises the rules concerning regulated professions to ensure mutual recognition of qualifications and diplomas between Member States. For certain regulated professions a common minimum training curriculum must be followed in order to have the qualification automatically recognised in an EU Member State. The EU legislation on postal services aims to ensure provision of a universal postal service and to establish an internal market for postal services and a high-quality postal service for end-users.

The *Stabilisation and Association Agreement* provides for gradual liberalisation of the right of establishment and the freedom to provide services between the EU and Serbia over a period of four years. It includes a standstill clause as regards restrictions on provision of services by suppliers established in a country other than that of the person for whom the services are intended.

In the case of the **right of establishment**, the Serbian legislation does not discriminate against foreign operators or their subsidiaries or branches. The procedures for registration in the Register of Business Entities are, with some exceptions, non-discriminatory. Some language, residence and reciprocity requirements still exist. Specific authorisation schemes exist for the energy sector, mining, inland waterway navigation, postal services, insurance, gambling, tourism and attorneys' services.

As regards **freedom to provide cross-border services**, Serbian legislation is not in line with the EU *acquis*, particularly with the Services Directive. Serbian legislation regulates provision of services with an establishment in Serbia, but not provision of cross-border services. A comprehensive review of legislation has not started yet and Serbia has yet to establish a point of single contact. Full alignment with, and implementation of, the Services Directive will

require building up and strengthening administrative capacity. Furthermore, effective compliance with the EU *acquis* will entail adequate coordination at national level between all relevant administrative bodies and, eventually, upon accession, with EU Member States.

The 2005 Law on **postal services**, amended in 2010, partially follow the principles and objectives laid down in the EU *acquis*. However, the development strategy for postal services, prepared in 2008 and updated in 2010, has not been fully implemented yet. This in particular concerns the corporatisation and restructuring of the public postal operator. Further efforts have to be made for full alignment the Third Postal Directive. In this regard particular attention will need to be paid to the universal service obligation, reserved area, authorisation system, tariff regulation and complaints procedure.

The Ministry of Culture, Media and the Information Society is responsible for policymaking and supervises implementation of the Law. The financial independence of the national regulatory authority, the Republic Agency for Postal Services (RAPS), established in 2010, is secured by proceeds from authorisations and licences. However, the administrative capacity of the Agency needs to be strengthened.

In the field of **mutual recognition of professional qualifications**, Serbian legislation does not provide for mutual recognition of foreign professional qualifications for regulated professions. A legislative framework for recognition and with a view to granting actual access to the regulated professions remains to be adopted. Furthermore, training requirements for automatically-recognised sectors remain to be fine-tuned in order to achieve full compliance with the EU *acquis*. These training requirements relate in particular to important health professions, namely doctors, dentists, pharmacists, nurses and midwives. Substantial efforts will also be required to establish an adequate institutional framework for mutual recognition of all kinds of professional qualifications, including e-government facilities and contact points assisting citizens requesting recognition of their qualifications.

### *Conclusion*

Serbian legislation allows establishment of operators from the EU, but barriers still remain in some areas. Efforts need to be made on alignment of the legislation on the freedom to provide services and also on administrative capacity and interinstitutional cooperation. Full alignment with EU postal services legislation has yet to be achieved. The Agency for Postal Services is not yet fully independent, nor does it have sufficient administrative capacity. Relevant administrative structures and procedures need to be established to ensure recognition of professional qualifications.

Overall, Serbia will have to make additional efforts to align its legislation in the field of right of establishment and freedom to provide services with the EU *acquis* and to implement it effectively in the medium term.

### **3.4. Chapter 4: Free movement of capital**

In the area of free movement of capital, Member States are expected to remove all restrictions on capital movements and payments both within the EU and between Member States and non-EU countries. The EU *acquis* is based on Articles 63 to 66 of the Treaty on the Functioning of the European Union (TFEU). Freedom of capital movements is an essential precondition for the functioning of the EU internal market. However, the TFEU allows certain exceptions from the general prohibition of any impediments to free movement of capital. The EU *acquis* also includes rules on cross-border payments and execution of transfer orders concerning

securities. The Directive on the fight against money laundering and terrorist financing requires banks and other economic operators to identify customers and report certain transactions, particularly when dealing with high-value items or large cash transactions. A key requirement in order to combat financial crime is effective administrative and enforcement capacity, including cooperation between supervisory, law-enforcement and prosecution authorities.

The *Stabilisation and Association Agreement* sets a timetable for gradual liberalisation of capital movements over a period of four years.

With regard to **capital movements**, Serbia assumed the obligations imposed by Article VIII of the IMF Articles of Association, and hence full current account convertibility, in May 2002. As a result, foreign direct investment (FDI) has been a key factor in the development of the Serbian economy in recent years.

The Law on foreign exchange operations was adopted in July 2006 and amended in May 2011. It was followed by a number of decisions adopted by the National Bank of Serbia (NBS) over the period 2007-2010 relating to various aspects of foreign exchange operations. The Law calls for gradual liberalisation of capital movements. To that end, long-term capital operations have been liberalised and resident deposit operations have been partly liberalised, but the limitations applicable to short-term capital operations have been kept so far. With effect from the fourth year after entering into force of the Stabilisation and Association Agreement, Serbia will be required to honour its commitment to guarantee the free movement of capital related to financial loans and credits with maturity shorter than one year. It will also have to abolish any restrictions on portfolio investment. The Foreign Exchange Law envisages that, in the event of more serious disturbances in the balance of payments (excessive inflows or outflows of capital) that threaten to cause serious difficulties when it comes to implementing monetary policy and foreign exchange rate policy, the government may adopt protective measures for the duration of the disturbances, but for not longer than six months. This is in line with the EU *acquis*.

Certain restrictions exist on acquisition of real estate. Foreign nationals, including EU citizens, may acquire property rights, but only provided there is reciprocity with the purchaser's home country. Under the Law on agricultural land, foreigners are not allowed to own agricultural land.

Serbia has not retained special rights in privatised companies and needs to ensure that privatisation of the remaining State-owned enterprises is carried out in a manner compatible with the EU *acquis* in the field of capital movements.

As regards **payment systems**, Serbia's legislation concentrates on internal payment transactions in dinar. Cross-border transactions are subject to prior authorisation. However, the Serbian legal framework for payments covers only a very limited range of issues in comparison with the EU legislation and focuses on the technical side of transactions. Large areas of payment services are not regulated at all. In particular, rules on the transparency of conditions and information requirements for payment service-providers are limited to national services. No payment institutions and e-money institutions exist in Serbia.

As regards the **fight against money laundering**, Serbian legislation is partially in line with the EU *acquis*. The Serbian legislation explicitly prohibits opening or keeping anonymous accounts and provides for verification of customers' identity. Due diligence measures are

applied when establishing a business relationship with a customer, when carrying out a transaction equivalent to € 15,000 or more, when there are reasons to suspect money laundering or terrorism financing with respect to a customer or transaction and when there are doubts about the credibility of previously obtained data about a customer or beneficiary. Financial institutions – banks, exchange offices, investment funds, voluntary pension funds, etc. – are under an obligation to inform the Administration for the Prevention of Money Laundering (APML, which is the national financial intelligence unit – FIU) of any cash transaction exceeding € 15,000 and whenever there are reasons to suspect money laundering or terrorism financing with respect to a transaction or customer, regardless of the amount of the transaction. Amendments made to the Law on the prevention of money laundering in 2010 even prohibit sellers of goods or services from accepting cash payments above € 15,000 from a customer or third party. However, an effective system for monitoring and analysing cash transactions still needs to be introduced. High level of cash usage influences the effectiveness of the fight against money laundering and financing of terrorism.

Implementation of the Law on the prevention of money laundering is supervised by the APML with the cooperation of the National Bank of Serbia, the Securities Commission, the Ministry of Trade, the Foreign Currency Inspectorate, the Administration for Games of Chance, the Ministry of Culture and Media and the Bar Association. This cooperation needs to be strengthened. The APML is part of the Ministry of Finance and was established in 2005. It is run by a director appointed for a five-year period by the government. The Administration has a staff of 40 working in three departments: Analysis, International cooperation, legal and financial issues and suspicious transactions. In order fully to enforce the anti-money-laundering legislation, the capacity of the APML needs to be increased. Furthermore, the judiciary and law enforcement services lack expertise in handling money laundering cases and financial investigations. Over the past years, there have been few investigations, prosecutions or convictions related to terrorist financing or final convictions related to money laundering.

### *Conclusion*

Capital movements in Serbia are partly liberalised, but further efforts are necessary in order fully to align legislation with the EU *acquis* in this area. Serbia needs to complete its legal framework so that the free movement of capital, as defined by the European legislation, is guaranteed. Legislation on payment systems is still at an early stage and needs to be aligned with the EU *acquis*. Concerning the fight against money laundering and financing of terrorism, progress has been made with adoption of relevant legislation and establishment of the necessary institutional framework. However, implementation needs to be enhanced, as the high level of cash usage influences the effectiveness of the fight against money laundering and financing of terrorism.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* in this area and to implement it effectively in the medium term.

### **3.5. Chapter 5: Public procurement**

The EU *acquis* on public procurement includes the general principles of transparency, equal treatment and non-discrimination. In addition, specific EU rules apply to coordination of the award of public contracts for works, services and supplies, for the classical sectors, for utilities and for defence and security. Their scope is defined in terms of the contracting entities and contracts covered and application thresholds and specific exclusions. The EU

*acquis* also lays down rules on review procedures and the availability of remedies. Compliance with the procurement directives will require adequate implementation capacity.

The Stabilisation and Association Agreement (SAA) stipulates that, at the latest five years after the entry into force of the Agreement, EU companies not established in Serbia must be granted access to contract award procedures in Serbia on terms no less favourable than those accorded to Serbian companies.

While the **general principles** applying to public procurement in the internal market have been largely introduced in the Serbian legislation consistent implementation and enforcement need to be ensured by strengthening administrative capacity at all levels and boldly stepping up the policies to fight corruption in public procurement. The strategy for upgrading the public procurement system in Serbia was adopted in September 2011. Current provisions of the 2009 Public Procurement Law that grant preferential treatment to Serbian companies have to be gradually aligned with the EU *acquis* following the entry into force of the SAA. The lack of an appropriate regulatory framework on concessions still remains to be addressed.

The **award of public contracts** is regulated by the Public Procurement Law that entered into force in 2009 and was followed by adoption of the relevant implementing legislation. The Law is largely based on the current EU public procurement legislation. However, it still displays some discrepancies. In particular, the definitions of exempted and excluded contracts are broader than those allowed in the EU directives. Moreover, the scope for using negotiated procedures is wider than stipulated by the EU rules, whereas the scope for use of the restricted procedure is more limited. Award of public contracts relating to utilities is not fully aligned with the EU *acquis*. The ongoing reforms of the regulatory framework on concessions and public-private partnerships (PPPs) need to be in line with the applicable EU rules and harmonised with the legislative and institutional framework on public procurement.

In terms of administrative capacity, the Ministry of Finance is in charge of legislative activity and the Ministry of Economy and Regional Development in charge of concessions. The Public Procurement Office (PPO), set up in 2002, is an executive body designed to create the conditions for correct use of public funds. Its Director was appointed in June 2011.

The PPO has published a set of standard forms, templates and models to facilitate procurement. The PPO continues to provide training seminars for stakeholders throughout the country, to promote the public procurement web portal and to provide assistance and advice to procurers and bidders. Certification of public procurement officials started in December 2010. However, e-procurement has still to be adopted by practitioners, even though the legal basis for introducing it exists. The Public Procurement Unit in the Ministry of Finance, which is responsible for legislative initiatives and general coordination, remains persistently understaffed.

With regard to the **remedies** system, the Commission for Protection of Bidders' Rights was set up in October 2010 as an independent body accountable directly to parliament. This Commission is a second-instance body in the review procedure with powers to cancel public procurement procedures entirely or partially. Members of the Commission were appointed in October 2010. The Commission was established as a separate and independent institution with its own budget and premises. It still needs to build its credibility by timely handling of cases, consistent jurisprudence and a transparent enforcement record. Furthermore, it needs to ensure effective enforcement by systematically monitoring and scrutinising implementation of its

decisions and to notify cases of non-compliance to the State Audit Institution, the Budget Inspectorate, the national parliament and the government of Serbia.

A coordination mechanism between the main stakeholders in the public procurement system still needs to be established, especially with a view to reducing the scope for corruption, which is widespread in the award of public contracts. Institutional cooperation in this field remains very weak. Sustained political will is needed to ensure proper implementation of public procurement legislation.

### *Conclusion*

Serbia's legislation on public procurement is partially aligned with the EU *acquis*. A strategy for upgrading the public procurement system in Serbia was adopted in September 2011. Shortcomings remain in the legislative framework, including the lack of an appropriate regulatory framework on concessions and PPPs. The administrative capacity of all key institutions forming part of the public procurement system, especially the Ministry of Finance, needs to be significantly strengthened. Decisions adopted by the Commission for Protection of Bidders' Rights have to be enforced effectively. Mechanisms need to be instituted for coordination between the main stakeholders, including anti-corruption, audit and judicial institutions, notably with a view to reducing corruption in public procurement.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* in the area of public procurement and to implement it effectively in the medium term.

### **3.6. Chapter 6: Company law**

The EU *acquis* on company law includes rules on disclosure requirements, formation, maintenance and alteration of capital, mergers and divisions, takeover bids, shareholders' rights and corporate governance principles. In the area of financial reporting, the EU *acquis* lays down rules on presentation of annual and consolidated accounts, including simplified rules for small and medium-sized enterprises. Specific accounting rules apply to banking and insurance. Application of International Accounting Standards (IAS) is mandatory for some public-interest entities. In addition, the EU *acquis* sets out rules for the approval, professional integrity and independence of statutory auditors.

Serbia adopted a new Company Law in May 2011 in order to align further with the EU *acquis* in this field. The Laws on the business registers agency and the registration entities are broadly in line with the EU *acquis*. As regards administrative structures, the Ministry of Economy and Regional Development is responsible for policy proposals and performs duties of the State administration related to companies and other business entities. The Agency for Business Registers was established in 2004 as a central institution keeping the registers and a single centralised database of business entities. It also manages other registers, notably the register of financial statements and data on solvency of legal entities and entrepreneurs. The amendments to the Accounting and Auditing Law place an obligation on legal entities and entrepreneurs to submit their regular annual financial statements to the Agency by not later than the end of February of the following year.

Eight staff in the Ministry of Economy and Regional Development, divided into two departments, are responsible for company law. The Agency for Business Registers has over 370 staff. The registration procedure has been successfully reformed, introducing a 'one-stop shop' service as of May 2009, thus allowing business entities to follow only one procedure

instead of submitting several registration applications. The Agency performs its tasks efficiently.

**Corporate accounting** is regulated by the Law on accounting and auditing adopted in June 2006 and amended in 2009. It is broadly aligned with the Fourth and Seventh Company Law Directives for issues not covered by the international accounting standards. Specific derogations or special treatment are envisaged for small companies. A number of pieces of implementing legislation regulate specific areas. The law has incorporated the option included in Article 5 of the International Auditing Standard (IAS) Regulation. This gives Member States the possibility to order application of IAS/International Financial Reporting Standards (IFRS) to legal entities, irrespective whether securities are traded on a regulated market or not. Consequently, all medium-sized and large Serbian entities are required to prepare their financial statements in accordance with the IAS/IFRS international accounting standards.

Based on the Law on accounting and auditing, the National Commission for Accounting was established in 2006 as an advisory authority

The same law regulates **auditing**. Statutory auditing of the regular annual financial statements and consolidated financial statements complies with the International Auditing Standards and the Code of Ethics for Professional Accountants. The following are subject to audit: large and medium-sized legal entities including all financial institutions, parent legal entities preparing consolidated financial statements and all legal entities issuing securities and other financial instruments traded on an organised market. However, the requirements of the Eighth Company Law Directive and the Commission Recommendations of 2008 have only partially been implemented. The Serbian laws are not aligned in areas such as independent public oversight, quality assurance and investigations. The Ministry of Finance is currently responsible for supervision over auditing firms, but the scope of this supervision is not in line with the directive. The Chamber of Certified Auditors is responsible for quality assurance of the statutory audits. However, the Chamber has not yet started this task and its staff needs to be reinforced.

### *Conclusion*

The new Serbian Company Law of 2011 brings Serbia further into line with the EU *acquis*. Its legislation on business registration is largely in line with the EU *acquis*. Serbian rules on corporate accounting and audits are largely aligned with EU rules and international standards. However, in general, some challenges remain on effective implementation and enforcement of legislation, in particular as regards independent public oversight, quality assurance and investigations. Progress in this area should improve corporate culture and further develop systems of corporate governance.

Overall, Serbia should, in the medium term, have the capacity to comply with the requirements of the EU *acquis* in the field of company law and to implement it effectively, provided it continues its efforts.

### **3.7. Chapter 7: Intellectual property law**

The primary objective of the EU *acquis* in the area of intellectual property rights is to ensure the proper functioning of the internal market while striking the appropriate balance between the rights of right-holders and the interests of users and adapting the legal framework to the changing technological environment. The EU *acquis* on copyrights harmonises rules on the legal protection of copyright and related rights. Specific provisions apply to protect databases,

computer programs and semiconductor topographies. The EU *acquis* on industrial property rights sets out harmonised rules for legal protection of trademarks and designs. Specific provisions apply to biotechnology inventions, pharmaceuticals and plant protection products. The EU *acquis* also establishes an EU trademark and EU design. Finally, the EU *acquis* contains harmonised rules for enforcement of copyright and related rights and industrial property rights. It requires Member States to set up adequate implementing mechanisms, in particular effective enforcement capacity.

In accordance with the *Interim Agreement* Serbia has to take the necessary measures to guarantee, no later than January 2014, a level of protection of intellectual, industrial and commercial property rights similar to that existing in the EU, including effective means of enforcing such rights. The Interim Agreement also requires Serbia to accede to a number of multilateral conventions on intellectual, industrial and commercial property rights by the same deadline.

In the area of **copyright and neighbouring rights**, the Law on optical disks was adopted in July 2011. The Law on copyright and related rights was adopted in December 2009 and was followed by implementing legislation. The Commission for Copyright and Related Rights was established in December 2010. It is empowered to decide on the tariffs if no agreement is reached with collective rights management organisations. Currently three organisations in Serbia are authorised for collective management of copyright and related rights. The National Strategy for Intellectual Property Rights was adopted in June 2011. The draft Law amending the Law on copyright and related rights is pending adoption in the Parliament.

The Intellectual Property Office (IPO), established in 2003, has asserted its role as the national coordinator for intellectual property rights. It has set up an in-house education and information centre and become the leading promoter of reforms in this area. The administrative and IT capacity of the IPO have been significantly strengthened over recent years. However, the financial sustainability of the IPO remains unresolved: the Office is still financed from the State budget and has not yet been established as a financially autonomous agency.

Serbia's legislative framework on **industrial property rights**, including its legislation on industrial design and trademarks, is largely aligned with the EU *acquis*. The Law on patents is pending adoption in the Parliament. The 2009 Law on the protection of topographies of integrated circuits, needs to be further harmonized to the EU *acquis*.

Serbia has acceded to all the relevant multilateral conventions, as required by the Interim Agreement, apart from the TRIPS Agreement, which is subject to Serbia's accession to the WTO. Since October 2010, Serbia has been a member of the European Patent Organisation.

**Enforcement** of intellectual property rights is specifically regulated by the Law on special powers for the purpose of efficient protection of intellectual property rights, which entered into force in 2006. A new Decree on the terms and means of enforcement of measures for protection of intellectual property rights at the border, which is aligned with the new Customs Law, entered into force in January 2011.

The key enforcement institutions are the prosecutor for high-tech crime, two specialised police units, the specialised customs department, the specialised tax inspection unit, the tax police, the market inspectorate and different court panels. The administrative capacity of individual institutions is improving, albeit with varying speed and quality. Via its new

Education and Information Centre, the IPO coordinates training and awareness-raising activities on intellectual property rights.

However, the distribution of administrative powers, notably inspection powers, is unclear. In this complex institutional setting, there is a lack of coordination mechanisms. Inter-institutional cooperation takes place on a bilateral and *ad hoc* basis, rather than in an institutionalised and predictable manner. Exchanges of information are not standardised and lack a solid IT platform that would ensure transparency and statistical tools for tracking a comprehensive enforcement record in the area of intellectual property rights. Participation of economic operators and consumers in preventing counterfeiting and piracy needs to be ensured systemically across all enforcement institutions. The issue of inadequate storage and destruction facilities for counterfeited and pirated goods still remains to be solved.

As regards judicial protection of intellectual property rights, the Law on the organisation and jurisdiction of government authorities in the fight against high-tech crime was adopted in 2005 and is being applied since 2007. Special high-tech crime units were established in the Public Prosecutor's Office, the Higher Court in Belgrade and the Ministry of the Interior, as provided for by this law. However, specialisation of prosecutors, judges and court panels handling cases in all segments of intellectual property law needs to be ensured.

### *Conclusion*

Legislative alignment with the EU *acquis* in the area of intellectual property law has been progressing well. A national strategy providing a comprehensive framework for concerted enforcement by all competent institutions has been in June 2011 adopted. However, enforcement still remains weak. In more general terms, the administrative capacity of all enforcement institutions needs to be strengthened, with the IPO taking the leading role in education and awareness-raising activities. Court panels adjudicating on intellectual property law require specialisation and intensive judicial training.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* and to implement intellectual property law effectively in the medium term.

### **3.8. Chapter 8: Competition Policy**

The EU *acquis* on competition covers antitrust, merger and State aid policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuses of dominant market positions), to scrutinise mergers between undertakings and to prevent governments from granting State aid which distorts competition on the internal market. The competition rules are directly applicable in the EU, and Member States must cooperate fully with the Commission on enforcing them.

The Interim Agreement, and subsequently the SAA, include provisions comparable to the EU *acquis* on competition, covering anti-competitive agreements, abuses of dominant market positions and State aid. Moreover, they include special rules applying to public undertakings and undertakings with special and exclusive rights and prohibit quantitative restrictions on imports from the EU into Serbia. The Agreement calls for operationally independent authorities to supervise application of the competition rules in Serbia. It also includes a separate protocol establishing the State aid rules which will apply in the event that restructuring aid is granted to the Serbian steel industry.

As regards **antitrust and mergers**, all fundamental aspects of the legal and institutional frameworks are aligned with the EU *acquis*. A revised Competition Law entered into force on 1 November 2009 and the necessary implementing legislation has been adopted. Competition law applies to all sectors of the economy, to public and private undertakings and to goods and services. The principles set out in Article 106(2) of the TFEU regarding services of general economic interest are incorporated in the Serbian competition law.

However, conflicting legislation limiting the scope and effectiveness of the competition law, notably on mandatory car insurance, has been adopted without prior consultation of the Commission for the Protection of Competition (CPC), the Serbian competition authority, and remains in force. Serbia needs to rectify these contradictory provisions in its legislation. Furthermore, to avoid this in future, the CPC should be consulted on all draft legislation which could have an impact on competition in Serbia.

The CPC, established in 2006, is an independent body accountable to parliament. It is a self-financing institution. The CPC has substantial investigation powers and may impose fines for infringements of the competition rules. The authority's decisions are subject to judicial review by the Administrative Court. In addition to the Chairperson and the four other members of the CPC's collegiate decision-making body, the authority has 28 employees, which is not sufficient to fulfil its tasks. The authority needs to reinforce its capacity for economic analyses, as part of this work is currently outsourced. Following the approval of the 2011 Financial Plan for the CPC, the Commission should have the funds needed to hire additional economists as case-handlers. The CPC has started to build a track record on enforcing competition rules on the Serbian market. However, further efforts are needed in this respect. A series of CPC decisions have been overturned on appeal for procedural reasons, indicating a systemic issue. The CPC needs to reinforce its capacity in administrative and procedural law.

The capacity of the judiciary to assess complex legal and economic evidence in competition cases remains weak. Significant efforts are needed to increase this capacity.

In the field of **State aid** control, the legal and institutional framework has been put in place. The Law on State aid control entered into force in January 2010 and implementing legislation in March 2010. The collegiate decision-making body – the Commission for Control of State Aid (CCSA) – consists of a President appointed by the Ministry of Finance, a Vice-President nominated by the CPC and three members appointed by the Ministry of Economy and Regional Development, the Ministry of Infrastructure and the Ministry of Environment. The CCSA is supported by the Division for Control of State Aid (DCSA) in the Ministry of Finance, which investigates State aid notifications and drafts decisions. With five permanent employees and one person employed on a temporary basis, the DCSA's current staff level is inadequate to fulfil its tasks.

In accordance with the Interim Agreement, the CCSA needs to establish a comprehensive State aid inventory and existing State aid schemes must be aligned with the EU *acquis* by January 2013. The Serbian Government adopted a State aid inventory in September 2011. Any proposed State aid measures need to be consistently notified to the DCSA, which should raise awareness of the State aid rules among potential aid granters. More efforts are needed to fulfil the obligations imposed by the Interim Agreement.

Given the institutional set-up of the Serbian State aid authority, the *de facto* operational independence of the authority must be closely monitored. In this respect, it is crucial that the

CCSA demonstrates its ability to act independently of aid-granting institutions (in particular ministries) and establishes a solid track record of well-reasoned decisions.

Concerning **liberalisation** of specific sectors, a number of Serbian undertakings enjoy, *de facto* or *de jure*, special or exclusive rights, notably in the fields of energy, transport, infrastructure, postal services, telecommunication services, broadcasting, agriculture and the environment. Further efforts need to be made towards market liberalisation in line with the EU *acquis*.

### *Conclusion*

Serbia has established both the legal and the institutional framework in the area of competition, but additional efforts to increase administrative capacity are necessary. The CPC has started to build up enforcement records, but further efforts are needed. Priority needs to be given to increasing the judiciary's knowledge of competition law. A State aid inventory has been adopted by the Government in September, in line with the Interim Agreement. The operational independence of the CCSA needs to be demonstrated in practice. The CCSA must establish credible and consistent enforcement records. Progress towards market liberalisation in reserved economic sectors is needed. .

Overall, Serbia will have to make additional efforts to align with the EU *acquis* in the area of competition and to implement it effectively in the medium term. This applies, in particular, to safeguarding the operational independence of the State aid authority and to the increasing of consistent enforcement records of the competition authority.

## **3.9. Chapter 9: Financial Services**

The main objectives of the EU *acquis* on financial services are to ensure financial stability, the financial soundness of companies operating in the financial sector and appropriate protection of consumers, investors and policy-holders. The aim is to build up confidence in the financial markets and to provide a level playing-field. The EU *acquis* on financial services includes rules on authorisation, operation and supervision of financial institutions in the areas of banking, insurance, supplementary pensions, investment services and securities markets and on financial market infrastructure. Financial institutions can operate across the EU in accordance with the 'single passport' and the 'home country control' principle, either by establishing branches or by providing cross-border services.

The SAA provides for gradual opening of establishment of financial services.

In the case of **banks and financial conglomerates**, there is good alignment with the EU *acquis* and international standards. The Law on banks, adopted in 2005 and amended in 2010, regulates the licensing of banks. It gives foreign credit institutions the right to establish banks in Serbia and treats these banks as domestic legal entities. Banks may be founded by one or more domestic or foreign legal entities or natural persons who provide the bank with equity capital of a minimum value of € 10,000,000. Serbia will need to align with the single passport and home country control principles by the time of accession.

As regards capital adequacy and supervision, Serbia is currently implementing Basel I requirements and is preparing to implement Basel II. To this end, a regulation was adopted in December 2010 on capital requirements, (standardised approach) risk management, disclosure and consolidated supervision. Serbia will need to catch up with implementation of Basel II

and ensure timely implementation of Basel III, as the Basel standard is the basis for the EU capital adequacy legislation.

The deposit guarantee scheme in Serbia is governed by the Law on deposit insurance, which was adopted in 2005 and amended in 2008 and 2010. The institution in charge of deposit insurance in Serbia is the Deposit Insurance Agency and the minimum amount insured is € 50,000 per bank depositor.

Responsibility for supervision of banks and financial conglomerates lies with the National Bank of Serbia (NBS). As the independent regulatory body, it reports directly to parliament. The banking supervision section of the NBS has six departments with 102 employees. It has two departments dealing with on-site and off-site inspections and one with supervision of financial leasing companies. The NBS is fully independent for carrying out supervision in the financial sectors under its responsibility and has cooperation agreements with many home authorities and institutions and also with foreign supervisory authorities. It has sufficient administrative capacity.

The Law on bankruptcy and liquidation of banks and insurance companies covers aspects of reorganisation and winding-up of banks and financial conglomerates in Serbia.

The main legislation in the area of **insurance and occupational pensions** are the 2004 Law on insurance, amended in May 2011, and the 2009 Law on compulsory traffic insurance regulating the minimum coverage for compulsory motor vehicle insurance. Some aspects of the operation of insurance companies are also dealt with in the Law on the National Bank of Serbia and the Law on bankruptcy and liquidation of banks and insurance companies. The Law on insurance grants insurance companies licensed to perform insurance activities in Serbia the status of a domestic legal entity (domestic insurance company) operating under equal conditions to other companies, regardless of whether the owners are domestic or foreign entities. Cross-border services are allowed only against risks that are not insured in Serbia or for specified risks defined by the government.

Serbia will need to align with Solvency II directive by providing quality insurance and human resources management and developing the internal control system.

The National Bank of Serbia is empowered to regulate and supervise the insurance sector. In this capacity, the NBS issues and revokes licences to conduct insurance activities and supervises and controls these activities. Its Insurance Supervision Department employs 42 staff. Its administrative capacity is sufficient. In order to improve its supervisory functions over the insurance sector, the NBS signed a number of memoranda of cooperation, notably with EU countries such as Hungary, Belgium and Austria. Bankruptcy and liquidation of insurance companies are regulated by the Law on bankruptcy and liquidation of banks and insurance companies.

As regards **financial markets infrastructure**, the Law on the market for securities and other financial instruments is not aligned with the EU legislation on financial collateral arrangements and on investor compensation schemes. A newly adopted Law on capital markets aims to bring the Serbian legislation further into line with the EU *acquis* in the area of financial markets infrastructure too.

As regards **securities markets and investment services**, the regulatory framework is defined by the Law on capital markets, adopted in May 2011, which aims at aligning with the EU legislation on markets in financial instruments, on securities prospectuses and on prevention

of market abuse. It also requires annual and interim reporting, as stipulated by the Directive on transparency. Broker dealer companies, banks and investment fund management companies and voluntary pension fund management companies may be established by domestic or foreign natural persons and legal entities but need to be licensed in order to be registered. There is no possibility for an EU-authorized investment company to provide cross-border services directly or to manage a pension fund in Serbia. Furthermore, there is no legislation governing rating agencies.

The legal framework for investment funds was adopted in 2006 and amended in 2009 and in 2011. The investment fund law only partially aligns the EU *acquis* on undertakings for collective investment in transferable securities (UCITS).

The Serbian Securities Commission is the supervisory authority for the securities sector. The Commission has five members, including the president. The president and the members of the Commission are elected by the national parliament for five years. A new president and members of the Commission were appointed in July 2011. The Commission employs 42 staff all together. It is financially independent (self-financed from fees and taxes from participants in the market), and appears to have sufficient administrative capacity. It has been a member of IOSCO since 2002. The Securities Commission conducts supervision by reviewing reports, documentation and other data that the supervised entities are under an obligation to keep or submit to the Commission.

### *Conclusion*

The legislation on financial services covers the requirements of the EU *acquis* to a considerable extent. Serbia is currently implementing Basel I and is moving towards alignment with Basel II. The NBS carries out its supervisory role in a satisfactory manner. Further efforts will need to be made to align with Solvency II directive and the EU regulations on financial market infrastructure. Alignment with securities markets legislation is needed and the newly appointed Securities Commission needs to make sure that it carries out its supervisory functions properly.

Overall, Serbia will have to make additional efforts to align fully with the EU *acquis* in this field and to implement it effectively in the medium term.

### **3.10. Chapter 10: Information society and media**

The EU *acquis* on the information society and media aims to eliminate obstacles to effective operation of the internal market in electronic communications services and networks, promote competition and safeguard consumer interests in the sector, including the universal availability of basic modern services. It also includes rules on information society services and a transparent, predictable and effective regulatory framework for audiovisual media services in line with European standards.

As regards **electronic communications and information technologies**, the *Stabilisation and Association Agreement* sets the ultimate objective of Serbia adopting the EU *acquis* in the sector of electronic communications networks and services three years after the entry into force of the SAA. This means that Serbia will have to fully align with a substantial number of directives and to ensure their implementation by that date.

Liberalisation of the electronic communications market has started. In January 2010 Serbia granted a fixed telephony licence to a second operator, but kept the market closed for other newcomers until the end of 2011.

The mobile telephony market has been opened to competition, with two additional operators licensed in 2006. Mobile number portability was introduced in 2011. Internet services have also been opened to competition. Most of the Internet service-providers have been providing ADSL services based on the incumbent operator's wholesale offer and relying on its international interconnectivity. However, although 39 VoIP<sup>4</sup> licences have been granted since 2008, few of the operators are functioning effectively. Most of the safeguards necessary to create a competitive market have not yet been introduced. The incentives to open the market for liberalisation were further offset in 2011, with the cancellation of the privatisation of the incumbent operator, Telekom Srbija. The broadband market is underdeveloped with penetration level standing at around 8% in 2010.

The Law on electronic communications entered into force in July 2010, repealing most of the 2003 Telecommunications Law and further aligning with the 2002, and some provisions of the 2009, EU regulatory framework. Implementing legislation remains to be adopted. The strategy for the development of electronic communications from 2010 to 2020 was adopted in September 2010.

The Ministry for the Information Society and Telecommunications was merged with the Ministry of Culture in March 2011. The administrative capacity of the ministerial department in charge of electronic communications is not sufficient to meet the tasks at hand.

The Republic Agency for Electronic Communications (RATEL) has been established as an autonomous regulatory authority which became operational in 2005. The five members of the management board are appointed by parliament, on a proposal from the government. The independence of RATEL remains to be fully ensured in order to avoid political influence in its decision-making. RATEL has yet to introduce most of the competitive safeguards in the market. The administrative capacity of RATEL is good but its expertise on implementation of the legislation has to be further improved. Market competitiveness remains limited.

In the field of **information society services**, a ten-year strategy for the development of the information society was adopted in July 2010. A strategy for the development of e-government from 2009 to 2013 was adopted in October 2009. The Ministry for Culture, Media and the Information Society is in charge of policies and strategies on the information society. The legislation on e-signatures has been aligned with the *acquis* following adoption of the 2004 Law on electronic signatures and the 2009 Law on electronic documents. However, the administrative capacity of the ministry is limited, in particular in the sector for the information society. Implementing rules still remain to be adopted to ensure that the switchover takes place as indicated in the 2009 digital switchover strategy. Protection of the conditional access equipment from piracy remains to be extended beyond the field of intellectual property.

As regards **audiovisual policy**, the media environment is regulated by a large set of laws, notably the Public Information Law, the Broadcasting Law, the Law on telecommunications, the Advertising Law, the Law on copyright and neighbouring rights, the Law on free access to information of public importance and the Law on electronic communications. Adoption of the

---

<sup>4</sup> Voice over the Internet Protocol.

draft Law on unallowable mergers and the transparency of ownership, which was tabled by the Ministry of Culture, is still pending. A comprehensive media strategy was adopted in September 2011. It aims at increasing editorial independence and better protecting media outlets from undue influence. It also lays the foundations for forthcoming legislative changes which should clarify the market environment in which media outlets are operating. The Ministry for Culture, Media and the Information Society is in charge of policymaking and the Republican Broadcasting Agency (RBA) is the regulatory authority monitoring enforcement of the relevant legislation. The RBA's administrative and technical capacity is sufficient to meet the obligations set under the Audiovisual Media Services Directive.

However, Serbia's legislative framework remains to be fully aligned with the EU *acquis*, particularly with the Audiovisual Media Services Directive. The legislation also lacks provisions for regulating on-demand and online audiovisual services. The existing legal framework remains to be clarified, as there is a contradiction between the Broadcasting Law on the one hand, which does not allow municipal ownership of broadcasters, and the Law on local self-governance along with the Law on the City of Belgrade on the other, which allow public establishment and ownership of the media. This contradiction was deepened in 2009 when the Law on national minority councils transferred foundation and managerial rights over media to National Minority Councils too. This lays down conditions for political control of the media in minority languages by the dominant political minority groups. The regulation on electing members of the RBA needs to be amended to guarantee the RBA's independence from political influence. The RBA needs to step up its activities and take action in cases of breaches of legislation. The transparency of its activities has to be improved.

In line with the commitments under the Interim Agreement, the financing of certain media from the State budget will have to be brought into line with the EU *acquis* as it constitutes State aid.

### *Conclusion*

As regards electronic communications and information technologies, Serbia has partly aligned its legislation with the EU *acquis*, but implementation of the new legal framework is at an early stage. Full market liberalisation remains to be ensured. The two regulatory authorities — RATEL and the RBA — have relatively good capacity, but their independence and enforcement powers need to be strengthened in order to give all market players a competitive level playing-field. The legislation on media ownership has yet to be aligned with the EU legislation on State aid.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* in the area of the information society and the media and to implement it effectively in the medium term.

## **3.11. Chapter 11: Agriculture and rural development**

The EU *acquis* on agriculture and rural development covers a large number of binding rules, many of which are directly applicable. Proper application of these rules, effective enforcement and control of them by an efficient public administration are essential for the functioning of the common agricultural policy (CAP). Running the CAP requires setting up a paying agency and management and control systems such as the integrated administration and control system (IACS) and also the capacity to implement rural development measures. Member States must be able to apply the EU legislation on direct support schemes and to implement the common market organisation for various agricultural products.

Pending the entry into force of the Stabilisation and Association Agreement (SAA), the Interim Agreement on trade and trade-related matters in force since 1 February 2010 provides for gradual liberalisation of agricultural trade. The SAA also includes provisions on cooperation in the area of agriculture.

Agriculture is one of the most important economic activities in Serbia. The total area of agricultural land in Serbia is 5,097,000 hectares, some 80% of which is arable land. In 2009, crop production accounted for around 70% of the value of all agricultural production and livestock production 30%. Primary production from agriculture, hunting, forestry and fisheries generated approximately 10% of GDP. Agricultural exports are continuing to expand and contributed about 24% of Serbia's total exports in 2009. Serbia has a trade surplus with the EU in basic agricultural goods. Approximately 55% of the population lives in rural areas and around one third of the active population rely wholly or partly on agriculture for their livelihood. Agriculture remains the prevailing economic activity in most rural areas, which are dominated by smaller farms, low productivity and low farm profits.

Serbia's agricultural policy is based on the Law on agriculture and rural development adopted in 2009. This law sets the objectives of agricultural policy and provides the general framework for development of and support for agriculture and rural areas. The policy is implemented by means of the Agricultural and Rural Development Strategy. The strategy for the period 2011-2020 has not yet been adopted. Serbia's agricultural budget in 2010 accounted for just over 2% of the total budget, providing limited support for further development of Serbian agriculture; direct payments predominated.

Although there have been improvements over the last few years, the current capacity of the Ministry of Agriculture, Trade, Forestry and Water Management needs to be strengthened in order to adapt its structures and systems to EU requirements. In addition, agricultural statistics need to be developed in line with the EU *acquis*. The agricultural census, scheduled for 2012, should provide results which will allow Serbia to advance in the formulation and implementation of agricultural and rural development policies.

Concerning **horizontal issues**, Serbia needs to pay extra attention to establishing the administrative structures required for the common agricultural policy. Since the EU *acquis* on the paying agency and the IACS, central elements for management and control of CAP funds, is very demanding, planning and preparation will require investment and institution capacity building well in advance of accession. Serbia will need to establish a *farm accountancy data network* (FADN) in line with the EU *acquis*.

Direct aid payments are currently granted for Serbia's key production sectors: dairy, meat and crops (per head for livestock and per hectare of crop production area, together with price support for certain products). One prerequisite for entitlement is insurance with a Pension Insurance Fund for Farmers. In every case, a yearly budgetary ceiling is set which limits individual payments. *Direct payments* in Serbia gradually need to be brought into line with EU rules, decoupling direct aid payments from production.

In relation to *State aid*, apart from market-related subsidies and rural development measures, Serbia applies a number of additional measures. Serbia will need to bring all its State aid measures into line with EU rules and guidelines adopted in this area.

Considerable attention has to be paid to strengthening the administrative capacity in order to manage **common market organisation**.

With regard to **arable crops**, most of the agricultural land in Serbia is used for the production of grain crops (wheat, barley, rye, oats, corn, millet and sorghum), which cover approximately 60% of the total area sown. Corn is the most important crop with around 1.2 million hectares sown annually. Wheat takes second place with approximately 500,000 hectares. Serbia is also a large producer of oil crops. Sugar beet was grown on just over 60,000 hectares in 2009, producing about 3 million tonnes.

Serbia is the largest producer of meat among CEFTA countries. However, production is moderate compared with EU levels. On productivity, **livestock production** is lower than in most European countries in terms of number of head per hectare of agricultural land. **Milk production** in Serbia is very important, involving more than 280,000 producers.

In terms of **specialised crops**, fruit and vegetables production is a significant agricultural activity in Serbia, with the most important crops being potatoes, cabbage, tomatoes, apples, berries and plums. With an overall annual production of around 80,000 tonnes, Serbia is one of the major raspberry producers in the world. The fruit and vegetables processing and preserving industry shows significant potential for development. Serbia applies a per-hectare subsidy for planting fruit trees which is not in line with the EU *acquis*. A basis already exists for producer groups, as in the EU, but the administrative structure and legal provisions to allow them to operate in line with the EU *acquis* will need to be set up. A sound basis for marketing standards for fresh fruit and vegetables and conformity checks already exists, but further harmonisation is needed in order to align with the EU *acquis*.

The viticulture and wine-making sector has a long tradition in Serbia. Currently, it has great untapped potential but efforts are underway to develop and promote the sector. The Serbian Law on wine has many elements in common with the EU wine legislation. Serbia is a member of the International Organisation for Vine and Wine (OIV). The policy formulation capacity of the Ministry of Agriculture for this area remains limited. Implementing legislation for the vineyard register has been adopted. However, the vineyard register remains to be established and the procedure for authorisation of oenology laboratories needs to be put in place. The 2009 Law on Rakija and other alcoholic beverages needs to be aligned with the EU *acquis* in the spirits sector.

As regards **rural development**, the Law on agriculture and rural development put in place a strategic framework that largely resembles the one established under the current EU legislation. However, the scope and provisions of the law need to be further elaborated in terms of measures and scope of implementation with a view to full alignment with the EU *acquis*. The agri-environmental orientation of Serbia's rural development policy remains weak. Extension services and advisory support exist but need to be boosted. While the law establishes administrative structures similar to those implementing the current rural development programmes in the EU, the administrative capacity needs to be enhanced.

Regarding the preparations for decentralised management of Instrument for Pre-Accession Assistance for Rural Development (IPARD – component V), several positive actions have been undertaken, including efforts to establish IPARD structures. A Directorate for Agrarian Payments which is planned to serve as a future IPARD agency, has been set up. However, progress needs to continue and attention must be given to ensuring the consistency and functioning of resources assigned to these structures. The readiness of the National Fund for IPARD must be ensured.

As regards **quality policy**, Serbia has legislation in place which regulates protection of designations of origin, geographical indications and traditional names. This legislation needs to be amended and updated to bring it fully into line with the EU *acquis*. The **organic farming** sector in Serbia can be expected to grow in the future, due to domestic support and ongoing international trends. A new law, based on the EU framework, entered into force in 2011 and now needs to be implemented. Overall responsibility lies with the Ministry of Agriculture, Trade, Forestry and Water Management which authorised eight control bodies in 2010. At present no precise data are available on the area under organic production, but the new law calls for mandatory reporting. Supervisory activities need to be strongly supported and enforced.

### *Impact*

The estimated impact of eventual EU accession by Serbia on the EU common agricultural policy is relative to the structure and size of Serbia's agricultural sector, which accounted for 10.6% of GDP in 2009. If Serbia joins the EU, it would add 5,097,000 hectares of agricultural land to the EU. This corresponds to 3% of the utilised arable area (UAA) in the EU-27. Overall, Serbia's membership of the EU would therefore be expected to have a limited impact on the CAP.

### *Conclusion*

Accession to the EU will have a big impact on Serbian agriculture which is a very important sector for the country's economy and rural society. In the field of agriculture and rural development, agricultural policy will require adjustments, moving towards decoupled support measures. Although good progress has been made in recent years, Serbia will have to strengthen its administrative capacity and ensure the fundamental instruments and institutions for managing the CAP. Considerable attention must be paid to strengthening the administrative capacity in order to manage the common market organisation and rural development activities. Continuing to focus on establishing all IPARD structures for implementing pre-accession assistance is essential.

Overall, Serbia will have to make considerable and sustained efforts to align its legislation with the EU *acquis* and to effectively implement and enforce it.

## **3.12. Chapter 12: Food safety, veterinary and phytosanitary policy**

The EU has an integrated approach aimed at ensuring a high level of public health, animal health, animal welfare and plant health by means of coherent farm-to-table measures and adequate monitoring, while ensuring effective functioning of the internal market. The EU *acquis* lays down hygiene rules for food production and veterinary rules, which are essential for safeguarding animal health, animal welfare and the safety of food of animal origin in the internal market. EU phytosanitary rules cover issues such as seed quality, plant protection products, harmful organisms and animal nutrition. Member States must have appropriate administrative structures for inspection and control of food products, including appropriate laboratory capacity.

The SAA includes provisions on cooperation in the field of veterinary and phytosanitary controls.

In the area of **general food safety**, **food safety rules** and **specific rules for feed**, the responsibilities for control of food and animal feed safety have been defined in the 2009 Law

on food safety. The Veterinary, Phytosanitary and Agricultural Inspections of the Ministry of Agriculture, Trade, Forestry and Water Management are responsible for official controls of food and feed of animal and plant origin in primary production, processing, sale, import, transit and export. The Sanitary Inspections of the Ministry of Health is responsible for control of novel foods, dietetic products, additives, aromas, enzymes of non-animal origin and of all types of potable water. The Veterinary Directorate of the Ministry of Agriculture is the competent authority for the safety of food of animal origin. The current administrative structures are reliable even if staffing needs to be strengthened in several sectors.

The Food Safety Law includes most of the principles required in the EU *acquis*. However, enforcement of the Law needs to be considerably improved. Some of the features introduced by the Food Safety Law are not yet applied (e.g. the principle of risk analysis). The implementation by food businesses as well as the related official controls of other key principles (e.g. hazard analysis and critical control points - HACCP) also need to be improved. Both the skills base and the equipment of the authorities responsible for official controls and policymaking in this area need to be strengthened. The National Reference Laboratories Directorate is severely understaffed and, thus, unable to perform the duties assigned to it by the Food Safety Law.

As regards **genetically modified organisms** (GMOs), the existing legislation is not compatible with the EU *acquis*.

The legislative framework in the **veterinary** sector consists of the 2005 Law on veterinary matters (amended in 2010) and the 2009 Law on animal welfare. Implementing legislation for eradication of a number of animal diseases and on animal welfare has been approved following adoption of the framework legislation. Serbia has a functioning animal identification and registration system. In order to be able to implement the legislation properly, the veterinary IT systems need to be upgraded. Official controls of implementation of the animal identification and registration system (including control of cattle markets) need to be improved.

With regard to **placing on the market of food, feed and animal by-products**, access to the EU market is improving. Currently five slaughterhouses have been approved to export beef, four processing establishments to export beef and pork meat products, two fish establishments and two dairy plants to export dairy products to the EU. However, Serbia is not yet on the list of countries authorised to export fresh meat of pigs and poultry. So far, no establishments processing poultry meat products are listed for export to the EU. The national programme for upgrading establishments to EU standards has yet to be prepared.

The national system for management of animal by-products needs to be substantially upgraded in order to comply with EU requirements.

The framework acts regulating the **phytosanitary** area consist of the Laws on plant health (2009), registration of agricultural plant varieties (2010), plant breeders rights (2009) and plant protection products (2009). Progress has been noted on adoption of implementing legislation, for example on maximum residue levels of plant protection products in food and on plant-breeders' rights. However, the procedure for registration of new plant protection products is not harmonised with the EU *acquis* and an official pesticide residues monitoring programme meeting EU requirements has yet to be put in place. The phytosanitary strategy for introduction of a plant passport system has not been formally adopted and the plant passport system has not yet been implemented. The capacity of both the national reference

laboratory and the regional laboratories for control of seed and seed material and for pesticide residue analysis requires further strengthening to meet EU requirements.

### *Conclusion*

Serbia has started the process and made good progress with aligning its legislation with EU requirements in the area of food safety, veterinary and phytosanitary policy. However, further strengthening of the administrative capacity of the institutions involved in controlling food chain safety, in particular of the veterinary, phytosanitary and national reference laboratories within the Ministry of Agriculture, Forestry and Water Management, is required in order for Serbia to be able to comply with EU requirements in this area.

Overall, Serbia will have to make additional efforts to achieve full alignment with the EU *acquis* in the medium term and also with implementation of the harmonised legislation.

### **3.13. Chapter 13: Fisheries**

The EU *acquis* on fisheries consists of directly applicable Regulations, which do not require transposition into national legislation. However, it does require the introduction of measures to prepare the administration and operators for participation in the common fisheries policy (CFP), which covers aquaculture, market provisions and State aid. Furthermore, certain provisions of the European Fisheries Fund (EFF) Regulation will have to be implemented and a severe system established for control of fisheries products, with the aim of ending illegal, unreported and unregulated fishing. However, the CFP does not cover 'inland fishing'. Consequently, CFP rules provide rather limited coverage in Serbia. EU requirement on **resource and fleet management** and **inspection and control** do not apply to inland fishing and is therefore not applicable for Serbia.

The *Interim Agreement* on trade and trade-related matters and subsequently the SAA, regulates preferential trade in fish and fishery products and encourages cooperation in the field of fisheries. The SAA also introduces cooperation on fisheries.

Serbia has no coastline and, therefore, no marine fisheries. Serbia's very small fishing sector (accounting for € 6 million in 2008, with around 1,500 people working as professional fishermen or fish-farm employees) consists of commercial inland fishing carried out on the Rivers Danube, Sava and Tisa. Serbia has approximately 55 natural lakes with a total surface area of 5,000 hectares, plus about 150 reservoirs and ponds. Inland fishing in Serbia includes warm-water aquaculture, mainly common carp, and cold-water aquaculture, mainly rainbow trout. Since 2003 a slight rise in catches has been recorded for all fish species in inland waters. Since 2005 a small increase in fisheries exports has been recorded. However, imports significantly surpass exports, in terms of both quantity and value. Serbia has been included on the list of countries allowed to export fishery products to the EU.

Serbia has no specific **structural action** or **State aid** for aquaculture and small-scale commercial fisheries. However, a limited number of structural measures for inland fishing exist, in line with the EFF Regulation.

With regard to **market policy**, Serbia has established no marketing standards for fisheries products. Serbia will therefore have to align its legislation with the EU *acquis* in this area, also when it comes to compulsory consumer information when products are offered for retail sale to the final consumer.

As regards aquaculture, Serbia will need to establish a national administrative body with the aim of preventing, effectively controlling and eradicating alien species which threaten ecosystems, habitats or species. Serbia will also have to establish a national catch certification scheme for imports and exports of fishery products.

### *Conclusion*

The Serbian fishing industry is very small and consists of inland fishing, which is not covered by the EU *acquis*. The administrative body for the fisheries sector needs to be adapted to the needs of the CFP, while the capacity of the administration dealing with management and control of fishing activities needs to be enhanced and brought into line with CFP obligations.

Overall, Serbia should be able to align with the EU *acquis* in the fisheries chapter and to implement it effectively in the medium term.

### **3.14. Chapter 14: Transport policy**

EU transport legislation aims at improving the functioning of the internal market by promoting efficient, environment and user-friendly transport services. The EU *acquis* on transport covers road transport, railways, aviation, maritime transport and inland waterways. It governs technical and safety standards, social standards and market liberalisation in the context of the single European transport market.

In the field of **road transport**, in line with the Interim Agreement, Serbia has granted unrestricted access to EU transit traffic to cross its territory.

The new Law on road transport adopted in April 2010 was a step forward towards alignment with the EU *acquis*. However, two issues are still outstanding: compliance with the regulations on access to the international road market and to the occupation of road transport operator. The Law on road safety was adopted in July 2010. Implementing legislation has yet to be adopted, in particular on drivers' hours, driving and rest times and transport safety conditions for tunnels. The Law on road safety established the Road Traffic Safety Agency, which is now operational; 40 of the 65 posts in the Agency were filled until now.

In the area of the EU social *acquis*, the legal framework regulating the driving times and rest periods of drivers performing international transport operations and introducing tachographs was adopted in mid-2010. It is in line with the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR). Serbia needs to step up establishment of a system of digital tachographs.

The Law on transport of dangerous substances by road, rail and inland waterways entered into force in May 2011 and is consistent with EU legislation. Serbia is a party to the European Agreement concerning the international carriage of dangerous goods by road (ADR). However, Serbia needs to strengthen its mechanisms for monitoring the implementation of the relevant international rules and EU legislation, including those on transportable pressurised equipment, roadside checks on vehicles and safety advisors. Legislation and organisational arrangements for roadworthiness testing are in place. The national limits on the maximum weights and dimensions for road vehicles are harmonised with the EU requirements. Serbia applies a fee for special transport operations exceeding the permitted vehicle dimensions, total mass and axle load. More transparency is needed as far as determination and application of this special fee is concerned.

On **rail transport**, a new law on railways has been adopted by the Government in August 2011 and is currently in parliamentary procedure. The draft law is partially harmonised with the relevant EU rules and will bring progress to the opening-up of the rail market. Further efforts will be needed to complete the alignment. Serbian railways were transformed into a joint stock company in June 2011. The draft law on railways envisages its further transformation into a holding with different daughter companies for freight, passenger and infrastructure management. However, the holding structure of Serbian Railways will not ensure the independence of the infrastructure manager or prevent cross subsidisation. Serbian railways have not yet published the network statement of the infrastructure manager needed to ensure transparency and non discriminatory access to rail infrastructure for all railway undertakings. The EU safety and interoperability rules have not been introduced into the national legislation. Similarly, there is no contract to compensate public service obligations in line with the corresponding EU Regulation. According to the draft law on railways, the Railway Directorate which is a legal entity under the state administration shall perform the role of railway regulatory body. The independence of this body will need to be further ensured, and it will need to be given the required competences and administrative capacity. Serbia has yet to establish an independent accident investigation body. Concerning border crossing, four Protocols were signed under the Border Crossing Agreement between Montenegro and Serbia. The Agreement needs to be further aligned with the EU legislation. Serbia needs to speed up the implementation of its commitments set in the Addendum for a Common South East European Railway Area.

On **inland waterway transport**, the 2010 Law on safety of navigation by inland waterways contains provisions harmonising with European and international regulations in this sector. The River Information System is being implemented in line with EU requirements. A public agency to manage the inland ports has been established in September 2011.

As regards **combined transport**, Serbia is in the initial phases of developing its policy.

The Law on **air transport** was adopted in 2010. However, more efforts need to be made to implement it properly. The law was amended in 2011. The amendments introduced the establishment of a Centre for investigation of accidents and serious incidents as a separate and independent institution and transferred the inspection oversight functions and activities from the Ministry of Infrastructure to the Civil Aviation Directorate.

Serbia has made some progress with implementation of the first transitional phase of the European Common Aviation Area (ECAA) Agreement. Opening of the market has led to an increase in the number of carriers operating in Serbia and in passenger traffic.

Serbia has aligned partially with the EU Regulation on passengers rights, fulfilling its obligation under the ECAA Agreement. Passenger rights in the event of denied boarding, cancellation or long delays of flights are regulated by the Law on obligations and basic rights in air transport. However, Serbia needs to adopt the rules concerning the protection of rights of disabled persons and persons with reduced mobility in accordance with the EU Regulation. Specific national bodies for enforcement of these rights have not yet been appointed. Both EU and international (Montreal Convention) rules on air carrier liability in the event of accidents have been introduced into Serbia's national legislation.

EU rules on groundhandling have been implemented, but further efforts are needed to improve their application. Progress has to be made on implementing the Regulation on

allocation of slots. In relation to airport charges, further clarification of the rules on disputes between airport users and the airport managing body is needed.

Regarding regulatory alignment within the programme for implementation of the single European sky in South-East Europe, Serbia adopted implementing legislation aligning with the framework and the service provision regulations of the single European sky and with the regulations on the software safety assurance system for air navigation service providers and safety oversight in air traffic management. Legislation on the organisation and use of airspace, interoperability of the European air traffic management network and the regulation on flexible use of airspace needs to be adopted to ensure regulatory convergence in the air traffic management field. Serbia needs to comply with requirements concerning inspections. The security control system has to be overseen by an independent body.

In the area of **maritime transport**, no sea-going vessels call at inland waterways ports in Serbia and no fleet is registered in the country. Progress on harmonisation of the national legislation with the EU rules on safety of maritime navigation was made in July when the government adopted the Law on maritime navigation, which is now in parliamentary procedure.

Serbia has stated its intention of taking part in the Galileo **satellite navigation** programme.

### *Conclusion*

Serbia has framework legislation on road transport and inland waterways, and is about to adopt a law on maritime navigation. However, more efforts need to be made to implement it properly. A new law on the railway market opening generally in line with the EU legislation is pending parliamentary adoption. Serbia will need to adopt appropriate legislation for the safety of railways. Serbia has implemented most of the EU aviation legislation, but there is a considerable delay in implementation of the single European sky legislation. Administrative capacity needs to be strengthened to ensure implementation of the legislation, in particular as far as enforcement and inspection bodies for road transport, railways and aviation are concerned.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* and to implement it effectively in the medium term.

### **3.15. Chapter 15: Energy**

The EU's energy policy objectives are to improve competitiveness and ensure security of supply, while protecting the environment and combating climate change. The EU energy *acquis* consists of rules and policies covering competition and State aid, the internal energy market (opening up electricity and gas markets in particular), promoting renewable energy sources, energy efficiency, crisis management and oil stock security obligations, nuclear energy, nuclear safety and radiation protection.

Serbia's overall energy balance comprises coal, oil, gas, firewood, hydroelectricity, and other renewable energy sources. There is currently no nuclear energy production. In 2008, the three largest major energy sources for covering gross inland consumption were coal (51%), oil (27%) and natural gas (13%). Domestic production covers 60% of total primary energy consumption. Serbia's energy sector accounts for more than 10% of its GDP. As a transit hub in South-East Europe, Serbia's interconnections with neighbouring countries are very often congested.

Serbia's energy strategy is outlined in the Energy Sector Development Strategy adopted in 2005. An implementing plan was adopted in 2007 and has subsequently been updated, most recently in 2010. The development of a new energy strategy for a period of at least fifteen years is foreseen under a new Energy Law, adopted in July 2011. As a member of the Energy Community, Serbia is legally bound to implement large parts of the EU *acquis* on energy. The new Energy Law represents a substantial step towards full transposition of key provisions of the EU *acquis* on electricity and gas. The new Energy Law foresees a new market model, and the unbundling of distribution and supply functions for gas and electricity. It also foresees stronger powers for the Energy Agency of the Republic of Serbia (AERS), notably as regards the definition of tariffs, oversight of the unbundling process, market rules, allocation rules, and network development plans.

Under the new Energy Law, the tasks and powers of the AERS are, in principle, in line with the 'second package' of the EU energy *acquis*. However, they are resource-intensive and implementation of the new law will require an increase in the AERS's staff. There are also concerns about the independence of the Agency, because the members of the board are appointed following a non-competitive procedure.

With respect to **security of supply**, Serbia's production is dominated by coal and it relies on imports for cleaner energy sources. Serbia's dependence on natural gas imports exceeds 80%. Gas is mostly imported from Russia through Ukraine and Hungary. Local production and gas storage projects to diversify supply together with construction of new interconnections are planned in the Energy Sector Development Strategy. The Nis-Dimitrovgrad project linking Serbia to Bulgaria is the most advanced, with a feasibility study under way. The underground gas storage facility in Banatski Dvor, co-owned by Gazprom (51%) and Srbijagas (49%) is in operation since 2009. There are plans for the development of a second underground gas storage, in connection with the possible South Stream gas project, which would transport gas from Russia through the Black Sea and Bulgaria.

Concerning electricity, Serbia has given priority to the new interconnection with the former Yugoslav Republic of Macedonia. On the Serbian side, section 1 of the line (substation NIS-Leskovac) is in operation. Construction of section 2 (substation Leskovac-Vranje-border) is ongoing and approaching completion. Other electricity interconnections with Montenegro, Bosnia and Herzegovina and along the transmission corridor towards Italy are at the pre-feasibility study stage.

The level of emergency oil stock reserves is classified as a state secret according to the Serbian Law on commodity reserves. A new Law on commodity reserves is being prepared. Under the new law, mandatory oil stocks would be reclassified as a mandatory stock rather than a commodity reserve, so the level of these stocks would no longer be a State secret. No information has been received so far on the actual level of oil stocks, although Serbia indicates a timeframe of about 10 years for meeting current EU requirements.

As regards the **competitiveness of the internal energy market** (opening-up of the electricity and gas markets), the new Energy Law is largely in line with the requirements of the Energy Community. A remaining shortcoming in the field of electricity is that all eligible customers connected to the distribution system will be entitled to be supplied at regulated tariffs until the end of 2013. The government will now need to focus on implementing and enforcing the new Law correctly. Serbia also needs to start preparing for alignment with the EU's 'third internal energy market package', which entered into force in March 2011.

Electricity consumption totalled 33.7 TWh in 2008. The electricity sector is gradually making progress with its process of unbundling. Since 2005, operation of the transmission system and the electricity market has been under the responsibility of the public enterprise EMS (Elektromreza Srbije). The remaining functions (generation, distribution and supply) are performed by the vertically integrated public company EPS (Elektroprivreda Srbije). In accordance with the new Energy Law, EPS needs to, however, complete the legal unbundling of distribution and supply. By law, the electricity market has been open since February 2008 for all non-household consumers which make up 47% of the market. However, in practice, no eligible customers have switched supplier. EPS holds a *de facto* monopoly, due to the persistence of regulated prices, set at levels below the market price. The choice of the market model, the move towards tariffs and prices reflecting costs and the independent functioning of AERS will all be crucial to achieve real opening of the market and attract the necessary investment. The reform of the tariff system must not be postponed any longer.

Serbia needs to implement the Regulation on cross-border allocation of capacity. In September 2010, the Energy Community Secretariat sent an opening letter following a complaint against Serbia under the Energy Community dispute settlement mechanism. The complaint concerned the absence of compensation for electricity transit to the Kosovo electricity transmission system and market operator (KOSTT) and the allocation of cross-border capacities. Serbia is impeding Kosovo's participation in regional mechanisms to plan and be remunerated for electricity transit. In October 2011, the Secretariat stated in its Reasoned Opinion on this complaint that Serbia has failed to fulfill its obligations under the Energy Community Treaty. Furthermore, the Serbian electricity utility is maintaining an unlicensed branch in the north of Kosovo.

Gas consumption in Serbia totals some 3.2 billion cubic metres a year. The State-owned Srbijagas is a fully integrated company and is the only wholesale supplier on the market. It has not been unbundled. Srbijagas purchases gas from Gazprom via the intermediary Yugorosgaz (50% Gazprom, 25% Central ME Energy & Gas AG, 25% Srbijagas). Yugorosgaz holds rights for developing gas transmission in southern Serbia. The difficult financial situation of Srbijagas will need to be addressed as a matter of priority.

The new Energy Law is partly in line with the **Renewable Energy Sources** Directive. The main part of the framework for the promotion of renewable energy will be at the level of subsequent by-laws. Therefore, the development of the Serbian regulatory system for renewable energy will require continuous monitoring to ensure compliance with the EU *acquis*. In the framework of the Energy Community, Serbia is preparing a binding target for the percentage of renewable energy in final energy consumption by 2020. Serbia will also need to prepare a National Renewable Energy Action Plan (NREAP), which will provide a roadmap for achieving this target.

Serbia has significant potential for renewable energy, which remains largely untapped. To date, only the hydroelectricity and biomass sectors have been partly developed. The 2005 Energy Sector Development Strategy aims at a 2.2% increase in electricity produced from renewable energy sources by 2012. The share of renewable energy sources in total primary energy production in Serbia was 8% in 2008. Feed-in tariffs are in place, but the administrative procedures for authorisation, licensing and network connections are the biggest barrier to the uptake of renewables. The current level of biofuel production is negligible.

Serbia will need to pay continued attention to promoting renewable energy, in particular in transport and in heating/cooling. The administrative capacity in his area needs to be

strengthened. Further efforts should be undertaken towards creating a regulatory environment fostering the increased use of renewable energy sources in all sectors.

Serbia's economy is highly energy-intensive, consuming 2.7 times more energy per unit of output than the OECD average. While **energy efficiency** is a priority in Serbia's energy strategy, Serbia has not yet adopted the planned framework law on rational use of energy. A draft law has been prepared. It covers energy performance in buildings, labelling of domestic appliances and energy services. The draft law also provides for establishing of an energy efficiency fund. Ensuring sufficient administrative capacity for implementation of the new legislation will be essential.

**Nuclear safety and radiation protection** issues are regulated by the 2009 Law on ionising radiation protection and nuclear safety. The Serbian Agency for Ionising Radiation Protection and Nuclear Safety (SRPNA) was established as a separate body in 2009 and started functioning in mid-2010. The Agency implements the international conventions which Serbia has signed. The transfer of inspection functions from a variety of ministries to the Agency has not yet been achieved, in line with best regulatory practices. Effective independence and sufficient levels of staff and funding will be essential to ensure proper functioning of the Agency, particularly for licensing of nuclear facilities. Serbia still needs to accede to the Convention on Nuclear Safety and to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Serbia still needs to develop a national strategy for nuclear waste management and decommissioning of its research reactor at Vinča. A Quality Management System for the Agency should be in place. Further efforts are required to improve the radiological situation at Vinča.

### *Conclusion*

Serbia's energy sector is characterised by the lack of a competitive market and low levels of efficiency. By adopting the new Energy Law, Serbia has put itself in a good position to make the necessary reforms and to foster the development of its energy sector, in line with the requirements of the EU *acquis*. Adoption of relevant implementing legislation, accompanied by adequate enforcement, will be essential.

Special attention needs to be paid to genuine opening of the electricity market, reforms in the gas sector, increasing mandatory oil stocks, meeting the objectives for improving energy efficiency and promoting renewable energy in electricity generation, transport, heating and cooling. Serbia will need to reinforce its administrative capacity in order to ensure effective implementation and enforcement of its legal obligations in the energy sector. The effective independence of regulatory bodies will require particular attention. Serbia needs to develop a new energy strategy aligned with EU 2020 objectives. Serbia also needs to comply with its Energy Community Treaty obligations.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* on energy and to implement it effectively in the medium term.

### **3.16. Chapter 16: Taxation**

The EU *acquis* on taxation covers the area of indirect taxation extensively, as regards both VAT (value-added tax) and excise duties. It lays down the definitions for and principles of VAT. Excise duties on mineral oils, tobacco products and alcoholic beverages are subject to EU directives covering the structure of the duties, the minimum rates and the holding and movement of excisable goods. As concerns direct taxation, the EU *acquis* covers some

aspects of corporate taxes and aims mainly at removing obstacles to cross-border activities between enterprises. Finally, the EU legislation on administrative cooperation and mutual assistance provides tools to avoid evasion of both direct and indirect taxation.

The Interim Agreement, and subsequently the SAA, prohibit fiscal discrimination. The SAA also establishes cooperation between the EU and Serbia in the area of taxation with the aims of aligning with the EU *acquis*, further reforming Serbia's fiscal system, ensuring effective tax collection and fighting fiscal fraud.

With regard to **indirect taxation**, *value-added tax* was introduced in 2004 and is regulated by the Law on value-added tax (VAT). The law introduces all the basic principles and follows the structure of the EU legislation on VAT. It stipulates that domestically-produced and imported goods are charged the same tax rate – either 18% (general rate) or 8% (specific rate).

However, there are some discrepancies between the Serbian VAT legislation and the EU *acquis*, notably: the lack of any possibility for non-established taxable persons to register in Serbia for VAT purposes despite the fact that they may be taxable in that country. The same applies to the place of supply of services; the special scheme on investment gold; some exemptions; and the general refund procedure

In terms of territorial scope, VAT on goods which are supplied from Kosovo is not paid in Serbia but collected by the branches of the Serbian Tax Administration operating in the north of Kosovo. The STA offices also collect annual income taxes and certain other taxes in northern Kosovo. This is not compatible with the fact that Kosovo is a separate customs territory.

The Law on *excise duties* has been in force since 2001. Serbia applies excises on tobacco, alcohol, energy products and coffee (an *ad valorem* duty of 30%). The law provides for equal treatment of domestic and imported goods in terms of the excise tax rates applicable. In June 2011, Serbia aligned its excise duties on motor fuels with the requirements of the Interim Agreement. However, discriminatory excise duties on imported spirits still exist. They need to be brought into line with the duties on local production in order to comply fully with the Interim Agreement. Considerable discrepancies from the EU *acquis* exist for harmonised excisable goods (tobacco, alcohol and energy products) as regards scope, classification of the goods, exemptions, structures and the minimum rates. Serbia has no duty suspension and movement system. As storage excise warehouses for importers do not exist, the excise has to be paid at the moment of importation, thus putting importers at a disadvantage over local producers. Serbia needs to align its law on excise tax fully with the EU *acquis*.

As regards **direct taxation**, Serbia's corporate tax system is generally in line with the EU *acquis*. The tax incentives available seem to include none of the major harmful features described in the EU Code of Conduct. Nevertheless, certain aspects of the Serbian direct tax system, such as the taxation of dividends and interest received by individual investors or the taxation of non-resident artists and sportsmen, could conflict with the EU *acquis*, as they discriminate against non-resident taxpayers. Upon accession, Serbia needs to implement the Savings Directive and the new Mutual Assistance Directive.

With regard to **administrative cooperation or mutual assistance**, agreements with the tax administrations of Bosnia and Herzegovina, Bulgaria, the former Yugoslav Republic of Macedonia and Montenegro were signed in 2006. Serbia has ratified double taxation agreements with 47 States.

Concerning **operational capacity and computerisation**, the Serbian Tax Administration (STA) establishes, collects and enforces public revenue – in accordance with the 2002 Law on tax procedures and tax administration. It has a good level of administrative capacity and practices in terms of tax proceedings, the registration of taxpayers, tax accounting, detection of tax offences and instituting offence proceedings. A corporate strategy for 2011-2015 defines major future steps needed to modernise it. Preparations are being made to establish a single tax registry. The STA has well-qualified staff. However, non-competitive salaries have triggered a significant outflow of staff. The inspection department is understaffed, as well as the Large Taxpayers Office. Staff training needs to be further developed and become more specialised. There is room for further improvement in both external and internal communication. Coordination between the different levels of the STA needs to be improved and the level of collaboration and cooperation with the Ministry of Finance strengthened.

Modernisation of IT systems is a priority for the STA, not only to prepare for accession but also to enhance collection and the fight against the informal economy. The IT system is insufficiently prepared for the introduction of electronic communication with taxpayers and has limited possibilities for sound risk analysis or processing tax returns. Manual inputting of information submitted on paper by taxpayers burdens the allocation of staff for inspections and identification of unregistered taxpayers.

The Tax Administration of Serbia has a good administrative capacity to prepare for interconnectivity and interoperability with the Commission's IT system. However, further capacity-building is necessary to develop and operate all the national parts of trans-European taxation and excise IT systems.

### *Conclusion*

The tax legislation in Serbia is partly aligned with the EU *acquis*. Further alignment will be needed in the area of direct and indirect (VAT and excise duties) taxation. VAT legislation is not yet fully compatible with all the provisions of the VAT Directive and there are considerable discrepancies from the EU *acquis* for harmonised excisable goods. Certain aspects of the Serbian direct taxation system concerning individuals could conflict with the EU *acquis* as they discriminate against non-resident taxpayers. Some tax relief measures will need to be further examined in order to determine whether they are harmful. The Serbian Tax Administration works well, overall. It has administrative structures and resources for implementation of the EU *acquis*, but will need to be further modernised in line with its recently adopted strategy documents. Modernisation of the IT systems is a priority in order to facilitate the development of a sound system of risk analysis that would shift the focus from control of registered economic entities to detection of non-registered entities.

Overall, while still facing challenges in the areas of legislative alignment and administrative capacity, if it continues its efforts, Serbia should, in the medium term, be able to acquire the capacity to comply with the requirements of the EU *acquis*.

### **3.17. Chapter 17: Economic and Monetary Policy**

The EU *acquis* in the area of economic and monetary policy contains rules requiring the independence of central banks in Member States and prohibiting both direct financing of the public sector by the central banks and privileged access for the public sector to financial institutions. Member States are expected to coordinate their economic policies and are subject to the rules of the excessive deficit procedure and of the Stability and Growth Pact. The

national central banks are subject to the Statute of the European System of Central Banks (ESCB) and the European Central Bank (ECB). New Member States are also committed to complying with the criteria for adopting the euro. Until they join the euro area, they will participate in the economic and monetary union (EMU) as Member States with a derogation and must treat their exchange rate policy as a matter of common concern.

The SAA includes provisions on cooperation and exchanges of information, allowing Serbia gradually to approximate its policies to the stability-oriented policies of the European Economic and Monetary Union.

In the area of **monetary policy**, Serbia uses the dinar as its sole legal tender. All financial obligations arising from transactions concluded in Serbia are denominated and paid in dinar. In line with this, the National Bank of Serbia (NBS) uses the dinar as the official currency for conducting its monetary policy. The euro is widely used as a parallel currency, as most bank loans are indexed in euro and almost all savings are in euro. The origin of Serbia's 'euroisation' dates back to the 1990s when, during the period of devastating hyperinflation, the German mark was used for a time both as a means of payment and as an instrument for protecting value.

The National Bank of Serbia is largely independent and performs the tasks set by the 2010 Law on the NBS. The law also prescribes that, while performing their duties, the NBS and its bodies and members of the bodies are not allowed to receive or request instructions from government bodies and organisations or any third party. The same law strictly prohibits government bodies, organisations and other persons from jeopardising the independence and autonomy of the NBS or influencing the NBS while performing its duties. The NBS is subject only to supervision by parliament, to which it reports on its performance. Parliament appoints the Governor, based on a proposal by the President of the Republic, for a period of six years. The length of tenure of the Vice-Governors and of members of the Council of the NBS is the same, i.e. six years, with the right to be re-elected. With regard to financial independence, the NBS has its own sources of income that are provided in the Bank's financial plan (income and expenditure projections) for the following year. The primary objective of the NBS is to maintain price stability. In the field of monetary policy, since 1 January 2009 the NBS has been implementing inflation-targeting as its monetary strategy and a key instrument of monetary policy, using the key policy rate (interest reference rate) in monetary policy core operations. However, the high share of credit indexed in foreign exchange and the undeveloped domestic financial market restrain the efficiency of the monetary policy. The NBS conducts a managed floating exchange rate system for the dinar, in which the NBS intervenes only in cases of excessive daily fluctuations in the foreign exchange market. The dinar is not pegged to the euro. Regarding prohibition of direct financing of the public sector, the Law on the NBS explicitly prohibits extending credit facilities to the central government, provincial authorities and municipal authorities or to public enterprises founded and owned by them. The NBS stopped approving credits to the public sector in November 2003. The legislation contains no provisions which give the government privileged access to financial institutions. As regards the excessive deficit procedure, the amendments to the Law on the budget system, introducing fiscal responsibility, were adopted in October 2010. They set the maximum level of public debt at 45% of GDP (excluding property restitution).

Regarding economic policy, since 2006 Serbia has been participating in the pre-accession economic policy surveillance aimed at strengthening the economic planning capacity of the Serbian government. This mechanism prepares candidate and potential candidate countries for their eventual participation in the economic policy coordination and budgetary surveillance mechanism of the EMU. In this context, Serbia regularly submits economic and fiscal

programmes (EFP). The latest (2011) EFP, submitted in January 2011, covered the period 2011-2013 and provided an overview of expected future macroeconomic developments. Furthermore, Serbia has adopted the new development plan for the period 2011-2020 in compliance with the Europe 2020 Strategy (*see also Economic criteria*). Compared with the previous programme, some progress was made towards producing a solid document. The authorities need to strive to make further improvements in order to raise the public profile of its development plan, both at home and abroad.

### *Conclusion*

Alignment with the EU *acquis* is relatively well-advanced and Serbia's preparations for participation in the third stage of EMU as a Member State with a derogation should pose no major problems. Important aspects of the legislation related to central bank independence and prohibition of direct financing/privileged access of the public sector to financial institutions are already in place. However, particular attention will have to be paid to monetary stability, strengthening the NBS's own policy instruments and containing the parallel use of the euro in the economy, which limits the NBS's room for manoeuvre to conduct monetary policy. Implementation of economic policy also needs to be strengthened.

Overall, if it pursues its efforts, Serbia will be in a position to implement the EU *acquis* in the area of economic and monetary policy in the medium term.

### **3.18. Chapter 18: Statistics**

The EU *acquis* on statistics consists almost exclusively of legislation which is directly applicable in the Member States, such as European Parliament and Council regulations and Commission decisions or regulations. It also includes a range of methodology handbooks and manuals. International agreements and gentleman's agreements with the EU Statistical Office (Eurostat) provide a further basis for production of statistics.

The SAA establishes cooperation in the area of statistics with the aim of developing an efficient and sustainable statistical system in Serbia.

In the area of **statistical infrastructure**, the Serbian Statistical Office (SORS) is the main producer of official statistics and responsible for coordination of the Serbian statistical system. The SORS has 472 employees, of whom the Director, his Deputy and the Assistant Directors (top eight management positions) are appointed by the government. As part of the streamlining of public administration, the staff resources of the SORS decreased by approximately 10% in 2010 compared with 2009. This did not severely affect its functioning. However, in order to implement the tasks required for full compliance with the EU *acquis*, there is a need to increase the number of qualified staff in the SORS over the next few years.

The Law on statistics was adopted in 2009 and is broadly aligned with international standards. Adoption of the law has considerably accelerated development of the statistical system. The law defines the basic principles of impartiality, reliability and professional independence. It also provides for creation of the Statistical Council which enables more direct involvement of end-users in defining the output from the official statistical system. The Council is an advisory body which primarily deals with strategic issues, such as the development strategy for official statistics or drafting a five-year programme and annual plans for statistical surveys, censuses, standards and methodologies. The draft programme for 2011-2015 has been prepared in line with the EU principles. It also encompasses the development strategy in place for official statistics (adopted in January 2009 for the period 2009-2012).

The SORS signed a number of cooperation agreements with other Serbian bodies, notably the Ministry of Finance and the National Bank. It also signed a number of memoranda of understanding with various Serbian ministries and with the Serbian tax and customs administrations.

In the area of **classification and registers**, the 2010 classification of activities (CA 2010) is based on the European NACE Rev. 2 classification (Nomenclature of Economic Activities). Since 1 January 2011, CA 2010 has become the obligatory standard for all units in the statistical business register, legal entities and economic operators. Adoption of the new classification allowed harmonisation of other related economic classifications. The statistical business register was established in 2005 and is used as the frame for surveys in the field of business statistics. A regional statistical classification (NUTS) has been proposed by Serbia but has not been agreed by the European Commission. A revised proposal, in line with the EU *acquis*, is expected.

In the area of **sectoral statistics**, the population census was planned in April 2011 but, for budget reasons, was postponed to October 2011. In 2009, two pilot censuses were conducted, one on population, household and dwellings in April, the other on education of Roma people in November. Following postponement of the population census, the agriculture census, initially planned for October 2011, has also been delayed until November 2012. The quality of agricultural statistics has generally been of low quality so far, as they are based on estimates by municipal assessors. Agromonetary statistics are in an initial phase and currently being improved. Labour force surveys are carried out regularly twice a year – in April and October. A number of other surveys are conducted in the area of social statistics, such as on migration and asylum, earnings and labour costs, education and health, together with the household budget survey.

Concerning macroeconomic statistics, the SORS produces estimates of gross domestic product (GDP) and national accounts broadly in accordance with the European System of Accounts (ESA95). The results of the quarterly GDP estimates at constant prices have been published since 2005. Government finance statistics are produced by the Ministry of Finance and follow the International Monetary Fund manual on government finance statistics. The balance of payments, foreign direct investment and monetary and financial statistics are compiled by the National Bank. With regard to price statistics, the harmonised consumer price index still has to be developed. Foreign trade statistics have been harmonised with the standards and procedures applied in the EU and data are forwarded to the European Commission. Short-term statistics on energy and some transport statistics (on passenger mobility, road freight and rail transport) are not yet produced.

### *Conclusion*

Production of statistics is at an advanced level. Progress has been made in most areas and the range of statistics is increasing, though challenges remain, especially in the areas of agricultural statistics. Additional human and financial resources will also need to be made available. The SORS is well-positioned to perform its role. Although certain progress has been made lately, coordination with other bodies within the administration needs to be strengthened.

Overall, if it continues its efforts, Serbia should be able, in the medium term, to align fully with the EU *acquis* in the area of statistics.

### 3.19. Chapter 19: Social Policy and employment

The EU *acquis* on social policy and employment includes minimum standards in the areas of labour law, equal opportunities, health and safety at work and anti-discrimination. Member States participate in EU processes in the area of employment policy, social inclusion and social protection. The social partners of Member States participate in social dialogue at European level. The European Social Fund is the main financial tool from which the EU supports implementation of its employment strategy and contributes to social inclusion efforts.

The SAA establishes cooperation in the area of social policy and employment aiming at supporting Serbia's alignment with the EU *acquis*.

As regards **labour law**, Serbian legislation — in particular the 2005 Labour Law (last amended in 2009) — covers several basic principles laid down by the EU labour law directives. The Labour Law applies to all employees and is implemented via a number of governmental and ministerial regulations and collective agreements. The law guarantees a minimum level of protection of basic rights of employees and regulates a number of conditions of work and pay such as the minimum working age, prohibition of discrimination, protection of employees, maximum working hours, daily rest periods, minimum annual leave, etc. It also recognises the right to information and consultation at national level and to protection in case of collective redundancies or transfer of an enterprise. However, a number of amendments and additional implementing instruments are still necessary in order to align fully with the EU *acquis*.

The Labour Department of the Ministry of Labour and Social Policy has 15 staff directly or indirectly involved in drafting labour legislation. .

The central piece of legislation in the area of **health and safety at work** is the 2005 Law on health and safety at work, which is partly in line with the EU *acquis*. A number of implementing regulations have been adopted, in the field of health and safety at work, covering areas such as personal protective equipment, manual handling of loads, work on construction sites, exposure to chemical substances and asbestos and risk assessment procedures. Furthermore, a number of Rulebooks adopted in the former Socialist Federal Republic of Yugoslavia, are still in force in certain industries. However, their co-existence with the new law raises concerns about the consistency of the applicable legislation and the compatibility of certain provisions with the EU *acquis*.

In 2009, the government adopted a Strategy on Health and Safety at Work for 2009-2012. Its general goal is to improve and preserve the health of the economically active population, by improving working conditions and preventing and minimising work-related injuries and occupational diseases. The number of injuries has been falling by 10 to 15% per year for the last few years. However, Serbia still needs to implement the EU *acquis* on compulsory insurance of all employees against work-related injuries and occupational and work-related diseases. There is no single system for registration of work-related injuries and no law, as required by the Law on health and safety at work, on employers' obligation to insure all employees against work-related injuries and occupational and work-related diseases. Currently employees' medical costs are paid by the general Health Insurance Fund to which all employees contribute. However, there is no separate fund for work-related injuries, and damage compensation has to go through normal court procedures which take a long time.

In the Labour Department of the Ministry of Labour and Social Policy nine employees deal with occupational health and safety. The Labour Inspectorate, an administrative body of the same Ministry, monitors implementation of occupational health and safety laws and deals with labour relations. The number of staff at the Labour Inspectorate has been reduced since 2010 and is currently 283, of whom 261 are labour inspectors. Overall, the Labour Inspectorate has the adequate structure, powers and facilities to monitor enforcement of occupational health and safety laws. Nevertheless, there is room for improvement, notably in planning of the Inspectorate's activities, visits by inspectors to actual workplaces (instead of verifying documentation only) and the availability of information technology.

**Social dialogue** at tripartite level takes place within the Economic and Social Council. The Council was established in 2001 but did not obtain a legal basis for its work until 2004 with the adoption of the Law on the Economic and Social Council. It is an independent body which, at central level, consists of representatives of the government, associations of employers and trade unions. The Council considers a large range of issues, notably labour legislation, improvements in collective bargaining, the rights of employers and employees to organise themselves freely and employment, labour and social rights. The Council has established several working groups dealing with economic issues, legislation, negotiation and peaceful settlement of labour disputes and occupational health and safety. For several years, the general level of activity of the Council has been hampered by discussions on the representability of member organisations. This situation, which still persists, has also had a negative impact on the Council's ability to provide advice on legislation. Furthermore, local Economic and Social Councils have been established in only 18 municipalities and have carried out few activities.

Two trade unions are recognised as representative at national level: the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Trade Union Confederation "Nezavisnost" (TUC). Four more are registered, but not yet recognised. On the employers' side, criteria for being recognised as representative are set high and the only representative association is the Union of Employers of Serbia, which is only sporadically present at local level.

The 2008 General Collective Agreement expired in April 2011. Due to the economic crisis it had not been implemented and was replaced by a socio-economic agreement between the three parties in April 2011 following a number of protests in the public sector earlier in the year. This agreement commits all three signatories to respect rules aimed at maintaining macroeconomic stability while simultaneously providing for social cohesion.

A number of bilateral collective agreements have been signed in various sectors (most recently in the areas of construction, agriculture and water management). Collective agreements have also been signed in the public administration. However, in general, social dialogue at branch and company level remains underdeveloped. Moreover, in line with ILO recommendations, the duration of negotiated agreements need to be set autonomously by the signatories by mutual agreement.

Strikes are strictly regulated and the current legislation needs to be brought fully into line with ILO conventions and EU standards. Furthermore, Serbia has an Agency for peaceful resolution of labour disputes.

As regards **employment policy** and the labour market, the aftermath of the economic crisis is continuing to have a deep impact on unemployment. Unemployment is particularly high

among young people. It is also pronounced among women, has a long-term character and reflects substantial regional disparities in economic development. Low and declining labour market participation and low employment rates as well as a high level of informal employment, together with substantial skills mismatch and inadequacies of human capital development represent considerable challenges for the Serbian labour market as the economic restructuring continues.

Serbia has started developing employment strategies inspired by the EU objectives and guidelines. The National Employment Strategy for 2011-2020 was adopted in May 2011. Serbia is implementing a wide range of active labour market programmes (ALMPs) targeting the most vulnerable unemployed and is making special efforts to help jobless young people. In addition to macroeconomic measures and stimulus packages, the government reallocated funds from the budget to active labour market programmes in 2009 and maintained them at the same level in 2010 and 2011. Nevertheless, the budget spent on ALMP in 2010 was equivalent to only 0,1% of GDP and ALMPs address only a small share of the jobless and need to be better targeted.

Employment policy falls under the responsibility of the Ministry of Economic Affairs and Regional Development which has a specific department for employment with 16 civil servants. The Ministry is also responsible for supervising the work of the National Employment Service (NES), which has 1,953 employees. While the NES staff are generally competent, its capacity is curbed by its increased workload and limited new recruitment.

In terms of preparations for the **European Social Fund**, preparation of the competent authorities for the management of IPA component IV - human resources development - is under way. In this regard, the operating structures for managing and implementing the Operational Programmes have been established. The Ministry of Economic Affairs and Regional Development has been designated as the body responsible for the Operational Programme for component IV and the Assistant Minister for Employment has been appointed as Head of the Operating Structure.

Serbia has shown readiness to prepare for participation in the open method of coordination in the areas of **social protection and social inclusion**. A team for social inclusion attached to the Deputy Prime Minister for EU Integration and a working group for social inclusion have been established. Monitoring tools are being developed and in March 2011 the government adopted the first National Report on Social Inclusion and Poverty Reduction, covering the period 2008–2010. Preparations for developing statistics comparable to those used in EU policy coordination have started. Additional efforts are necessary to ensure social inclusion of vulnerable groups, such as Roma, disabled persons, young people, elderly persons and other socially and economically disadvantaged. As the framework of legal provisions concerning persons with disabilities is increasingly extensive, the focus of activities in this area should shift towards implementation, including the gathering of evidence for possible revisions of legislative and implementing acts. Presently, there is little evidence available regarding the effects of the Strategy for Improvement of the Position of Persons with Disabilities in Serbia 2007-2015.

In 2010, due to the economic crisis, the positive trend in poverty reduction seen in previous years was reversed and the poverty rate increased by 12% compared with 2008, when the Serbian household budget survey showed 7.9% of the population living beneath the absolute poverty line. The rural population remains more vulnerable to poverty than the urban population. Many of the employed people living below the poverty line work in the informal

economy. A new Social Welfare Law was adopted in April 2011, which increases allowances for the poorest segment of society.

Serbia has implemented a number of reforms in the field of **social protection**, notably of pensions. The Law on voluntary pension funds and pension plans was adopted in May 2011, and administration of the three pension funds has been merged. Serbia has adopted new legislation which gradually raises the minimum pensionable age to 58 years for both women and men. Normal pension age in Serbia 65 for men and 60 for women. Nevertheless, the pension system continues to show a high deficit, especially following the crisis. Many older people are exposed to poverty, including those not covered by the system. Further efforts are needed to increase employment, to increase the effective exit age from the labour market in general - and avoid unnecessary early retirements in particular - and to cover undeclared workers by the pension system.

A general **Anti-Discrimination** Law was adopted in March 2009. Certain aspects of the law remain to be aligned with the EU *acquis*, notably the scope of exceptions from the principle of equal treatment, which are wider than allowed under the EU *acquis*, the definition of indirect discrimination and the obligation to ensure reasonable accommodation for disabled employees. The Anti-Discrimination Law also established the Commissioner for the Protection of Equality as an independent State authority, who was elected by the Assembly of the Republic of Serbia in May 2010. The Commissioner acts upon complaints of discrimination and, with the consent of the person discriminated against, may even initiate a law suit. He also promotes and monitors equality, initiates adoption and amendment of regulations in the area of discrimination, recommends measures to public bodies aimed at ensuring equality, etc. If any violation of rights guaranteed by the Law is proven, the Commissioner may submit misdemeanour notices. The Commissioner submits an annual report to the National Assembly about the situation concerning protection of equality. In practice, those most exposed to discrimination are Roma, women, adults and children with disabilities and the lesbian, gay, bisexual, and transgender population.

Serbia is party to a number of international conventions on **equal opportunities**, including the UN Convention on the elimination of all forms of discrimination against women. Discrimination on grounds of gender in relation to employment is prohibited under Serbian legislation, mainly the Labour Law (2005), the Law on gender equality (2009) and the Anti-Discrimination Law (2009). These laws also contain provisions on gender equality, covering equal pay, access to employment and maternity protection, including maternity leave. Furthermore, Serbia has a number of bodies dealing with gender equality (the Gender Equality Committee in the Serbian parliament and the Council for Gender Equality with half of its members from the government) plus the Commissioner for Protection of Equality who is also authorised to fight against gender discrimination. However, on average, women are still paid lower salaries than men, including for the same job, their unemployment rate is higher (20.1% in April 2010, against 18.6% for men). In 2009 Serbia therefore adopted a Strategy for the enhancement of women's position and gender equality, along with an Action Plan to implement it over the period 2010-2015. In addition to dealing with improving the economic situation of women, the Action Plan aims to increase participation by women in decision-making, enhance gender equality in the education and health sectors and prevent violence against women. At present, although Serbia has both legislation and implementation bodies in place as regards both anti-discrimination and gender equality, effective implementation of the existing legislation and further strengthening of the administrative capacity remain major challenges. In particular, the independence of the bodies responsible for the implementation of the main international instruments should be strengthened.

## Conclusions

Serbia is in the process of aligning with the EU *acquis* in the areas of labour law, health and safety at work, anti-discrimination and equal opportunities. However, further steps are necessary in order to align completely and correctly with the EU *acquis* and ensure effective implementation and enforcement. There are serious medium-term challenges regarding employment, poverty and social inclusion. The informal economy continues to be large, social dialogue remains weak and measures to increase employment will need time to produce the expected effects. In general, building capacity for policymaking, implementation and monitoring is still a major challenge, also in the shorter term with a view to preparing for decentralised management of IPA component IV.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* in the areas of social policy and employment and to implement it effectively in the medium term. It will also need to prepare itself further for participation in the cooperation processes developed at European level in the fields of employment, social inclusion and social protection.

### 3.20. Chapter 20: Enterprise and industrial policy

The EU *acquis* under the enterprise and industrial policy chapter consists largely of policy principles and policy recommendations, which are reflected in communications, recommendations and Council conclusions. The EU's enterprise and industrial policy, including its small and medium-sized enterprises (SME) policy, seeks to promote the competitiveness of the economy. It is strongly driven by the Europe 2020 Strategy and by the 2008 Small Business Act for Europe. Enterprise and industrial policy instruments include financial support and regulatory measures. The *acquis* also includes sectoral policies, such as recommendations for more targeted policy analysis and for new initiatives and consultations at sectoral level.

The SAA establishes cooperation to promote modernisation and restructuring of industry and individual sectors, in particular tourism, and to develop and strengthen SMEs.

With regard to **enterprise and industrial policy principles**, Serbia is pursuing privatisation and restructuring of the formerly socially-owned and to some extent State-owned enterprises and, in parallel, is aiming to develop a thriving SME sector (*See Economic criteria*).

The main component of Serbian industry is manufacturing with a share of 15% of GDP in 2009. Manufacturing in Serbia is well diversified with numerous sub-sectors. Among them, food and beverages is the biggest single sub-sector with a share of 4.6% of GDP in 2009, with chemicals, rubber and plastics second on 2.7% of GDP and 15% of total exports.

A new industrial strategy was adopted in June 2011. It is largely aligned with EU policy principles. The strategic goal of Serbia is to form export-oriented and competitive industry.

The share of SMEs in employment, GDP and exports has increased in recent years. Serbia has taken the European Charter for Small Enterprises, and later the Small Business Act, as a reference framework for shaping its own SME policy. In October 2008 Serbia adopted the Strategy for development of competitive and innovative small and medium-sized enterprises for the period 2008-2013. This strategy is largely in line with the principles contained in the Small Business Act and focuses on five principles: promoting the spirit of enterprise, improving human resources, facilitating access to finance, improving the competitiveness of SMEs and improving the general business environment. The Ministry of Economic Affairs

and Regional Development and the National Agency for Regional Development are the main institutions involved in SME policy, but many others are included in implementation of the strategy, such as the Development Fund, the National Employment Service (NES) and the Serbia Investment and Export Promotion Agency (SIEPA). In addition, the government established the SME Council in 2006, a body in charge of coordination of formulation and enforcement of SME policy. Its members are drawn from various ministries and agencies and also from the most important institutions representing the interests of SMEs such as the Serbian Chamber of Commerce, the Serbian SME Association and the Union of Employers. Furthermore, a Business Council was founded in March 2010, bringing together representatives of SMEs from all over Serbia. Serbia uses a definition of SME which is not fully in line with the EU recommendation.

Serbia has started to develop an innovation policy. In addition to the Strategy for development of competitive and innovative small and medium-sized enterprises for 2008-2013, in 2010 the government adopted a Strategy for scientific and technological development. It is based on the concept of a national innovation system, which networks enterprises, universities, research and development institutes, financial institutions and the public research community. Organisational innovation in the services sector, which includes, for example, tourism, logistics and knowledge-intensive business services, is only marginally covered by this strategy. Private investment in research and development remains low, at around 0.2% of GDP according to unofficial estimates. Public investment is only 0.1% of GDP. Serbia has set itself an ambitious target of investing 1.5% of GDP in research and innovation by 2020.

As regards the European **enterprise and industrial policy instruments**, Serbia signed a Memorandum of Understanding allowing accession to the Entrepreneurship and Innovativeness Programme (EIP) under the Competitiveness and Innovation Framework Programme (CIP). Since the signature, Serbia has been successful in several calls (Play and Learn as Young European Entrepreneur, European Network of Female Entrepreneurship Ambassadors, among others) and participates actively in the Enterprise Europe Network, with several partnership agreements signed and the organisation of several events.

Access to finance is a big obstacle to development of the private sector. On the one hand, the procedures for obtaining loans are long and the collateral requirements and interest rates are very high. On the other, access to finance for SMEs is constrained by demand-side weaknesses. The government plays an active role in stimulating SMEs' market development via credit and guarantee facilities. A first Business Angel network was created at the end of 2009. Although progress has been achieved, further efforts are needed to improve the design and impact of credit guarantee schemes.

Serbia will need to align its legislation with the Directive on combating late payment in commercial transactions. The issue of late payment to companies is not regulated by any specific piece of legislation but, instead, by general rules in several pieces of legislation, including the Law on contracts. During the economic crisis, this has recently led to substantial delays in payments between economic operators and resulted in chronic illiquidity that is hitting suppliers of various goods and services particularly hard.

Serbia has no specific **sectoral policies**, except on tourism for which a strategy was adopted in 2006, giving priority to commercialisation of a number of tourist products. Most of the remaining specific sectors are covered by the industrial strategy adopted in summer 2011. The following sectors have been identified by the Serbian authorities as having growth potential, especially for exports and in attracting foreign investors: food production, production of

transport equipment, information and communication technologies, metal production, and pharmaceutical industries.

### *Conclusion*

Serbia has developed key aspects of an industrial policy. Both the industrial strategy and the SME strategy are broadly in line with EU principles in this area. As part of its EU obligations, Serbia will need to align with the Directive on combating late payments, which will also benefit its SMEs.

Overall, Serbia should, in the medium term, have the capacity to comply with the requirements of the EU *acquis* in the area of enterprise and industrial policy provided it continues its efforts.

### **3.21. Chapter 21: Trans European Networks**

This chapter covers trans-European networks policy in the areas of transport and energy infrastructure, including the EU guidelines on the development of trans-European networks and the support measures for developing projects of common interest. The aim of establishing and developing trans-European networks and promoting proper interconnection and interoperability of national networks is to harness the full potential of the internal market and contribute to economic growth and job creation in the European Union.

The SAA opens up the support for development of multi-modal infrastructure in connection with the main trans-European networks.

As regards **transport networks** (TEN-T), Serbia actively takes part in implementing and monitoring the multiannual plan for 2011-2015 within the South-East Europe Transport Observatory (SEETO) and in implementing the Memorandum of Understanding on the development of the South-East Europe Core Regional Transport Network.

The SEETO comprehensive transport network, a priority transport network was integrated into Serbia's Strategy for development of railway, road, waterway, airway and intermodal transport from 2009 to 2015. In 2010 a general masterplan was adopted covering infrastructure projects for all modes of transport up to 2027.

Implementation of an action plan for construction of corridor X is still at a relatively early stage, although work has been completed on some road sections, and is ongoing on others. Serbia needs to give greater priority to the currently underinvested railways to improve connections, which would considerably decrease travelling time between the main urban centres. Serbia has made considerable investments in the navigation infrastructure and ports along the River Danube and is improving the airports in Niš and Belgrade. In future more attention needs to be paid to development of the River Sava.

As regards trans-European **energy networks** (TEN-E), Serbia needs to strengthen the electricity network in order to be in a position to place on the market the surplus hydroelectricity expected following the construction of new hydroelectricity plants, in particular reversible plants. By virtue of its central location in South-East Europe, Serbia has large cross-border electricity flows across its borders. As its interconnections are usually congested, increasing the capacity for interconnectivity needs to be a priority. Serbia is currently constructing a new interconnection with the former Yugoslav Republic of Macedonia. On the Serbian side, section 1 of the line (substation NIS-Leskovac) is in

operation. Construction of section 2 (substation Leskovac- Vranje border) was completed in 2011. Project documentation is being prepared for an interconnection project with Romania, connecting Pancevo (Serbia) to Resita (Romania).

Most of Serbia's natural gas (92%) is supplied by Russia, via Ukraine and Hungary, the only entry point into the Serbian gas network. The transportation system is also used for gas transit bound for Bosnia and Herzegovina. A feasibility study on the gas pipeline link to Bulgaria (Nis-Dimitrograd) is being prepared. Serbia is supporting implementation of the Gas Ring of South-East Europe, but it will require more tangible regional cooperation, including steps towards construction of gas transmission lines and interconnectors. The capacity of the Banatski Dvor underground natural gas storage facility is currently 5 million m<sup>3</sup> a day. Another storage facility is planned. Serbia needs to implement the regional priority projects in the gas sector and further develop the underground natural gas storage facilities.

Serbia's oil infrastructure is outdated. It forms part of the main Adriatic pipeline (JANAF) that has been operational since 1979. Serbia is supporting the planned pan-European oil pipeline.

### *Conclusion*

Serbia is centrally placed in South-East Europe and therefore has an important role to play in building the trans-European networks in the region. Progress on transport and energy infrastructure is also crucial for Serbia's economic development and security of energy supply. Serbia has made some progress, but major challenges remain in terms of interconnection of energy and transport networks.

Overall, Serbia will have to make additional efforts in the field of trans-European networks to align with the EU *acquis* and to implement it effectively in the medium term.

### **3.22. Chapter 22: Regional policy and coordination of structural instruments**

The EU *acquis* on regional policy and coordination of structural instruments consists mostly of general regulations and fund-specific regulations, which *per se* do not require transposition into national legislation. The current EU *acquis* establishing its cohesion policy is in force until the end of 2013. The cohesion policy regulations lay down the rules for drawing up, approving and implementing multiannual operational programmes which, under the shared management delivery system, are negotiated and agreed with the Commission. Implementation of cohesion policy is principally the responsibility of the Member States. In doing so, Member States must fully comply with the EU *acquis*, for example in the areas of multiannual budgeting, public procurement, competition, the environment, equality between men and women, non-discrimination and sustainable development, when selecting and implementing projects.

The SAA establishes measures to strengthen regional and local development cooperation, with the objective of contributing to economic development and reducing regional imbalances.

As regards the **legislative framework** which impacts regional policy, Serbia has introduced a degree of multiannual budgeting by adopting a law providing for three-year budget projections. In the area of State aid, the legislative framework has been largely put in place, but efforts are needed to implement an effective competition policy. In the area of public procurement and the environment, efforts remain to be made to align with the EU *acquis* and to implement it effectively.

Serbia has two levels of regional governance: central authorities plus local authorities, which are self-government units. Serbia also has an autonomous province. The architecture of the future NUTS regions will require special attention when considering future operational programmes.

With regard to the **institutional framework**, Serbia is currently preparing for implementation of IPA components III (regional development) and IV (human resources development), which, under the current IPA Regulation, would become available once Serbia is granted candidate country status. The main aim of IPA components III and IV is to prepare candidate countries for management of financial instruments under the Structural and Cohesion Funds following EU accession. A Strategic Coordinator has been appointed and the Heads of the Operating Structures have been designated. Yet, the operating structures and the way they will work remain to be specified in more detail and to be put in place in time.

The 2010 Law on regional development established a national system for implementing domestic, non-EU- funded, regional policy in Serbia. This Law does not apply to EU programmes. Under this law, regional policy in Serbia, covering both programming and implementation of projects, falls under the responsibility of the Ministry of Economic Affairs and Regional Development.

However, in the medium term maintaining two parallel systems, one for national policy and one for IPA components III and IV, is likely to be less effective, as the procedures set up for implementing the national policy could divert already limited national resources (not only staff but also co-financing capacity) away from IPA and ultimately slow down implementation of IPA and preparations for Structural and Cohesion Funds.

The **administrative capacity** to deal with the requirements of the EU cohesion policy needs to be built up. To manage this process, organisational development and training strategies need to be developed. In order to obtain the quality required in programming, implementation, sound financial management, control and monitoring mechanisms, adequate human resources will be needed. The Serbian administration still relies excessively on external consultants. Significant efforts need to be made to build up expertise within the national administration, at both central and local levels. In order to attract and retain qualified staff, adequate career planning and salary policies for civil servants involved in management of EU funds must be developed. The necessary financial resources need to be allocated.

With regard to **programming**, the government of Serbia has developed a number of strategy documents to promote and implement sectoral policies for regional development purposes. The draft Strategic Coherence Framework (a precursor of the National Strategic Reference Framework, NSRF) and the draft Operational Programmes for IPA components III and IV were submitted to the Commission. Further improvements remain to be made before they can be adopted. In the context of programming, timely preparation of a pipeline of high-quality and mature projects to implement IPA and cohesion policy is of the utmost importance. The capacity of potential beneficiaries to prepare and implement projects must be significantly strengthened.

Action under IPA components I and II has allowed the Serbian authorities to familiarise themselves with the basic requirements for **monitoring and evaluating** EU projects. However, proper national systems and mechanisms need to be put in place to evaluate and monitor the quality and impact of multiannual development programmes. For decision-

making and reporting purposes, a management information system needs to be introduced for EU programmes.

With regard to **financial management and control**, the Ministry of Finance is the main body responsible. Within the context of IPA components III and IV, the National Authorising Officer, as the Head of the National Fund, would be responsible for sound financial management of EU funds once the country is accredited to manage IPA funds in a decentralised manner. This responsibility would be assumed by the State Secretary of the Ministry of Finance. The Central Finance and Contracts Unit (CFCU) within the Ministry of Finance should be in charge of tendering and contracting, since the capacity developed in it can serve as basis for implementing future programmes under IAP components III and IV.

An Audit Authority for IPA funds was established in June 2011. Its full independence and staffing will need to be ensured before management of IPA funds can be transferred to the Serbian authorities.

### *Conclusion*

Cohesion policy structures and procedures are at an early stage in Serbia. Further efforts are needed in order to build the administrative capacity necessary to allow successful participation in IPA components III and IV and EU cohesion policy. A positive start has been made with preparations for IPA components III and IV. However, additional efforts will be necessary to set up sound procedures, ensure competent and stable administrative structures and enhance the programming capacity to allow Serbia to implement programmes under IPA in the medium term and, further in the future, under the cohesion policy.

Overall, Serbia will have to make additional efforts to align with the EU *acquis* in the field of regional policy and to implement this policy effectively in the medium term.

### **3.23. Chapter 23: Judiciary and fundamental rights** (*see also Political criteria*)

The aim of EU policies in the area of the judiciary and fundamental rights is to maintain and further develop the Union as an area of freedom, security and justice. The establishment of an independent and efficient judiciary is of paramount importance. Impartiality, integrity and high standards of adjudication by the courts are essential for safeguarding the rule of law. This requires a firm commitment to eliminating external influences over the judiciary and to providing for adequate financial resources and training. Legal guarantees for fair trial procedures must be in place. Likewise, Member States must fight corruption effectively, as it represents a threat to the stability of democratic institutions and the rule of law. A sound legal framework and reliable institutions are necessary in order to underpin a coherent policy of prevention and deterrence of corruption. Member States must ensure respect for fundamental rights and EU citizens' rights as guaranteed by the *acquis* and by the Charter of Fundamental Rights.

An ambitious reform of the **judiciary** in Serbia has already started in 2006 with the adoption of the Constitution and the National Reform Strategy. The objectives set out in the Strategy are: strengthening of independence, efficiency, accountability and transparency.

The principle of *independence* of the judiciary is ensured in the Constitution, including through the guarantee of permanent tenure of judges and deputy prosecutors, and further specified in the Laws on judges and on prosecutors. The establishment of the High Judicial Council and the State Prosecutorial Council has improved the self administration of the

judiciary. The Law on the Judicial Academy, adopted in December 2009, has reinforced a merit based approach to recruitments. As part of the judicial reform, a re-appointment procedure for judges and prosecutors was carried out in the second half of 2009. The re-appointment exercise was affected by a number of shortcomings; in particular, the decisions were not based on a transparent application of objective criteria, candidates were not heard during the procedure and initially no written justifications were provided. These shortcomings are in the process of being addressed through a review of the process carried out in 2011, which still needs to be satisfactorily completed. However, Parliament, in line with the Constitution, still decides on the appointments and dismissals of the President of the Supreme Court, court presidents and public prosecutors, allowing for the possibility of undue political influence. Also, first time judges and deputy prosecutors are appointed in Parliament for a probationary period of three years. Legal clarifications would be needed in order to ensure that elected members of the High Judicial and State Prosecutorial Councils will be appointed by Parliament only in a declaratory manner.

*Impartiality* of the judiciary is generally ensured. Provisions on the random allocation of cases and on conflict of interest are in place. Impartiality is further strengthened through the ongoing introduction of an IT based case management system and a reduced number of courts. However, implementation of the random allocation of cases is confronted by practical difficulties in small courts with only few judges. Rules on conflicts of interest should be implemented more vigorously.

The High Judicial Council and the State Prosecutorial Council were established as the key bodies ensuring the *accountability* of the judiciary. A Code of ethics for judges was adopted in December 2010. Violation of provisions of the Code of ethics is a serious disciplinary offence for judges. The twin-track procedure for ordinary disciplinary offences (leading to disciplinary sanctions) and serious disciplinary offences (which can result in dismissal) can lead to inefficiency and, in certain cases, even impunity if the tier chosen is not successful. Judges and prosecutors enjoy functional immunity. They may not be held liable or be arrested for a criminal offence committed in the performance of their office, unless immunity is lifted by the parliament, in the case of judges with prior approval from the High Judicial Council. The President of the Supreme Court enjoys full immunity, which can only be lifted by the parliament. Since 2006, there have only been very few criminal proceedings against judges or prosecutors in which their immunity was lifted. This raises concerns over the efficiency of the control mechanisms, as allegations of corruption in the judiciary persist.

In order to improve the *efficiency* of the judicial system, new Civil and Criminal Procedure Codes were adopted in September 2011. A new court network was established as of January 2010. The new network reduced the number of courts and improved the division of labour between the different courts. However, in the first year of its operation, the backlog continued to grow by some 200,000 cases, reaching around 1.7 million cases at the end of 2010 and some 1.9 million cases on 30 June 2011. This was partly due to the transition phase. The effects of the reduction in the number of courts was weakened as the courts to be closed were transformed into court units of the remaining courts, thus creating inefficiencies and giving rise to security concerns, in particular involving travelling by judges and the necessary transfer of files. Certain inequalities in workload between different courts persist.

In relation to **anti-corruption policy**, Serbia has established the relevant legal and institutional framework. A National Anti-Corruption Strategy and the respective Action Plan were adopted in 2005. Serbia ratified the Council of Europe Criminal Law Conventions on Corruption and its additional protocol in 2002 and 2008 respectively and the Civil Law

Conventions on Corruption in 2008. In 2003, Serbia became a member of GRECO, the Group of States against Corruption. Serbia ratified the United Nations Convention Against Corruption in 2005. However, Serbia has not signed the OECD Conventions on Combating Bribery of Foreign Public Officials in International Business Transactions and on Bribery in International Business Transactions.

The Law on the Anti-Corruption Agency was adopted in 2008. The Anti-Corruption Agency was established as the central anti-corruption institution and began operation in January 2010. It was allocated adequate premises in September 2011. The Agency is mainly responsible for prevention and awareness-raising with regard to corruption, verification of declarations of assets, monitoring of political party financing and the resolution of conflicts of interest for those holding state functions. A new Law on financing of political activities was adopted in June 2011, ensuring a more transparent funding of political parties and providing the Anti-Corruption Agency with broader powers in this area.

Special departments within the police and public prosecutor's office were established for corruption offences. In 2010, the powers for dealing with high level corruption (over € 2 million) and for corruption offences committed by certain state officials were transferred to the special prosecutor for organised crime and the special departments for organised crime in the Higher and the Appellate Court in Belgrade. In May 2011, the Minister of Justice was appointed national coordinator for the fight against corruption.

However, implementation and tangible results are lagging behind. Corruption continues to affect many areas, notably public procurement, privatisation procedures and public expenditure, as well as the health and education sectors. The National Anti-Corruption Strategy and the respective Action Plan are outdated and have only partially been implemented. The authorities have launched the process of updating both documents. Further efforts are needed in order to establish a track record of pro-active prosecutions and final convictions, in particular in high-level cases resulting in major damage to state funds. Protection of whistleblowers needs to be strengthened.

The competencies of the Anti-Corruption Agency regarding the monitoring of asset declarations are limited. The Agency also needs additional resources to be able to carry out its task as the main supervisory authority in the fight against corruption.

Serbia has a well advanced legal and institutional framework for the protection of **fundamental rights**. However, further efforts are needed for the existing legislation to be fully implemented.

The *death penalty* has been abolished in Serbia.

The framework for the prevention of *torture and ill-treatment* is in place. A decision has been taken to establish a national prevention mechanism for the prevention of torture, but the service is not yet operational. Poor conditions in detention facilities are a matter of concern.

The *prison system* faces serious problems due to overcrowding. Serbia has only begun to tackle this problem, including through the construction of new prison facilities. Further efforts are needed in order to improve living conditions, healthcare and adequate treatment programmes for prisoners and to extend the use of alternative penalties.

*Access to justice* is guaranteed by the Constitution. However, the length of court proceedings and the lack of an effective system of free legal aid are matters of concern.

*Freedom of expression* is guaranteed by the Constitution and further regulated by the Law on Public Information, which was amended in 2009. A comprehensive strategy for the development of the media sector was adopted in September 2011 and now needs to be implemented. The media landscape is highly diverse and pluralistic. However, violence and threats against journalists are a cause of concern. The lack of economic sustainability and financial strength of media outlets and the dominance of a few key players in the advertising market are matters for concern. Independence of the Republican Broadcasting Council and its supervisory activities need to be strengthened.

*Freedom of assembly and association* is guaranteed by the Constitution and generally respected. The Government financially supports the work of civil society through a range of projects. An office for cooperation with civil society has been set up. However, amendments are needed to the Law on public assembly in order to reduce the requirements for registration of assemblies, reduce restrictions on the areas where assemblies can be held, limit the liabilities of organisers and ensuring protection also for foreigners.

Civil society organisations are well developed and play an important role in the social, economic and political life of Serbia. However, cooperation between state bodies and civil society organisations needs to be improved. Threats, verbal abuse and even physical attacks against NGO activists dealing with war crimes and other sensitive topics need to be addressed.

*Freedom of thought, conscience and religion* is guaranteed by the Constitution and laws, and is respected in practice. However, there is insufficient transparency and consistency in the registration process for smaller religious groups.

Concerning *women's rights and gender equality*, Serbia is party to the UN Convention on the Political Rights of Women and the Convention Concerning Equal Remuneration of Men and Women for Work of Equal Value. The legislative framework is in place. However, further efforts are needed in order to fully ensure its implementation.

The Constitution explicitly recognises *children's rights*. The legislative framework has been largely aligned with international human rights standards. Several relevant institutions have been established to promote and monitor children's rights. However, the insufficient level of coordination of relevant institutions and bodies included in the system for children's protection is a matter of concern. Further enhancement of the protection mechanism is needed.

The legislative framework for the protection of *socially vulnerable and/or persons with disabilities* is broadly in place and the rights of persons with disabilities are explicitly protected by the Constitution. However, full implementation of the legislative framework remains to be ensured. The high institutionalisation rate of persons with mental health problems and elderly people needs to be addressed.

As regards *anti-discrimination policies*, the Constitution as well as several pieces of legislation prohibit discrimination. However, the mechanisms for prevention, monitoring and protection of discrimination cases are not sufficiently developed and should be improved. Discrimination is most prevalent against Roma, women, persons and children with disabilities and the LGBT population.

As regards *labour and trade union rights*, freedom to join trade unions and any other form of association as well as the right to strike are guaranteed by the Constitution and further

regulated by the Labour Law. However, social dialogue has been limited and needs to be further improved. The Law on strike needs to be revised.

*Property rights* are protected by the Constitution. With the adoption of the Laws on restitution and on public property in September 2011, the legal framework was completed. The Law on restitution, once implemented, will clarify the so far unclear and fragmented manner in which restitution of property nationalised under the communist regime has been dealt with. However, implementation of both laws still faces important challenges. Restitution needs to be carried out in a fair and transparent manner. The transfer of state property to provincial and municipal level faces risks of corruption and fraud, as a reliable overview of state owned properties is missing.

*Respect for and protection of minorities and cultural rights* are guaranteed by the Serbian legal and institutional framework. Serbia ratified the framework convention for the protection of national minorities and the European Charter on Regional and Minority Languages. The Law on National Councils of National Minorities was adopted in August 2009. In line with the Law on National Councils of National Minorities, the first direct elections for the National Minority Councils were organised in 2010. Nineteen national minorities elected their respective councils. All national minority councils have been constituted and started operation, except the Bosniak Council. While some irregularities were reported during the elections of the national minority councils, they did not significantly affect the overall results. The inter-ethnic situation is good overall, and the number and intensity of ethnically-based incidents has decreased in recent years.

However, the Republican Council for National Minorities, which is responsible for coordinating cooperation between minority national councils and state bodies, is not operational. The national minority councils are highly politicised and their effective functioning still needs to be strengthened. There is no effective control of their funding and expenditure. Regarding the Sandjak area, the situation has been tense and escalated further over the issue of the constitution of the Bosniak national minority council. Following the June 2010 elections, the constitution of the Council is still affected by a number of open issues. Repeat elections were announced, but no final date was set. Roma remain one of the most marginalised groups. Despite certain improvements, such as teaching assistants and female health mediators, Roma face poor living conditions and difficulties in exercising their social, political and economic rights.

The legal and institutional framework for the *protection of personal data* is broadly in place. Serbia has ratified the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data in 2005 and the additional protocol in 2008. The Strategy on personal data protection was adopted in 2010 along with several rulebooks and regulations concerning collection, storage and protection of data. The Law on Protection of Personal Data entered into force in January 2009 and implementing legislation was adopted. The Commissioner for Free Access to Information of Public Importance and Personal Data Protection is the competent supervisory authority. Infringements of the legal framework can result in both misdemeanour and criminal liability. However, several provisions of the Law on Protection of Personal Data are not fully in line with EU standards. An action plan implementing the strategy has yet to be adopted. The office of the Commissioner, who is also responsible for ensuring access to information, lacks financial and human resources. This raises concerns with regard to his ability to adequately perform his supervisory tasks in both areas. Further efforts are needed in order to ensure the collection and processing of personal data in line with the legal provisions.

To ensure **EU citizens' rights** to vote and stand as a candidate in municipal and European Parliament elections, Serbia will need to harmonise the provisions of the Constitution, laws and other regulations, which regulate the exercise of the right to vote, with the *acquis* and especially with Council Directives 94/80/EC and 93/109/EC. As regards *residence rights* for EU citizens, the Serbian system of temporary residence permits is not in line with the *acquis* and will need to be amended. In order to comply with the *acquis*, Serbia will have to implement the Decision on *diplomatic and consular protection* for EU citizens and the Decision on the establishment of an emergency travel document.

### *Conclusion*

Serbia will have to make continuing efforts to fully align with the *acquis* in this chapter. It has made good progress in its ambitious reform of the judiciary, but further efforts are needed in order to fully ensure independence, impartiality, accountability and efficiency. The legal and institutional framework to fight corruption has been established, but implementation of anti-corruption policies has to lead to tangible results, in particular final convictions in criminal cases. Provisions for the protection of fundamental rights are in place, but need to be fully implemented.

Overall, Serbia needs to undertake considerable and sustained efforts to align with the EU *acquis* in the medium term.

### **3.24. Chapter 24: Justice, freedom and security**

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as migration, asylum, border control, visas, judicial cooperation in criminal and civil matters, police cooperation, the fight against organised crime and terrorism, cooperation in the field of drugs and customs cooperation, Member States need to be properly equipped in order to implement the growing framework of common rules adequately. Above all, this requires strong and well-integrated capacity within the law enforcement agencies and other relevant bodies to attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance.

The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails lifting internal border controls in the EU. For a new Member State, substantial parts of the Schengen *acquis* are implemented following a separate Council decision to be taken after accession.

Cooperation in the area of justice, freedom and security makes up an important part of the SAA. Title VII of the Agreement establishes cooperation in a wide range of areas, notably border management, asylum and migration, money laundering and prevention of organised crime.

Visa liberalisation for Serbian citizens travelling to the Schengen area was granted with effect from 19 December 2009. This decision was based on substantial progress in the areas of justice, freedom and security, particularly fulfilment of the specific conditions set out in the roadmap for visa liberalisation. The rules for visa-free travel have been respected by the vast majority of travellers. However, under the visa-free regime, increases in the number of unfounded asylum applications by Serbian citizens in several EU Member States occurred. Following decisive measures by the Serbian authorities, including awareness raising campaigns, investigations into illegal residence changes, facilitated by corrupt officials, and enhanced border checks, the numbers declined until September 2011, but then increased

again. Efforts to address this issue are ongoing. In order to ensure ongoing implementation of the commitments taken, a post visa liberalisation monitoring mechanism has been established. The Commission presented its first monitoring report to the European Parliament and the Council in June 2011.

Serbia has made efforts to align its **migration** policy with EU standards by adopting a number of strategies on migration management, combating illegal migration, resolving the problems of refugees and IDPs and reintegrating returnees. The November 2007 Law on asylum and the October 2008 Law on foreigners are broadly in line with the EU *acquis*, allowing foreigners to acquire residence and family reunification under certain conditions. The largest groups of persons that have acquired Serbian citizenship over the last few years are from Croatia and Bosnia and Herzegovina, mainly persons with refugee status or internally displaced persons who had been legally residing in Serbia for several years. The total number stood at 19,310 by 2010, including persons with dual citizenship under the agreement between Serbia and Bosnia and Herzegovina.

Implementation of the migration related strategies needs to be made more effective and coherent. Limited resources, overall lack of capacity and insufficient coordination of the bodies responsible are the main challenges in this area. An efficient data-sharing mechanism between law enforcement bodies and competent authorities remains to be established. Transformation of the Commissariat for Refugees into a Migration Management Agency has been delayed, due to the lack of resources and administrative capacity combined with inefficient inter-agency coordination and cooperation. Serbia needs to make further efforts to ensure full alignment with EU *acquis* on legal migration, notably on the right to family reunification, long-term residence and conditions of admission of third-country nationals for the purpose of studies.

An agreement on readmission between the European Union and Serbia has been in force since January 2008. The implementation of the agreement has continued without significant challenges. Some 4,377 persons were returned in 2009 and 3,979 in 2010. Under the Agreement, bilateral implementing protocols have been concluded with the following Member States: Austria, Bulgaria, France, Germany, United Kingdom, Hungary, Italy, Malta, Slovakia and Slovenia. The main countries from where returns take place are Germany, Switzerland and Sweden. A more comprehensive database on returnees is being developed by the Commissariat for Refugees.

Serbia's **asylum** legislation adopted in November 2007 is largely in line with the essential elements of the EU legislation on eligibility, procedures and reception conditions for asylum-seekers. Two reception centres were established since 2008 for an overall capacity of 200 people. Continuous training has been provided by the UNHCR. However, an Asylum Office remains to be established in line with the law. The number of asylum claims has been increasing continuously since 2008, but the number and quality of decisions taken remains very low. Out of 522 claims in 2010, only 58 interviews were conducted, resulting in 28 rejections. The procedure and sources of verification of safe countries of origin and the list of safe third countries are not fully aligned with European standards. Mixed migration flows and the lack of an efficient mechanism to identify genuine asylum-seekers, combined with the poor prospects for protection or integration in Serbia, are resulting in increased transit of migrants towards the EU. A national database for checking personal data and fingerprints of asylum-seekers is not in place. There is a need to improve capacity and practices in this area.

Serbia has taken steps to align its **visa policy** and the types of visas issued with EU standards. New visa stickers have been issued since June 2010 and are broadly in line with EU standards. Serbia also issues visas on behalf of Montenegro, the former Yugoslav Republic of Macedonia and Bosnia and Herzegovina. However, the list of countries subject to a visa obligation is not fully aligned with Regulation 539/2001 and recent liberalisation agreement concluded with Ukraine further widened the gap. A proper visa information system has not yet been established and only 32 out of 80 Serbian consular missions have the capacity to collect biometric data. The validity of the old non-biometric passports has been extended until the end of 2011. Upgrading of administrative capacity coupled with enforcement of adequate control mechanisms are required in this area.

Regarding **external borders and Schengen**, the conditions and arrangements necessary for implementing efficient border control and surveillance are broadly in place. The national strategy and action plan for integrated border management (IBM) were adopted in 2006 and steps have been taken to implement them. The new legal framework on border control has been aligned with the Schengen Border Code. Legislation and agreements provide for inter-agency and international cooperation. A coordination body was established in 2009, followed by an operational-level working group in 2010. Steps were taken to improve infrastructure and equipment. Further progress has been made with installation of the TETRA radio signal system with a view to full coverage of all the major border crossing points by 2012. Cooperation at regional and international levels is improving and agreements on border police cooperation have been signed with Bulgaria, Romania, Bosnia and Herzegovina and Montenegro. Cooperation with Frontex has continued to improve, including with the aid of regular data exchanges and participation in the Western Balkans Risk Analysis Network.

However, the IBM strategy needs to be updated. Disparities in infrastructure between border crossing points persist. There is no full connection between all border crossing points and the central database of the Ministry of the Interior. Modernisation and upgrading of equipment and infrastructure are required, both at border crossing points and for surveillance purposes, including access to relevant Interpol databases. The number of devices available for detecting forgeries at border crossing points needs to be increased. The border police is not fully staffed and needs to improve its internal organisation and continue with its modernisation and training so as to ensure consistency in implementing policies and rules.

Surveillance and control along the administrative boundary line with Kosovo need to be improved, especially in response to security concerns and to combat major international trafficking. The administrative boundary line is controlled by normal police and gendarmerie, not border police. The lower level of training and the more lenient controls for local residents of Serbian origin weaken the overall level of controls. In this area, practical cross-border communication and cooperation need to be organised and implemented efficiently. Border demarcation with Bosnia and Herzegovina and Croatia has not been finalised.

Regarding **judicial cooperation in civil and criminal matters**, the relevant legislative framework is mostly in place. A number of agreements on mutual legal assistance in civil matters and on recognition of foreign judgments are in force. Serbia has adhered to a number of international conventions. Foreign judicial decisions are legally enforceable only if recognised by a Serbian court. The statistics on enforcement of foreign judgments remain low (the Higher Court in Belgrade ruled in 79 cases and the Commercial Appellate Court in Belgrade in 10 in 2010). The number of unsolved requests for international legal assistance in civil matters increased significantly in 2010 and 2011, resulting in some 3367 unsolved cases

as of September 2011. Further improvements are needed in practical enforcement of both the national and international legal frameworks.

In the case of judicial cooperation in criminal matters, Serbia has ratified international conventions. In 2009 it also adopted the Law on mutual legal assistance in criminal matters, regulating this area in more detail, in addition to certain general provisions of the Criminal Procedure Code and the Criminal Code. Legislation on the organisation and responsibilities for suppression of organised crime, corruption and other severe criminal offences and the Law on seizure and confiscation of the proceeds of crime further regulate assistance. Responsibility for mutual legal assistance is shared between the courts, prosecution offices and the Ministry of Justice. However, implementation remains a major challenge in view of the limited capacity, especially in relation to the overall organisation and effectiveness of the existing procedures. Steps are also needed to ensure effective cooperation with Eurojust.

Serbia has established a good framework for **police cooperation and the fight against organised crime**. International police cooperation is carried out via the National Cooperation Bureau (Interpol), including exchanges of files via a 24-7 connection. An agreement on strategic cooperation with Europol was signed in 2009. Agreements on police cooperation and on cooperation in the fight against organised crime have been signed with Albania, Austria, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Croatia, Cyprus, the former Yugoslav Republic of Macedonia, France, Greece, Hungary, Italy, Montenegro, Romania, Slovakia, Spain and Switzerland. Agreements with Croatia and Montenegro allow extradition of own nationals in cases of organised crime and corruption. An agreement establishing a regional office in Belgrade for improving cooperation in the fight against organised crime was signed in October 2010. An international law enforcement coordination unit has been established. Serbia has launched an initiative for a regional arrest warrant.

The national Strategy to fight organised crime and the Action Plan implementing it were adopted in 2009. The legal framework for the fight against organised crime is generally in place. The Criminal Code, amended in 2009, classifies organised crime activities as criminal offences. A new Criminal Procedure Code (CPC) was adopted in September 2011. It profoundly changes criminal proceedings by transferring the leading role in criminal investigations from the investigating judge to the prosecution service and introducing an adversarial system. It provides law enforcement bodies with relevant tools for investigating organised crime, including special investigative measures. As preparatory work for its implementation has been slow, notably on building the expertise and infrastructure for the prosecution service, it will, in a first stage, only be applied to proceedings carried out by the special prosecutors for organised crime and for war crimes, before extending it to the whole system. There are concerns over insufficient procedural safeguards in the new Code.

Serbia has an institutional framework which generally allows it to fight organised crime effectively. The entry into force of the Law on the organisation and responsibilities of the State institutions in suppressing organised crime, corruption and other severe criminal offences in January 2010 extended the powers of the Special Prosecutor for Organised Crime. The Prosecutor is primarily responsible for cases of organised crime and high-level corruption. As the court of first instance, the Higher Court in Belgrade deals with organised crime and high-level corruption cases for the whole of Serbia. In the second instance, such cases are dealt with by the Appellate Court in Belgrade. This specialisation increases the expertise of the players involved. Police capacity for investigating financial crimes was improved by setting up a financial investigation unit within the Ministry of the Interior. Specialised units have been established within the police forces, including on cybercrime and

drug smuggling, allowing greater specialisation and expertise. A Commission for Inter-ministerial Coordination in the field of Justice and Home Affairs was established in 2008 to improve coordination between ministries in the fight against organised crime.

Since 2008, Serbia has successfully conducted a number of police operations in close cooperation with Interpol, Europol, EU Member States and non-EU countries, leading to the arrest and prosecution of members of several organised crime organisations.

However, organised crime remains a serious concern in Serbia. Although criminal investigations have been launched in a number of organised crime cases, final convictions remain rare. Capacity to carry out complex, in particular financial, investigations needs to be built up. Certain specialised services, in particular the unit for witness protection, lack sufficient staff, resources and adequate premises. The level of inter-agency cooperation, information flow and exchanges between law enforcement agencies needs to be improved. A centralised criminal intelligence system has not been established and there is a lack of harmonised statistical data. 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.

The Law on seizure and confiscation of proceeds from crime, adopted in 2008, provides the basis for temporary freezing of assets and, conditional on a final judgment, permanent confiscation. The Directorate for Managing Seized and Confiscated Assets has been in operation since March 2009 and is responsible for storage of temporarily seized assets. Cooperation between the authorities for discovering, seizing and managing proceeds of crime has gradually improved. However, practical results in the confiscation of assets remain limited and were achieved in only a small number of cases. Sales of temporarily seized assets without immediate risk of deterioration are a cause for concern. The Directorate for Managing Seized and Confiscated Assets lacks storage space and needs to improve the quality of its record-keeping to satisfy requirements on security, accessibility and protection of sensitive data.

The legal and institutional framework for the fight against money laundering is in place. The Law on the Prevention of and Fight against Money-Laundering and Terrorist Financing was adopted in 2009 and has been consolidated by the adoption of several guidelines. The Council of Europe Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism was ratified in 2009. A strategy to prevent money laundering and terrorism financing was adopted in 2008, followed by an action plan in 2009. Training has improved expertise in the Administration for the Prevention of Money Laundering (APML, the financial intelligence unit) to provide effective support for criminal and financial investigations. International cooperation is in place, including with MONEYVAL and the Egmont Group. However, practical results in the fight against money laundering remain to be improved. There is a need to strengthen the analytical capacity of the APML further. The numbers of suspicious transactions identified remain low and reporting, especially from outside the banking sector, needs to be improved. An effective system for monitoring cash transactions needs to be established. With the number of final convictions remaining low, law enforcement and judicial authorities need to improve their capacity to handle money laundering cases (*see also Chapter 4 — Free movement of capital*).

Serbia ratified the Council of Europe Conventions on action against trafficking in human beings in 2009 and on protection of children against sexual exploitation and sexual abuse in

2010. A strategy to address human trafficking was adopted in 2006 and an action plan to implement it in 2009. Law enforcement capacity in this area is generally well-developed. To coordinate activities against trafficking in human beings better, the government established a ministerial-level council and the Minister of the Interior has been appointed coordinator in this area. A Republican team, consisting of representatives of government institutions along with non-governmental and international organisations, has been in operation since 2003. However, Serbia remains a country of origin, transit and destination for trafficking in human beings. Further efforts are needed to ensure full implementation of policies in this area and a specific monitoring mechanism has not yet been set up. The strategy and associated action plan need to be updated in order to tackle current trends better and improve cooperation between law enforcement and judicial bodies. Better protection of victims, including provision of assistance or shelter and reintegration, is needed. An age- and gender-specific approach should be developed. Cooperation with and support for civil society active in this field should be improved.

Serbia has taken steps to align its legislation with the existing international regulatory framework for the **fight against terrorism**, including on financing of terrorism. These include: international and Council of Europe conventions, specific criminal offences under the powers of the Special Prosecutor and a number of bilateral agreements on police cooperation which also include terrorism. Two specialised units of the Serbian police have been assigned counter-terrorism tasks. However, a national database and a more efficient exchange of information are lacking, while internal organisation and inter-agency cooperation also need further improvement.

With regard to **cooperation in the field of illicit drugs**, the strategic, legislative and institutional framework is in place. A new Law on drugs was adopted in 2010. The national strategy adopted in 2009 is in line with the EU Drug Strategy and covers both drug demand and drug supply reduction. Serbia continued its good international and regional cooperation. A new national correspondent to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been formally appointed and cooperation with the Centre is improving. Between October 2010 and August 2011, Serbian authorities seized some 1.9 tons of drugs, as compared to 1.1 tons during the previous year. Seizures included some 180 kg of heroin, 7 kg of cocaine and 1.4 tons of cannabis. The Ministry of Health is active in the area of prevention of drug abuse and addiction. However, Serbia is on one of the main Balkan drug trafficking routes. Trafficking of drugs through Serbia remains high and also consumption in the country is of concern. Significant weaknesses persist in surveillance of the borders with Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Montenegro and of the administrative boundary line with Kosovo. Police and border police need to be fully connected to the central database on drugs. The lack of financial resources is having a negative effect on effective implementation of preventive anti-drugs policies. A national Commission serving as the central inter-service coordination body has been established but is not working effectively. The legal framework for reducing demand for drugs needs to be improved. Initiatives on substitution treatment and other programmes largely remain donor-driven. A large quantity of seized drugs still has not been destroyed due to alleged environmental concerns.

Regarding **customs cooperation**, the customs administration is established as an administrative authority within the Ministry of Finance. Serbia is currently implementing 20 bilateral agreements on mutual administrative assistance in the customs field, including with neighbouring countries. Technical arrangements on electronic exchange of customs data via the Electronic Exchange of Data System were established with the customs administrations of

Bosnia and Herzegovina, Montenegro and the former Yugoslav Republic of Macedonia. In April 2010 Serbia and Bulgaria signed an agreement on establishing and operating a joint contact centre for police and customs cooperation. However, Serbia needs to align with the EU legislation on use of technology for customs purposes and to ratify and then implement the 'Naples II' Convention on mutual assistance and cooperation between customs administrations.

For **protection of the euro against counterfeiting**, see *Chapter 32 – Financial control*.

### *Conclusion*

Serbia has put in place the overall legal and institutional framework in the area of justice, freedom and security. Law enforcement agencies generally have sufficient capacity to carry out standard investigations. Serbia is actively involved in international police and judicial cooperation. However, further continued efforts are needed to increase the capacity to carry out complex, in particular financial, investigations. A track record of proactive investigations and final convictions in organised crime cases needs to be built up. Sustained efforts are needed to improve coordination between law enforcement agencies and also law enforcement and the judiciary. Management of the administrative boundary line with Kosovo is a cause for concern. Further efforts will be necessary to ratify outstanding international instruments and align legislation fully with the EU *acquis*.

Overall, Serbia needs to undertake considerable and sustained efforts to align with the EU *acquis* in the medium term.

### **3.25. Chapter 25: Science and research**

In principle, the EU *acquis* in the field of science and research does not require transposition of EU rules into the national legal order. Successful implementation of the EU *acquis* in this domain mainly requires fulfilling the conditions necessary to participate effectively in the EU's Research Framework Programmes, to integrate into the European Research Area (ERA) and to contribute to the Innovation Union (IU). Good administrative capacity (adequate staffing and knowledge of research cooperation) is necessary, as is scientific excellence, in order to carry out research and innovation projects successfully, together with research entities from the EU Member States and international partners. This, in turn, requires well-developed research and innovation capacity to produce scientific excellence to support a sustainable economy and knowledge-based society.

The SAA establishes cooperation in civil scientific research and technological development.

As a potential candidate country, Serbia has been associated with the Seventh EU Research Framework Programme (FP7) since January 2007.

**Science and research policy** has been under the authority of the Ministry of Education and Science since March 2011. The Ministry is responsible for both policymaking and funding. It cooperates closely with other relevant ministries, the Vojvodina Provincial Secretariat for Science and Technological Development, the National Council for Scientific and Technological Development and the Academy of Sciences and Arts.

The National Council for Scientific and Technological Development, reformed in 2010, is made up of 16 members representing the scientific, academic and business communities. It

acts as an independent expert and advisory body. A separate agency for the field of nuclear safety was established in 2009.

A National Strategy for Scientific and Technological Development for the period 2010-2015 was adopted in February 2010. The strategy is the result of broad consultations with all stakeholders and aims at turning Serbia into an innovative country, in order to reach EU standards and advance its technological development. The overall aim is further integration into the European Research Area and alignment with the EU *acquis* on research and innovation policy. It is built on the principles of focus and partnership. It also establishes the strengths and weaknesses of the scientific landscape in Serbia and prepares the ground for action to address the challenges which lie ahead: increasing investment in research, modernising infrastructure, increasing human capital and building innovative capacity.

However, the Action plan implementing the 2010-2015 Strategy remains to be adopted. Investment in research is very low: only about 0.30% of GDP in 2010. As part of the strategy, the aim is to increase the level of investment by 0.15% in each of the next five years, taking it up to 1.05% by 2015. The lack of reliable statistics, in particular on investment by the private sector, makes it very difficult to monitor the targets set.

Human research capacity is available, but suffers from an ageing population. Serbia had 11,534 full-time scientists in 2009 or 0.6 % of the total workforce. As another part of the strategy, Serbia aims to increase the number of scientists. It is already taking a number of measures to attract young people to science studies and to address the brain drain from which it is still suffering. In line with the legislation on scientific and research activities, a Centre for Promotion of Science was established in 2010. Investments have been made in research capacity to improve the infrastructure, including science centres and state-of-the art laboratories. A fund for innovation activities has been established which, amongst other things, provides early-stage financing and supports transfers of technology.

Since Serbia has been participating, as an associated country, in the Seventh EU Research **Framework Programme** (FP7), it has created good administrative capacity and drawn up measures to promote research cooperation. Serbia has shown a good take-up of FP7 projects throughout the programme but further efforts are necessary. In particular efforts are necessary to increase participation by SMEs.

Serbia has expressed interest in becoming associated with the **Seventh Euratom Research Framework Programme** (2013-2014).

Regarding policy initiatives to facilitate integration into the **European Research Area** (ERA), the 2010-2015 strategy is fully in line with the objectives of the ERA. Serbia is actively participating in the work of all ERA governance bodies. This demonstrates Serbia's administrative capacity and determination to integrate into the ERA and contribute to the Innovation Union. International cooperation, particularly with EU partners, is high on the national agenda. Serbia has concluded numerous bilateral cooperation agreements with several neighbouring countries and other international partners. It is also involved in key international research organisations (COST and Eureka) and has started accession negotiations with CERN. However, serious efforts are needed to achieve the targets set in the 2010-2015 strategy, in particular the investment target, to integrate into the European Research Area as well as regarding the Innovation Union.

*Conclusion*

Serbia has been actively involved in EU research policy through its association to the Seventh EU Research Framework Programme. The National Strategy for Scientific and Technological Development for the period 2010-2015 is fully in line with the objectives and targets of the European Research Area and the Innovation Union. However, consistent implementation and close monitoring of the targets set at national level, in particular on investment in research and on mobility of researchers are of key importance.

Overall, if it continues its efforts, Serbia should, in the medium term, have the capacity to comply with the requirements of the EU *acquis*.

### **3.26. Chapter 26: Education and Culture**

The EU *acquis* on education and culture consists mainly of a cooperation framework made up of programmes and of the open method of coordination, which aims at convergence of national policies and attaining shared objectives. In the fields of education and youth, Member States need to ensure sound management of decentralised EU programmes. The EU *acquis* also requires Member States to facilitate the education of children of EU migrant workers and to prevent discrimination against EU nationals. In the field of culture, the 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions, ratified by the EU, is a major component of the EU *acquis*. The EU also contributes to promoting European sporting issues.

The SAA provides for enhanced cooperation, with the aim of raising the level of general education and vocational education and training in Serbia and of youth policy.

As regards **education and training**, Serbia has initiated reforms in all areas of education and the legal framework is largely in place, including legal texts for pre-school, primary, secondary, vocational, higher and adult education. The reforms focus on making education more inclusive, training teachers and putting in place quality assurance systems.

However, Serbia's education sector in general is reforming slowly. There are high drop-out rates at all levels of education. Adult education is in the early stages of reform and a law on adult education remains to be adopted. Improving quality assurance mechanisms at all levels of education and developing a national qualifications framework remain a challenge.

The Serbian vocational education and training (VET) system needs further reforms and modernisation. The mismatch between qualifications and the needs of employers remains a challenge in the fight against unemployment. Certain curricula are failing to respond to labour market needs. Drop-out rates are particularly high from three-year VET programmes (*see also Economic criteria*).

Serbia started to introduce Bologna reforms in higher education in 2003 and has introduced the European Credit Trading System across the entire higher education system. The higher education system has benefited greatly from Tempus. Serbia is one of the leading partner countries in this programme. It hosted in March 2011 the ministerial conference commemorating the 20 years of the establishment of the programme. Serbia's participation to Erasmus Mundus programme has allowed for increased student mobility and benefited so far to over 500 students and teachers. However, higher education teaching methods need to become more student-centred and external quality assurance mechanisms need to be implemented.

Serbia has been active in the field of **youth** policy since the Ministry for Youth and Sports was established in 2007. A National Youth Strategy was adopted in 2008, followed by an Action Plan for implementing it in 2009 and a Strategy for career guidance and counselling in 2010. A Law on youth was adopted in July 2011, providing an appropriate legal framework for the government's priorities and actions in this area. So far, 123 youth offices have been established all over Serbia which, in cooperation with the Ministry, are adopting and implementing local youth action plans. Serbia has been a leading partner country within the Youth in Action programme framework and the Ministry has actively promoted its opportunities. Young people are offered the possibility of obtaining scholarship funding, support for their initiatives and projects and career guidance. Proper implementation and monitoring of these measures need to be ensured, including setting clear objectives and indicators.

Serbia's legislation needs to be amended to comply fully with the EU legislation on education of children of migrant workers and allow equal access to education for EU citizens.

As regards **culture**, Serbia ratified the 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions in 2009 and subscribes to the objectives of the European Agenda for Culture. In accordance with the Law on culture adopted in 2009, Serbia is supporting programmes and projects in all fields of artistic and creative work by organising public competitions. The Ministry of Culture organises training for artists, especially on cultural management. Serbia is actively participating in the regional cultural initiatives and in the EU's Culture programme (2007-2013), where it has taken the lead in coordinating some projects.

### *Conclusion*

Serbia is conducting reforms in order to comply with the EU *acquis* and EU standards on education and training, culture and youth. The education sector is undergoing reforms in all areas, but these efforts need to be intensified, especially in the VET sector, to enhance the quality of education and its links with the labour market. Strengthening quality assurance, designing national qualifications and ensuring social inclusion at all stages of education deserves specific attention. Non-discrimination against EU citizens within the Serbian education system will need to be ensured.

Overall, if it continues its efforts Serbia should, in the medium term, have the capacity to comply with the requirements of the EU *acquis* in this area.

## **3.27. Chapter 27: Environment**

### **Environment**

EU **environment policy** aims to promote sustainable development and protect the environment for present and future generations. It is based on integration of environmental protection into other EU policies, preventive action, the polluter pays principle, fighting environmental damage at source and shared responsibility. The EU *acquis* comprises over 200 major legal acts covering horizontal matters, water and air quality, waste management, nature protection, industrial pollution and risk management, chemicals and noise. Ensuring compliance with the EU *acquis* requires significant investment, but also brings significant benefits. A strong and well-equipped administration at national and local levels is imperative for application and enforcement of the EU environmental *acquis*.

The SAA establishes cooperation with the aim of strengthening administrative structures and procedures to ensure strategic planning of environmental issues and coordination between relevant stakeholders and is focusing on aligning Serbia's legislation with the EU *acquis*. A number of articles relevant to other areas, such as energy, transport and industrial development, also underline the environmental aspects of the cooperation.

The Constitution of the Republic of Serbia establishes the right of every citizen to a healthy environment and to timely and full information about the state of the environment. It holds the Republic and the Autonomous Province accountable for environmental protection and defines the environmental management powers of the three tiers of the administration, namely the Republic, the Autonomous Province and the municipalities or local self-government.

The basic legal framework for environmental protection is provided by the 2004 Law on environmental protection, which was amended in 2009. Serbia has also established two strategic environmental planning documents, each covering ten years: the Sustainable Development Strategy was adopted in 2008 and recently updated and the National Programme for Environmental Protection was adopted in March 2010.

Regarding the **institutional and administrative framework for environmental management**, the Ministry of the Environment, Mining and Spatial Planning was set up in 2007. In March 2011 it also assumed responsibility for mining and waste from extractive industries. Serbia has also established an Environmental Protection Agency (SEPA) to regulate and develop the national information system for environmental protection. Formal coordination, information and joint decision-making mechanisms between the governmental bodies for effective implementation of the EU *acquis* are weak. Responsibility for protection and management of water resources is shared with the Ministry of Agriculture, the Ministry of Health and the Ministry of Infrastructure. Environmental monitoring is ensured by the central government, Autonomous Province and municipal authorities, with overlaps and gaps. Efforts to streamline this system have just started, with the progressive transfer of environmental monitoring tasks to the SEPA, thus significantly increasing its capacity in terms of staff from 29 to 88 employees and monitoring functions of both air and water quality, but the fragmentation of responsibility for implementation of the EU's environmental *acquis* remains a challenge. Serbia needs to pursue the consolidation of its public administration in charge of environmental policy more vigorously to focus on meeting the requirements of the EU *acquis*. Furthermore, environmental management tasks at municipal level are underfunded and require substantial strengthening to justify and sustain decentralisation.

The 2004 Law on environmental protection (amended in 2009) sets out the principal functions, duties and powers of inspectors of the Republic, the Autonomous Province and the local self-government. Details of these inspection duties and powers are given in a number of other laws, including on environmental impact assessment (EIA) and on integrated pollution prevention and control (IPPC). The powers of inspectors are far-reaching, including authority to prohibit, confiscate and order action to fulfil legal obligations. However, substantial restrictions exist on access to sites without prior notice and on taking samples. Only courts can impose fines.

The Control and Surveillance Sector in the Ministry of the Environment, Mining and Spatial Planning started to apply the minimum criteria for environmental inspections in early 2007, allowing a first assessment of the effectiveness of environmental inspection and prosecution. A more effective enforcement system is required. Cooperation between the various inspectorates (for the environment, water, health and trade) needs to be streamlined and

cooperation with police and prosecutors formalised. Serbia has launched a programme to address legislative and systemic weaknesses impeding effective inspection. This is a long-term process requiring considerable political will and adequate resources.

Environmental investment planning is based on the National Programme for Environmental Protection adopted in 2010 and the Sustainable Development Strategy adopted in 2008. Serbia needs to adopt also its Environmental Approximation Strategy. It will have to be followed by a more detailed audit to establish clearly the state of environmental infrastructure and of utility service-providers in Serbia. This will clarify the 'starting position' with a view to preparing detailed implementation plans. An affordability study at national and regional levels is also required to provide affordability references and benchmarks.

Public awareness of environmental issues is increasing, but public participation in environmental decision-making and public access to environmental information remain weak. Further efforts are needed to build a solid partnership between the government and civil society. There are some mechanisms for integrating the environment into other policies, but application in practice is limited.

Regarding *horizontal legislation*, Serbia has achieved a high level of alignment. The government has adopted a Rulebook on the National List of environmental Indicators, including indicators and theme indicators units classified into thematic areas. Further efforts are needed to align legislation relating to trans-border aspects of environmental impact assessment (EIA) more closely. Serbia needs to accede to the first and second amendments to the Espoo Convention, with its provisions relating to access to environmental information and access to justice. Particular attention needs to be given to enforcing the Environmental Liability Directive. In particular, EIAs need to be properly carried out wherever legally required, and proper coordination between different authorities and with all stakeholders needs to be ensured.

Serbia has substantially progressed in its alignment with *air quality* legislation. Its legislation is almost fully aligned with the Air Quality Framework Directive. However, some remaining provisions of the Directive covering arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air remain to be introduced. Serbia needs to continue to work on alignment with the relevant parts of the National Emission Ceilings Directive and on the directives dealing with fuel standards.

Serbia has produced its first preliminary air quality assessment and is proceeding with dividing its territory into zones and conurbations. It needs to complete this exercise and continue preparing pilot clean air plans, starting with environmental hotspots. Belgrade and other cities suffer from high levels of air pollution.

Implementing legislation has been adopted on monitoring of the air ambience quality and on establishing agglomeration zones. Air Quality Plans for the cities of Belgrade, Novi Sad and Bor are being prepared. The Serbian Environmental Protection Agency (SEPA) has installed an automatic ambient air quality monitoring network that has started to operate alongside automatic, semi-automatic and manually operated measurement points managed by municipalities and other public bodies. The integration of ambient air quality monitoring networks needs to be further advanced and non-EU-compliant measuring methods discontinued. SEPA's capacity to operate this network sustainably needs to be enhanced, possibly with the aid of further transfers of staff and resources from other institutions working in the area of the environment.

As regards *waste management*, Serbia has aligned its legislation with the key EU policies on waste and hazardous waste management, introducing the principles of waste prevention, re-use, recycling and recovery. Serbia has substantially aligned its legislation with the EU *acquis* on packaging and packing waste and on specific waste streams. Implementation has started. Legislation providing for waste separation is likewise in place. However, law enforcement is hampered by low waste collection rates in rural communities, thousands of illegal dumpsites and the absence of treatment facilities for hazardous waste. There is a significant problem with stockpiles of hazardous waste in temporary storage and environmental hotspots in need of remediation.

Legislation on sewage sludge and on waste from extractive industries needs to be aligned as a matter of priority, given the significance of the extractive industries in Serbia. A number of requirements of the new EU Waste Framework Directive, notably application of the best available techniques, need to be introduced. The first waste oil collection and processing plant in Serbia was opened in September in the port of Kladovo (Danube river), with the capacity to annually process between 3,000 and 5,000 tonnes of waste oil and oily water. Implementing legislation on managing Polychlorinated Biphenyls (PCBs) waste was adopted, and implementing legislation for persistent organic pollutants (POPs) management is under adoption.

The National Waste Management Strategy adopted in May 2010 provides for increasing the number of EU-compliant landfills and the collection rates for municipal waste. Whilst recycling of specific waste streams such as car batteries is up to 80%, the overall rates of recycling of household waste are still low at an estimated 8%. Product charges covering the collection and recycling of special waste streams have been introduced and are collected via the Ekofund. However, there are no incinerators and only few composting plants. Segregated collection of different packaging waste at source, and pre-treatment in regional sorting plants to generate marketable recyclable materials, need to be introduced over time. Furthermore, a combined strategy needs to be developed to meet targets for reducing biodegradable waste going to landfill, for home composting in rural areas, for segregated collection of bio-waste and for composting bio-waste in central plants in large cities.

As regards *water quality*, only 10% of wastewater discharged is treated. Sewage collection ranges from over 70% in urban areas to less than 10% in rural Serbia. The country's three largest cities have no wastewater treatment plants. Surface water quality is problematic, notably in the tributaries to the big Rivers Danube and Sava. There are quality issues related to both the microbiology and physio-chemical properties of drinking water in some parts of the country.

Whilst Serbian drinking water legislation has been largely aligned with EU law, large parts of the Water Framework Directive (WFD) still remain to be aligned with the EU *acquis*. This includes the principle of cost recovery for water services, the delineation of water basins to replace the current delineation of water districts following administrative/political boundaries and the definition and mandate of the competent authority. EU legislation on the protection of groundwater against pollution and deterioration, groundwater monitoring, the Nitrates Directive and Urban Waste Water Treatment Directive still need to be fully introduced into Serbian law. Implementing legislation on emission limit values of pollutants in water and deadlines for its accomplishment has been adopted. Complying with the overall legislative framework, organising governance of this sector in line with the principles of the WFD and catching up with the unusually vast backlog, notably in development of wastewater infrastructure, will be major challenges for Serbia.

Serbia has progressed with transposing the EU *nature protection* legislation. The Law on nature protection is largely in line with the Birds and Habitats Directives. A Biodiversity Strategy with an action plan was adopted in early 2011. Approximately 6% of the country's territory is protected under national legislation and international commitments. Implementing legislation on the compensation for damages caused by illegal actions against the strictly protected and the protected wildlife was adopted in June. The management of protected areas needs to be reviewed. In particular, the funding of conservation needs to be made independent from resource use. Efforts are under way to establish a preliminary list of Natura 2000 sites. Whilst establishment of a preliminary list of specially protected areas in compliance with the EU Birds Directive is progressing, identification of habitats sites is hampered by the absence of a clear delineation of tasks of key stakeholders.

As regards *industrial pollution and risk management*, alignment with both the Directive on integrated pollution prevention and control (IPPC) and the Directive on control of major accident hazards (Seveso II) has been largely completed and implementation has commenced. The most recent update of the EU legislation on IPPC will have to be taken into account to ensure full compliance with the EU *acquis* in the field of industrial emissions. Each of the approximately 180 IPPC installations needs to hold a valid permit by 2015. The first applications are now being received and processed. The first IPPC integrated licence was issued to the Titan cement plant in July. However, while the majority of permits will be issued by the central and the Autonomous Province authorities, permits for some industries fall within the remit of local government, which lacks both the knowledge and the resources to implement the IPPC Law.

The Law on environmental protection provides a basis for application of voluntary instruments such as ISO standard 14001, the eco-management and audit scheme (EMAS), national ecolabels, cleaner production, management and technical standards. The Group for Standards and Cleaner Production in the Ministry of the Environment, Mining and Spatial Planning is the body responsible. ISO standard 14001 is already widely applied in Serbia. Implementation of EMAS, however, awaits completion of the implementing legislation.

The 2009 Laws on *chemicals* and on biocidal products, both amended in 2010, adhere to the principal concepts of the corresponding EU legislation, notably the REACH Regulation and the Regulation on classification, labelling and packaging of substances and mixtures and the Directive concerning the placing of biocidal products on the market. Moreover, Serbia has also ratified the Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade. Steps have been taken to implement the Stockholm Convention on persistent organic pollutants. In relation to the national profile for chemical management, a preliminary inventory of discarded persistent organic pollutants, has been created. A regulatory and implementation body dealing with biocidal products and chemicals is now in operation. A chemicals register and helpdesk meeting REACH requirements have been installed. Bans and restrictions on trade movements of chemical substances have entered into force and inspection plans are being drawn up to enforce them. Serbia now needs to enforce the provisions concerning classification and labelling of hazardous substances and mixtures.

There is essentially no regulatory framework in place for soil protection and soil monitoring, though *ad hoc* soil monitoring is carried out by the relevant research institutes. The provisions of the Directive on *noise* were transposed into Serbia's national legislation by the 2009 Law on noise protection, amended in 2010, and the subsequent implementing legislation.

As regards *civil protection*, Serbia has made significant progress towards an integrated emergency management system by establishing the Sector for Emergency Management in the Ministry of the Interior, with the aim of coordinating the activities of all State institutions involved in emergency management. Serbia has also adopted the Law on emergency situations. Efforts are still needed to allow proper implementation and enforcement of the legislation and of the new institutional setting and to adopt implementing legislation. Coordination between ministries and bodies needs to be improved. Further efforts will be needed to fill certain capacity gaps like the lack of modern equipment, early warning systems or risk assessment and mapping tools for both disaster prevention and response.

### **Climate change**

EU climate action is a central pillar for ensuring sustainable growth and the shift to a low-carbon and resource-efficient economy. The EU *acquis* on the climate covers the EU emissions trading system (EU ETS), greenhouse gas (GHG) reductions for non-ETS sectors, fluorinated gases, ozone-depleting substances, vehicle efficiency standards, fuel-quality standards, carbon capture and storage plus monitoring and reporting of GHG emissions. Due account needs to be taken of the climate dimension in all policies and adaptation measures taken to reduce vulnerability to the impact of climate change.

In relation to policy development, the Serbian National Sustainable Development Strategy, adopted in 2008 and recently updated, along with the National Environmental Protection Programme adopted in 2010, identify climate change as a key risk and put forward action to adapt to and mitigate it. Other key documents include the Energy Development Strategy until 2015, the Forestry Development Strategy and the Strategy for Scientific and Technological Development. Further strategies on air protection and on biodiversity, together with the relevant action plans, are also being prepared. Significant awareness-raising is required at all levels of the country.

Serbia is a non-Annex-1 Party to the United Nations Framework Convention on Climate Change (UNFCCC) and has ratified the Kyoto Protocol. The government adopted a national Clean Development Strategy in February 2010. Serbia submitted its first national communication in November 2010, with greenhouse gas (GHG) inventories for 1990 and 1998, plus projections for 2012 and 2015. The country has also begun preparing the second national communication (to cover GHG emissions from 2000 to 2010). Serbia is currently assessing the financing needed for mitigation, including preparing the necessary financial plans. Nationally appropriate mitigation action up to 2020 for the energy efficiency sub-sector is being developed and should be completed by mid-2013.

With respect to the EU *acquis* on climate change, Serbia is still at an early stage. Some sector-specific laws, such as on energy, waste or air, are contributing to climate change mitigation, while the legislation on forestry includes certain adaptation measures. Some alignment has taken place with the legislation on the quality of petrol and diesel fuels, but this needs to be completed, including with respect to GHG emissions. The national airline JAT has prepared a monitoring plan. The new Energy Law tightens up the legal provisions for more rational use of energy. Serbia is participating actively in the climate work under the Regional Environmental Network for Accession (RENA).

Serbia is an Article 5 Party to the Montreal Protocol on substances that deplete the ozone layer. It has ratified all amendments to it and demonstrates a satisfactory level of compliance with the Protocol. Serbia associated itself with the Declaration adopted at the 22nd meeting of

the Parties to the Montreal Protocol in November 2010 on the global transition away from HCFCs and CFCs.

As far as **administrative capacity** is concerned, the Ministry of the Environment, Mining and Spatial Planning bears main responsibility for formulating and implementing climate change policy. It cooperates with a number of other ministries and authorities with climate responsibilities. The Serbian Environmental Protection Agency (SEPA) is responsible for data collection, processing and reporting on GHG. The Republican Hydro-Meteorological Service (RHMS) is in charge of monitoring, research and forecasting. A National Centre for Climate Change was established within the RHMS in 2007 to perform the functions of the Sub-regional South-East European Virtual Climate Change Centre.

However, both administrative capacity and technical and financial resources need to be increased considerably for Serbia to be able to align with and implement all the requirements of the EU climate change policy and legislation. Significant efforts are needed at all levels of the country to promote cooperation and coordination between the different ministries and authorities involved.

### *Conclusion*

Over the last few years Serbia has progressed well with alignment of its legislation with the EU's environmental *acquis*. A good level of alignment has been achieved with the EU's horizontal environmental legislation and also in the areas of waste management, nature protection and chemicals, whereas efforts are still needed to align with the EU *acquis* on water quality, and climate change. Serbia has established an Environmental Protection Agency and a Chemicals Agency. Nevertheless the country faces big challenges in implementing and enforcing the EU environmental and climate change *acquis*. It will be particularly important to create the conditions for building the technical and administrative capacity and resources necessary in this area, including for raising awareness at all levels in the country.

Overall, Serbia will have to make considerable and sustained efforts to align with and, especially, to implement and enforce the EU environmental and climate *acquis*. Effective compliance with EU legislation requiring a sustained high level of investment and considerable administrative efforts can only be achieved in the long term.

### **3.28. Chapter 28: Consumer and health protection**

The EU *acquis* on **consumer protection** covers the safety of consumer goods and protection of the economic interests of consumers in a number of specific sectors. Member States need to transpose the EU *acquis* into national law and to put in place independent administrative structures and enforcement powers that allow effective market surveillance and enforcement. Appropriate judicial and out-of-court dispute resolution mechanisms, consumer information and education, and a role for consumer organisations should be ensured as well. This chapter also covers rules in the area of public health.

The SAA provides for enhanced cooperation with the aim of aligning consumer protection standards in Serbia with those of the European Union, including by means of active consumer protection and efficient law enforcement.

The legal framework for consumer protection is enshrined in the Law on consumer protection adopted in 2010, aligning with 15 EU directives. However, implementation of this law is at an

early stage. Overall responsibility for consumer protection policy lies with the Ministry of Agriculture, Trade, Forestry and Water Management. The capacity of the consumer protection department remains weak, despite recent improvements in staff levels. There are consumer protection organisations in Serbia, but they are still weak and lack adequate resources. This continues to hamper their effectiveness. They have started improving their coordination and promoting public awareness. However, their development and role are contingent upon the new Law concerning the registration of consumer protection organisations, which still needs to be implemented fully.

As regards *product-safety*-related issues, market surveillance is primarily based on the Law on general product safety, but further amendments will be required to achieve full alignment with the EU *acquis*. Other parts of the EU product safety *acquis*, along with a number of the framework standards set in the General Product Safety Directive, remain to be put in place in Serbia. The legal framework is supplemented by a relatively comprehensive system of active coordination of market surveillance across different ministries. This includes a system for rapid exchanges of information on dangerous products between authorities and between authorities and the public.

In the area of *non-safety-related issues*, the Law on protection of users of financial services was adopted in May 2010, based on a proposal drafted by the National Bank. However, the law is not fully aligned with the EU *acquis*, especially as regards calculation of the annual percentage rate of charge

Concerning **public health**, the overall aim of the EU's policy is to improve health and prevent human illness and diseases. The EU *acquis* consists of a limited number of legally binding instruments and a larger body of non-binding measures and policy documents, plus two international commitments on health.

Overall responsibility for this area in Serbia lies with the Ministry of Health, the authority in charge of health policy, while the Public Health Institute is in charge of preserving and improving the health of all citizens, with the National Health Insurance Fund managing the financing of the system.

Serbia's health system is based on the 2005 Laws on healthcare and on health insurance, along with the accompanying regulations and both amended in August 2011. In November 2010 Serbia adopted a Healthcare Development Plan. e-health starts being implemented as a policy tool but not yet in a fully integrated manner. Full-scale implementation remains outstanding, as does active involvement of patients' and health professionals' associations.

Legislation on *tobacco* is partially aligned with the EU *acquis*. Missing elements include the ban of oral tobacco and the completion of the legislation concerning tobacco advertising. A national strategy for tobacco control was adopted in 2007 followed by a Law on protection of the population from exposure to tobacco smoke adopted by parliament in 2010, providing for a partial protection from environmental tobacco smoke. However, despite a decrease in smoking between 2000 and 2006, smoking remains a persistent problem in Serbia.

The basic act regulating *communicable diseases* in Serbia is the Law on the protection of the population against communicable diseases adopted in 2004 and the implementing legislation on reporting such diseases. However, some case definitions for reporting communicable diseases, including clinical, laboratory and epidemiological criteria, are missing and EU case definitions have to be progressively adopted. The legal basis, national structures and resources

are generally in place and are being strengthened. However, the surveillance and response capacity is still limited and requires some modernisation, in particular in the form of human and material resources. In April 2011, Serbia adopted a National HIV/AIDS Response Strategy for 2011–2015. Serbia's action in this field corresponds to the broad lines of the EU Communication on combating HIV/AIDS. However, further efforts are needed to implement the newly adopted Strategy, especially on raising public awareness.

Serbia's legislation on *blood, tissues and cells* is broadly aligned with the EU *acquis*. In 2009 four laws were adopted on biomedicine and transfusion activities. In the field of *organ* transplantation, the Directorate for Biomedicine in the Ministry of Health was established in mid-2010, but further efforts are needed to implement the Law on organ transplantation. Administrative and technical capacity needs to be strengthened.

Regarding *mental health*, Serbia's Strategy for the development of mental healthcare identifies a series of efforts needed, but the administrative capacity is inadequate to ensure implementation. Further action needs to be taken to promote inclusion of people with mental health problems and ensure equal access to basic human rights, employment, education and social services. Efforts towards de-institutionalisation need to continue and community-based mental health services should be further supported as an alternative to institutions.

On *cancer* prevention and control, Serbia adopted in 2009 a national programme entitled 'Serbia against Cancer'. However, Council recommendations on cancer screening have yet to be implemented. Reducing the harmful effects of *alcohol and drugs* is included among the specific goals of health policy up to 2020. A national strategy and action plan on the prevention of alcoholism needs to be adopted in line with the EU alcohol strategy. The prevention of illicit drug use and the treatment of drug abuse problems is addressed in the Strategy and action plan on drugs 2009-2013.

### *Conclusion*

Serbia has recently aligned its legislation with a significant part of the EU *acquis* in the area of consumer protection. Efforts are now needed to implement and enforce the legislation.

On health protection, while the country has taken many steps forward in the recent past and the basic administrative and legal infrastructure is in place, efforts are needed for it to be able to align with the EU *acquis* and to implement it effectively in the medium term.

Overall, Serbia will need to make additional efforts to achieve full alignment with the EU *acquis* on consumer and health protection and to implement and enforce it properly in the medium term.

### **3.29. Chapter 29: Customs Union**

The EU *acquis* in this sector consists of the Community Customs Code and its implementing provisions, the EU's Combined Nomenclature (CN), the Common Customs Tariff including trade preferences, tariff quotas and tariff suspensions and other customs-related legislation outside the scope of the Customs Code. Member States must ensure that the necessary implementing and enforcement capacity, including links to the relevant EU computerised customs systems (tariff-related systems, NCTS, ECS, ICS, etc.) are in place. The customs authorities must also ensure adequate capacity to implement and enforce special rules laid down in related areas of the EU *acquis* such as on external trade, health and security.

The Interim Agreement establishes a free-trade area with the EU and the progressive removal of customs duties on a wide range of products. It places an obligation on Serbia to adopt the Combined Nomenclature. It also provides for administrative cooperation on customs matters and lays down rules of origin which have to be observed in order for EU and Serbian operators to benefit from the trade preferences. In addition, it paves the way for gradual approximation of the Serbian customs legislation to the EU *acquis*.

In terms of **customs legislation**, Serbian law is largely aligned with the EU *acquis*. The Customs Law adopted in March 2010 is basically harmonised with the EU Customs Code. In January 2011, the relevant implementing legislation entered into force. The Combined Nomenclature (CN) is applied and the classification rules are largely in line with the EU *acquis*. However, classification practice, including decisions on binding tariff information, is still to be upgraded to EU standards.

In June 2011 Serbia also abolished administrative customs fees for regular activities, thereby bringing the system into line with the requirements of the Interim Agreement and the EU *acquis*. Preferential tariff quotas are managed by the Information System of Customs Services (ISCS) on a first-come, first-served principle on a daily basis. The country does not apply *erga omnes* tariff quotas or tariff ceilings and lacks an automated system for collecting statistics. The system of autonomous suspensions and tariff quotas needs to be brought into line with the provisions applied in the EU.

Serbia implements preferential rules of origin and methods of administrative cooperation that largely reflect those used by the EU in its free-trade agreements. Furthermore, it applies diagonal cumulation with the EU and other countries subject to the European Union Stabilisation and Association Process. The status of approved exporter also exists. Serbia complies with EU law on customs value.

The national legislation on duty relief is well harmonised with the EU *acquis*, but some discrepancies still exist, notably the rules on duty relief for equipment imported by, and for, passengers or the monetary threshold for duty relief and the rates for simplified declaration.

Serbia is observer in the Common Transit Convention and intends to join it once all the legal and technical requirements are met. The Customs Administration needs to encourage further use of simplified customs procedures in the framework of specific authorisations.

The legislation on customs-related security initiatives, including authorised economic operators, has been adopted, but implementing provisions are missing. Post-clearance controls and the risk analysis systems have been relatively successful over the last year, but need to be used more frequently for systematic planning and execution of *ex-post* controls. The *risk analysis capacity* is also hampered by an insufficient IT system and lack of strategy. Customs perform a high percentage of physical controls but is not producing proportionate findings. Risk analysis and management need to be changed to a thematic system targeting risk control, similar to the system applied in the EU, supported by an adequate IT application.

In line with the requirements of the Interim Agreement, the Customs Administration of Serbia (CAS) has made efforts to reach the EU level of protection of intellectual property rights (IPR). It has substantially tightened up the control procedures at the border and should now further reinforce effective means of enforcement. On drug precursors, Serbia has put in place a system for pre-export notification, while on cultural goods Serbia still has to adopt

legislation and apply controls in line with the EU requirements. The provisions on cash control do not meet the requirements of the EU legislation.

Concerning **administrative and operational capacity**, the CAS has been continually strengthening its administrative capacity for effective enforcement of customs legislation. It is well-organised and implements sound procedures and working methods allowing the competent staff to enforce the customs and related legislation sufficiently. However, there are still room for improvement. A properly equipped and functioning customs laboratory is missing and the overall operational capacity needs to be strengthened to ensure further enforcement of legislation (for example, on IPR and safety). The coordination between the Ministry of Finance and the CAS needs to be better streamlined. In 2010, the CAS, in cooperation with the World Customs Organisation, initiated a pilot project on strengthening the integrity of customs officials and stepping up the fight against corruption. However, further efforts are needed in fields such as office management, the performance appraisal system, ethics and training. Moreover, the audit resources need to be reinforced and the central customs administration should be allowed to carry out audits.

In December 2010 the Customs Administration adopted a business strategy for 2011-2015. A customs IT strategy was adopted in early autumn 2011. The CAS currently uses the Information System of Customs Services (ISCS). There are plans to merge the ISCS with the Integrated Customs Tariff TARIS. Although around 90% of customs declarations are submitted electronically, data exchange for customs formalities is only partially processed through the IT system. In general, Serbia has progressed on customs computerisation and is planning future interconnectivity with EU customs IT systems. However, further upgrading of the customs IT systems is needed.

Serbia joined the Customs 2013 Programme in April 2009 and has participated regularly in activities under it ever since. Through the conclusion of agreements on international cooperation, the customs authorities share information with other foreign institutions. In terms of trade facilitation, the customs administration formalised procedures for exchanging pre-arrival information with neighbouring countries. Implementation of the integrated border management strategy and action plan continued (*see also Chapter 24 – Justice, freedom and security*).

The customs procedures and formalities to guarantee correct application of the EU *acquis* need to be applied at the administrative boundary line (ABL) between Kosovo and Serbia, in particular at gates 1 and 31 to the north of Kosovo. At the ABL, insufficient controls create the risk of VAT carousels, fraud with excises, illicit trade and imports without paying customs duties. Serbia needs to prevent this illicit trade in a way that respects that Kosovo is a separate customs territory. Impact of the modifications to VAT refund rules adopted in September 2011 in this respect as regards oil and oil derivatives, will have to be assessed.

The agreement on accepting the Kosovo customs stamps needs to be implemented in full compliance with CEFTA rules.

### *Conclusion*

The customs legislation is almost fully aligned with the EU *acquis*. The obligations stemming from the Interim Agreement are being met well. The administrative and operational capacity of the Serbian Customs Administration is good. It has the administrative structures and adequate resources to implement and enforce the customs legislation and make sure that

procedures and working methods are implemented effectively. However, in order to be able to address the future challenges, the Customs Administration will need to be reinforced, notably to increase post-clearance controls based on risk analysis, expand use of simplified procedures for reliable economic operators, step up use of the guarantee management system and upgrade interconnectivity and interoperability with the EU IT systems. Customs procedures to guarantee correct application of the EU *acquis* at the ABL with Kosovo have to be introduced.

Overall, Serbia is already well on the way to meeting the EU *acquis* and remains committed to reforms in the area of customs. If it continues its efforts, Serbia should, in the medium term, have the capacity to comply with the requirements of the EU *acquis* in the field of customs.

### 3.30. Chapter 30: External relations

The EU *acquis* in the field of external relations consists mainly of directly applicable EU legislation which does not require transposition into national law.

The Interim Agreement contains the core trade part of the Stabilisation and Association Agreement that establishes a free-trade area between Serbia and the EU. It includes provisions requiring the Parties to act in accordance with the rules of the WTO or relevant international obligations. Serbia is also required to enhance trade liberalisation within the Western Balkans and with other countries involved in the enlargement process.

Upon accession, Serbia will be bound by the **common commercial policy**. Serbia will have to apply all the Free-Trade Agreements, the Customs Union and all the autonomous (preferential and non-preferential) trade regimes that the EU grants to certain non-EU countries, including the Generalised System of Preferences (GSP). Serbia will also have to terminate all its current preferential trade agreements with non-EU countries and bring all other agreements, including non-preferential trade agreements, into line with the obligations imposed by EU membership. Moreover, Serbia will become party to the European Economic Area (EEA) and will have to apply all the EU's international trade agreements.

Serbia is not yet a member of the *World Trade Organisation* (WTO) but the membership negotiations are at a very advanced stage. The bilateral track of negotiations has already been completed with most WTO partners, while progress has also been made on the multilateral track. Finalisation of the process will depend on the pace of the remaining bilateral negotiations and further legislative reforms. Serbia's commitments under the General Agreement on Trade in Services (GATS) are generally in accordance with those given by the EU. However, the final commitments will have to be verified when the last outstanding bilateral negotiations are concluded, especially in the areas sensitive for the EU, such as energy, pipelines and road transport. Depending on the final terms of Serbia's accession to the WTO, Serbia might have to modify its WTO commitments upon accession to the EU.

The average Serbian *ad valorem* tariff rate applied is 22.16% for agricultural products, 8.72% for fish and fishery products and 6.31% for industrial goods, with an overall average of 9.72%. The EU average MFN *ad valorem* tariff rate is 9.74% for agricultural products, 10.02% for fish and fishery products and 3.75% for industrial goods, with an overall average of 4.83%. Upon accession to the EU, Serbia will have to apply the EU Common Customs Tariff.

Serbia's Law on foreign trade transactions and implementing bylaws include provisions on anti-dumping, countervailing and safeguard measures. Upon accession, Serbia will have to repeal national legislation related to its trade defence instruments and measures based on this legislation and apply the EU rules and measures.

Serbia does not apply any **Generalised System of Preferences** (GSP) scheme. Upon accession, Serbia will need to apply the EU GSP scheme.

The *export credits* scheme in Serbia is operated solely by the State-owned Serbian Export Credit and Financing Agency (AOFI) that covers both short-term and medium-/long-term export credit insurance. The AOFI also provides short-term support for exports to the EU. It applies the OECD method and is a member of the Berne Union. Upon accession, Serbia will need to ensure full alignment of its short-term export credit insurance system with the EU competition rules. As regards medium- and long-term export credits, Serbia will need to align its relevant legislation with the relevant EU *acquis* and EU international obligations.

Concerning *dual-use* export controls, Serbia applies legislation adopted in 2005 and amended in 2009 that establishes an export control system for dual-use goods, weapons and military equipment. Serbia is not a member of the Kimberley process and does not control trade with rough diamonds. Upon accession it will have to apply the relevant EU regulation.

As regards *free-trade agreements* (FTA) with third countries, Serbia has been a member of CEFTA since May 2007. Serbia signed an FTA with the European Free Trade Association (EFTA). Serbia also has bilateral FTAs with Turkey, the Russian Federation, Belarus and Kazakhstan. Since the customs union of the Russian Federation, Belarus and Kazakhstan entered into force, Serbia has been renegotiating the FTAs with the Russian Federation and Belarus in order to harmonise trade arrangements with all three countries in this customs union.

Serbia has been implementing 46 *bilateral investment treaties* (BIT) and is currently negotiating agreements of the same type with several other countries. Some of the provisions included in Serbia's BITs will need to be aligned with the EU *acquis* in line with the obligations of the Treaty on the Functioning of the European Union and the relevant case law. Serbia has been implementing 125 agreements on trade and economic cooperation and is currently negotiating agreements of the same type with several other countries. These agreements would also need to be brought into line with the EU *acquis* upon Serbia's accession to the EU.

With regard to administrative capacity, participation in the EU decision-making mechanisms on trade and implementation and enforcement of the EU *acquis* will require strengthening coordination mechanisms between various ministries.

As regards development policy and humanitarian aid policies, Serbia is an aid recipient and, so far, has provided limited *ad hoc* aid to non-EU countries on a case-by-case basis, notably in response to natural disasters. There is no legislation on development policy and dispatching humanitarian aid and no relevant administrative structures are in place.

In relation to setting up an integrated emergency management system, in 2009 Serbia adopted a Law on emergency situations, establishing a Sector for Emergency Management in the Ministry of the Interior that coordinates the activities of all institutions in emergency situations. The National Disaster Response Team coordinates international assistance that can be provided upon approval by the government.

Serbia needs to continue to develop its legal framework to cover development and humanitarian aid, including civil protection, in non-EU countries in accordance with the relevant EU policies and principles. Serbia will need to strengthen the administrative structures inside the government and its ability to participate in the EU decision-making process on development and humanitarian aid policies.

### *Conclusion*

In preparing for membership, Serbia will need to ensure that its commercial policy and commitments to third countries and international organisations are aligned and coordinated with those of the EU. It is important that Serbia is aware of the obligations in connection with development and humanitarian policy, and it needs to establish capacity to fulfil the obligations of EU membership in this area.

Overall, if it continues its efforts, Serbia should, in the medium term, have the capacity to comply with the EU requirements in the field of external relations.

### **3.31. Chapter 31: Foreign, Security and Defence Policy**

The common foreign and security policy (CFSP) and the common security and defence policy (CSDP) are based on legal acts, including legally binding international agreements, and on political documents. The EU *acquis* consists of EU statements, Council decisions, political declarations, joint actions, common positions and agreements. Member States must be able to conduct political dialogue in the framework of CFSP, to align with EU statements, to take part in EU actions and to apply any restrictive measures agreed. Applicant countries are required to progressively align with EU statements and to apply restrictive measures when and where required (*Concerning relations with other enlargement countries and Member States, see Political criteria 2.3 – Regional issues and international obligations*).

Serbia generally supports the efforts of the European Union to strengthen its role as a cohesive force in international relations and its ability to promote European interests and values on the international scene. Serbia has declared that it is committed to being ready and able to participate fully and actively in the EU's CFSP and CSDP, as defined in the Treaty on European Union, by the date of accession. Serbia's Constitution prescribes that international treaties ratified must not contravene constitutional norms.

Serbia's administrative structures are mostly adequate, but further strengthening will be needed. The Ministry of Foreign Affairs bears the main responsibility for conducting foreign policy and international relations. An Assistant Minister acts at the same time as Head of the Directorate for the European Union. A specialised CSDP Unit has been established within the Directorate for Security Policy. There is no specific post of European correspondent but this function is performed by the Head of the Unit for EU institutions within the EU Directorate. Serbia has 63 embassies, 7 permanent missions and 20 general consulates. The diplomatic service consists of 1,078 employees, of whom 536 are in Belgrade. The Ministry of Defence is responsible for defence policy. A Unit for European integration and regional initiatives was established in 2010. The legislative framework for defence reforms and for democratic control over security forces has been completed. The Ministry of Economic Affairs and Regional Development is in charge of controlling exports of arms, military equipment and dual-use goods. The Ministry needs more staff in order to be fully capable of implementing policies and adjusting them to the EU legislation.

As regards **political dialogue**, Serbia has established close political consultations with EU Member States. The Stabilisation and Association Agreement includes *inter alia* provisions for establishing a political dialogue on CFSP matters. Serbia supported the adoption of the UN resolution on EU participation in the work of the UN General Assembly. Serbia has in most instances, when invited, aligned itself with Council decisions, EU declarations and démarches. Serbia will progressively need to take a more consistent approach on aligning with EU positions. (*As regards the International Criminal Court, see Political criteria 2.3 — Regional issues and international obligations.*)

Serbia's relations with other countries are good, overall. It has established a foreign policy based on four pillars – the EU, the USA, Russia and China. Strategic partnerships have been formally established with several countries, including China, Russia and two EU Member States (Italy and France).

Serbia is playing a constructive role concerning regional cooperation in South East Europe and participates in initiatives such as the South East European Cooperation Process, the Central European Initiative, and the Adriatic-Ionian Initiative. However, an agreement remains to be found on a sustainable solution for the participation of Kosovo in regional fora. (*See Political criteria*).

Serbia implements United Nations Security Council *restrictive measures*. However, there is no system for tracking its implementation of EU restrictive measures. Serbia needs to establish a consistent approach and consolidated data in this connection.

Serbia is participating in most international export control regimes and instruments concerning the *non-proliferation* of weapons of mass destruction. Serbia has applied to become a party to the Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies. The Law on foreign trade in arms, military equipment and dual-use goods was adopted in 2005. Serbia incorporated into its national law in 2008 the criteria guiding arms export licensing in the EU, as laid down in the 1998 EU Code of Conduct on arms exports. Serbia remains to fully align with the EU *acquis* laying down common rules governing exports of military technology and equipment. The national Strategy for control of small arms and light weapons was adopted in 2010. A national coordinator for the Strategy remains to be appointed. The Ministry of the Interior has been destroying surplus weapons but additional efforts are needed to complete collection of illegal weapons and destroy them.

Regarding nuclear safeguards, Serbia is a party to the main non-proliferation treaties.

With regard to *cooperation with international organisations*, Serbia is a member of the UN, the Council of Europe, the OSCE and other major international organisations and agreements. Serbia participates in the NATO Partnership for Peace Programme that it joined in 2006.

As regards *security measures*, Serbia has adopted the legal basis and introduced the basic practical arrangements necessary to comply with the Council decisions on information security, including on handling of classified information. An agreement with the EU on security procedures for exchanging and protecting classified information was signed in May 2011.

As regards the common security and defence policy (CSDP), Serbia is prepared to participate actively in the EU *civil and military crisis management missions*. An agreement establishing a framework for participation by Serbia in EU crisis management operations was signed in June

2011. The Serbian parliament adopted in February 2011 a decision approving the annual plan for participation by the Serbian army in multinational operations. This plan envisages participation in two EU CSDP operations: EUTM and EU NAVFOR Somalia. The Serbian military forces are currently participating in five UN peacekeeping operations, MONUSCO, UNMIL, UNOCI, UNIFIL and UNFYCYP. The Serbian police is taking part in two UN missions, UNMIL and MINISTAH.

### *Conclusion*

The legal and institutional framework covering the common foreign and security policy, including the common security and defence policy, is largely in place. Serbia has signed an agreement on security procedures for exchanging and protecting classified information and another on participation in CSDP operations with the EU. Serbia needs to align further with EU statements and Council decisions.

*Overall*, Serbia should be able to fulfil its obligations under the CFSP and CSDP in the medium term, provided it takes the necessary legal and administrative measures and makes the necessary adjustments.

### **3.32. Chapter 32: Financial Control**

The EU *acquis* on financial control relates to the following policy areas: *public internal financial control (PIFC)* - which covers internationally agreed standards and EU good practice on internal control across the entire public sector - and *external audit* which covers the operational and financial independence of the external audit function (national audit office). The PIFC is made up of three pillars: managerial accountability underpinned by financial management and control systems; functionally independent internal audit systems; and a Central Harmonisation Unit for developing methodologies and standards relating to the first two pillars.

Management and control of EU funds are discussed in the other relevant chapters (e.g. on agriculture and rural development, regional policy, coordination of structural instruments or fisheries). This chapter covers the more general aspects of internal control and external audit of national funds. It also covers *protection of the EU's financial interests*, including administrative cooperation and criminal law protection (the PIF Convention and its protocols). Finally, the section on *protection of the euro* against counterfeiting deals with the first-pillar aspects of this issue.

Serbia is still at a relatively early stage of implementing the **public internal financial control (PIFC) system**. The government adopted a PIFC policy paper for 2009-14 in July 2009. The legal framework for PIFC, which is provided by the Budget System Law and two implementing regulations, one on Financial Management and Control (FMC), the other on internal audit, applies to all users of the national budget. However, the legal framework is not yet fully in line with international standards. The relevant provisions in the Budget System Law and implementing regulations need to be revised, especially to ensure better definition of managerial accountability and separation of the roles of manager and accountant. The provisions on centralised budget inspection will need to be amended as well, as inspection is not yet PIFC-compatible. The PIFC policy paper for 2009-2014 envisages that the provisions will be amended in 2014, once internal control systems have been properly developed.

A Central Harmonisation Unit (CHU) was formally established in March 2010 as a department in the Ministry of Finance, but has been in place *de facto* for over three years. The

CHU has limited staff and so far has focused mainly on training, both for internal auditors and on control and risk management. More awareness-raising activities need to be organised with the senior management of budget users in order to improve their understanding of their role and responsibilities in setting up internal control systems and of the role of an internal auditor within an organisation.

Internal audit has been the main focus of PIFC development in Serbia. A formal framework for internal audit at central government level is largely in place. By September 2011 there were around 40 internal audit units. Three direct budget users who are required by law to establish an internal audit unit had not yet done so. Introduction of internal audit at local level has not started, except for the City of Belgrade. Around 130 internal auditors have been trained by the CHU and around 70 of them have been certified. An updated certification programme with more emphasis on practical audit work is being developed. Internal audit cannot however grow to its full potential if the public sector internal control as a managerial responsibility is not developed in parallel.

Development of FMC is currently focusing on the legality and regularity of financial transactions, without any explicit consideration for economy, efficiency and effectiveness. Development of FMC is severely weakened by the fact that there is not yet a well-developed understanding of managerial accountability. Administrative reforms, including proper delegation structures, would also be required for further development of FMC. The CHU would therefore need to work closely with organisations responsible for overall public administration and civil service reforms.

**External audit** is at an early stage of development in Serbia. The State Audit Institution (SAI) has been doing audit work since 2009. The independence of the SAI is anchored in the Constitution. The 2005 SAI Law (amended in 2010) is broadly in line with the INTOSAI standards. It provides a broad audit mandate, including for audit of EU funds. The law empowers the SAI to implement both financial and performance audits and provides that the SAI is independent for planning and implementing audits. Amendments to the SAI Law should be considered in order to strengthen both the functional and the operational independence of the SAI.

The SAI is in the institution-building phase and is gradually building up its full potential. By September 2011, 92 posts had been filled out of the 159 planned, including 34 audit positions. Recruitment is continuing. The SAI was able to conduct a limited audit of execution of the State budget in 2008 and 2009, but is increasing the coverage for the audit of the 2010 financial statements. The SAI does not yet have a strategic development plan in place. A financial audit manual and associated methodology are being prepared. There are plans to introduce performance audits from 2013 onwards. Full implementation of the INTOSAI standards cannot be achieved until the posts have been filled and auditors properly trained. The staff training and certification programme needs to be adopted and implemented. In line with the SAI Law, the SAI must submit to competent authorities all evidence of misdemeanours and criminal offences. In view of the time required to prepare evidence, the SAI currently spends a lot of time on initiating procedures against officials. It should look for alternative approaches to meet this requirement, because it is limiting the capacity for actual audit work.

The SAI reports to parliament by submitting an annual activity report, special reports throughout the year and an audit report on budget execution to the Committee on Finance, the State Budget and Control of Public Spending. No deadline has been set in the law for

submission of the budget execution report, but in practice it is submitted in December, allowing sufficient time for parliament to take the audit findings into account during the budget discharge procedure. Even though parliament started to discuss the SAI reports in 2010, the follow-up is still rather weak.

With regard to **protection of the EU's financial interests** (PFI), Serbia's national penal legislation covers many elements of the Convention on the protection of the EU's financial interests and its protocols, such as on the treatment of suspected fraud cases, definitions of active and passive bribery, abuse of official status, the liability of legal entities, fraud, smuggling, money laundering and related penalties. However, further alignment of the national legislation is needed to provide for full implementation of the PFI instruments upon accession.

Although a solid track record of operational cooperation with the European Commission and its European Anti-Fraud Office (OLAF) has yet to be developed, Serbia provides sufficient institutional capacity for operational cooperation on protection of the EU's financial interests. Serbia now needs to designate an authority as a contact point for cooperation with OLAF. A national anti-fraud structure for protecting the EU's financial interests involving all relevant authorities also needs to be set up.

In the area of **protection of the euro against counterfeiting**, Serbia has a national law which covers the definition of counterfeiting of money and also of value tokens. Serbia would need further to develop the legal basis and procedures for transmission of examples of counterfeit foreign currency notes and coins. With regard to institutional capacity, cooperation between the National Bank of Serbia, the Ministry of the Interior, the Public Prosecutor's Office and courts is well-established. By law, the National Bank of Serbia is responsible for establishing the authenticity of suspect money. The National Bank is reorganising the procedures for technical analysis and processing of information on counterfeit bank notes and coins in order to act as a national analysis centre. The Serbian authorities are participating in relevant EU and international training programmes on regular basis.

### *Conclusion*

Serbia has started preparations, but it will have to make considerable and sustained efforts to align with the EU *acquis* and to implement it effectively in the medium term. The national legislation in this chapter will need to be further aligned. Implementation of *PIFC* will require better understanding of the managerial accountability principle, and considerable additional training and awareness-raising especially with the senior management will be needed. With regard to *external audit*, the SAI is still at the institution-building phase and does not yet have sufficient staff for full audit coverage in line with the SAI Law. In the areas of *protection of the EU's financial interests* and *protection of the euro against counterfeiting*, the implementing structures still need to be set up.

Overall, Serbia needs to undertake sustained efforts to align with the EU *acquis* and to implement it effectively in the medium term.

### **3.33. Chapter 33: Financial and budgetary provisions**

This chapter covers the rules concerning the financial resources necessary for funding the EU budget ('own resources'). These own resources are made up mainly of contributions from Member States based on traditional own resources derived mainly from customs duties and

sugar levies, resources based on VAT collection and resources based on the level of GNI (gross national income).

The EU *acquis* under this chapter consists of EU legislation that is directly binding on the Member States and does not require transposition into national law. However, all necessary steps need to be taken to ensure, from accession, full and correct application of the rules on own resources.

The basic principles and institutions for the underlying policy areas shaping the **traditional own resources** system are in place in Serbia. A national **VAT** system is in operation (under the Law on VAT), customs duties are levied on imports (under the Customs Tariff Law) and national accounts and GDP/**GNI** are harmonised with ESA95 standards. Further progress is needed for full implementation of ESA 95 standards.

As regards operational management of the own resources system, Serbia will need to ensure, in due course, the human and **administrative resources** necessary to apply the EU rules concerning payments to the EU budget. As a rule, Member States must have appropriate administrative capacity to coordinate adequately and ensure correct forecasting, calculation, accounting, collection, payment and control of own resources.

#### *Impact*

Given its GDP level, the impact of Serbia's accession on the EU budget is expected to be limited. This applies both to its likely receipts under the various EU expenditure programmes and to its expected contribution to the EU budget based on application of the own resources rules.

#### *Conclusion*

There are no significant divergences between the systems in Serbia and the EU in terms of the basic principles and institutions in the policy areas underlying application of the own resources rules.

Overall, if it continues its efforts, Serbia should, in the medium term, have the capacity to comply fully with the requirements of the EU *acquis* in this area.

### **3.34. General evaluation**

The ability of Serbia to assume the obligations of membership has been evaluated on the basis of the following indicators:

- the obligations set out in the Stabilisation and Association Agreement;
- progress with adoption, implementation and enforcement of the EU *acquis*.

Overall, Serbia has smoothly implemented its obligations under the Interim Agreement and is generally respecting its commitments under the Stabilisation and Association Agreement.

In 2008 Serbia adopted a National Programme for Integration into the European Union, which is a comprehensive and ambitious plan for the period 2008-2012 providing for approximation of its national legislation to the EU *acquis*. Since then, significant progress has been made with adopting legislation aligned with the EU *acquis*, particularly on the internal market,

statistics, trade-related provisions, customs and taxation. Administrative capacity is overall well developed and the judiciary is undergoing a significant overhaul. However, the country faces challenges in implementing and enforcing legislation. Particular and continued attention to the fight against corruption will be expected over time. The country will need to make additional efforts in order to assume the obligations of membership in the medium term.

If it continues its efforts Serbia should, in the medium term, have the capacity to comply with the requirements of the *acquis* in the following fields:

- Company law;
- Fisheries;
- Taxation;
- Economic and monetary policy;
- Statistics;
- Enterprise and industrial policy;
- Science and research;
- Education and culture;
- Customs union;
- External relations;
- Foreign, security and defence policy;
- Financial and budgetary provisions.

Serbia will have to undertake additional efforts to align with the *acquis* and to implement it effectively in the medium term in the following fields:

- Free movement of goods;
- Freedom of movement for workers;
- Right of establishment and freedom to provide services;
- Free movement of capital;
- Public procurement;
- Intellectual property law;
- Competition policy;
- Financial services;
- Information society and media;

- Food safety, veterinary and phytosanitary policy;
- Transport policy;
- Energy;
- Social policy and employment;
- Trans-European networks;
- Regional policy and coordination of structural instruments;
- Consumer and health protection.

Further adjustments of the legal and institutional framework, in particular strengthening of administrative and implementation capacity are needed in the above areas.

Serbia will have to make considerable and sustained efforts to align with the EU *acquis* and to implement it effectively in the medium term in the following fields:

- Agriculture and rural development;
- Judiciary and fundamental rights;
- Justice, freedom and security;
- Financial control.

Considerable adjustments of the legal and institutional framework and significant strengthening of administrative and implementation capacity are needed in these areas.

Regarding the environment and climate change, further coordinated and sustained efforts will be needed to align with the EU *acquis* and to implement it effectively. These should include substantial investments and strengthening of the administrative capacity for enforcement of legislation in order to achieve compliance on the most important issues, including climate change, in the medium term. Full compliance with the *acquis* could be achieved only in the long term and would necessitate higher levels of investment.

## Statistical Annex

### STATISTICAL DATA (as of 30.09.2011)

#### Serbia

<b>Basic data</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Population (thousand)		7 528	7 505	7 502	7 491	7 470	7 456	7 425	7 398	7 366	7 335	7 307
Total area of the country (km <sup>2</sup> )		77 474	77 474	77 474	77 474	77 474	77 474	77 474	77 474	77 474	77 474	77 474
<b>National accounts</b>												
	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross domestic product (GDP) (million national currency)		384 225	762 178	972 580	1 125 840	1 380 712	1 683 483	1 962 073	2 276 886	2 661 387	2 713 206	2986613
GDP (million euro)	1)	25 539	12 821	16 028	17 306	19 026	20 306	23 305	28 468	32 668	28 883	28 985
GDP (euro per capita)	1) 2)	3 398	1 709	2 137	2 313	2 549	2 729	3 144	3 857	4 445	3 945	:
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	7 100	7 700	8 200	9 000	8 300	:
GDP per capita in PPS (EU-27 = 100)		:	:	:	:	:	32	32	33	36	35	35
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		:	5.3	4.3	2.5	9.3	5.4	3.6	5.4	3.8	-3.5	1.0
Employment growth (national accounts, % change on previous year)		:	2.0	-0.4	-4.4	1.1	-5.5	7.2	2.3	1.0	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		5.6	3.5	4.3	7.1	7.1	11.8	-1.8	4.5	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		19.9	19.8	15.2	13.3	13.8	12.1	11.3	10.3	10.7	9.7	:
Industry		26.7	25.1	25.0	23.6	24.6	24.2	24.1	23.0	22.5	23.0	:
Construction		3.8	3.4	3.7	4.5	5.1	4.8	4.9	5.3	5.6	4.9	:
Services		51.5	53.5	59.0	60.3	58.6	61.1	62.0	63.7	63.9	65.5	:
Final consumption expenditure, as a share of GDP (%)		97.2	104.0	107.0	103.0	97.1	95.9	96.0	96.9	97.1	99.8	:
Gross fixed capital formation, as a share of GDP (%)		12.7	10.7	12.4	16.8	19.2	19.0	21.0	24.3	23.8	18.8	:
Changes in inventories, as a share of GDP (%)		-4.6	1.0	-1.4	-2.3	9.0	4.7	3.1	4.7	6.0	-1.0	:
Exports of goods and services, relative to GDP (%)		11.3	25.6	23.8	25.9	25.5	28.3	31.4	30.6	31.4	29.5	:
Imports of goods and services, relative to GDP (%)		16.7	41.3	41.8	43.4	50.8	47.9	51.5	56.5	58.2	47.2	:
<b>Industry</b>												
	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Industrial production volume index (2005=100)		94.2	94.3	96.0	93.3	99.4	100.0	104.2	108.5	110.0	96.1	98.5
<b>Inflation rate</b>												
	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Annual average inflation rate (CPI, % change on previous year)		79.6	93.3	16.6	9.9	11.4	16.2	11.7	7.0	13.5	8.6	6.8
<b>Balance of payments</b>												
	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Balance of payments: current account total (million euro)		-158	282	-671	-1 347	-2 620	-1 778	-2 356	-5 053	-7 054	-2 084	-2 082
Balance of payments current account: trade balance (million euro)		-1 720	-2 602	-3 398	-3 538	-5 201	-4 278	-4 981	-7 069	-8 501	-5 118	-4 773
Balance of payments current account: net services (million euro)		154	272	136	179	133	-5	-41	-261	-185	18	5
Balance of payments current account: net income (million euro)		0	7	-74	-119	-173	-259	-330	-599	-922	-502	-670

Balance of payments current account: net current transfers (million euro)		1 409	2 605	2 665	2 131	2 621	2 764	2 996	2 876	2 554	3 518	3 356
of which government transfers (million euro)		303	652	519	423	391	268	185	166	163	197	193
Net foreign direct investment (FDI) (million euro)		54	184	500	1 194	770	1 250	3 323	1 821	1 824	1 372	860
Foreign direct investment (FDI) abroad (million euro)		-2	-39	-34	-140	2	-18	70	-692	-193	-38	-143
of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	1	2	4	4	-53	-78	-28	-33
Foreign direct investment (FDI) in the reporting economy (million euro)		56	223	534	1 334	772	1 268	3 392	2 513	2 018	1 410	1 003
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	:	850	477	963	2 008	1 813	1 470	808	776

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
General government deficit/surplus, relative to GDP (%)		:	:	:	:	:	1.0	-1.6	-1.9	-2.6	-4.5	-4.7
General government debt relative to GDP (%)		:	105.2	72.9	66.9	55.3	52.2	37.7	30.92	29.2	34.8	42.9

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross foreign debt of the whole economy, relative to GDP (%)		131.7	85.6	58.7	55.9	49.8	60.1	60.9	60.2	64.6	77.9	82.6
Gross foreign debt of the whole economy, relative to total exports (%)		454.5	407.3	300.9	251.6	211.5	228.9	204.1	197.3	207.6	265.3	236.2
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		461	975	1 525	1 454	1 410	1 695	2 533	3 141	2 717	2 695	2 401
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		561	1 141	1 803	1 828	1 853	2 248	3 531	4 928	4 459	4 555	3 891
Money supply: M3 (M2 plus marketable instruments, million euro)		1 111	2 101	3 113	3 583	4 093	5 367	8 031	11 407	11 198	12 573	12 899
Total credit by monetary financial institutions to residents (consolidated) (million euro)		4 067	4 866	3 519	3 949	4 902	6 531	8 153	10 771	12 926	14 863	17 544
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	9.9	11.5	8.3	18.4	9.5	12.0
Lending interest rate (one year), per annum (%)		27.1	16.9	15.2	14.4	21.3	22.2	17.0	12.5	20.3	12.0	14.0
Deposit interest rate (one year), per annum (%)		:	:	3.8	3.2	3.0	6.0	11.0	7.5	15.3	7.0	9.0
euro exchange rates: average of period - 1 euro = ... national currency		49.870	59.780	60.660	65.130	72.700	83.000	84.110	79.960	81.440	93.950	103.040
Effective exchange rate index (2005=100)		157.3	126.8	126.4	123.8	114.2	100.0	98.5	105.5	105.4	90.1	81.5
Value of reserve assets (including gold) (million euro)		:	:	2 186	2 836	3 104	4 921	9 020	9 634	8 162	10 602	10 002

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Value of imports: all goods, all partners (million euro)		:	:	:	:	:	8 439.2	10 462.6	13 500.9	15 683.9	11 337.3	11 652.8
Value of exports: all goods, all partners (million euro)		:	:	:	:	:	3 148.4	4 991.9	6 615.1	7 039.2	5 631.8	7 066.7
Trade balance: all goods, all partners (million euro)		:	:	:	:	:	-5 290.9	-5 470.7	-6 885.8	-8 644.8	-5 705.5	-4 586.1
Terms of trade (export price index / import price index)	3)	100.2	103.1	98.0	101.6	108.4b	98.4	104.5	102.6	97.6	100.9	100.1
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	60.2	58.2	58.1	56.0	54.8	58.7
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	54.2	54.4	55.0	53.5	55.1	54.3

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		-4.0	-2.7	-3.3	-3.3	-3.5	-4.6	-4.3	-4.7	-4.6	-4.6	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		10.6	10.2	10.1	9.0	8.1	8.0	7.4	7.1	6.7	7.0	6.7
Life expectancy at birth: male (years)		68.9	69.6	69.7	69.9	70.0	70.2	70.8	70.9	71.3	71.4	:
Life expectancy at birth: female (years)		74.4	75.0	75.0	75.1	75.5	75.6	76.1	76.5	76.6	76.7	:

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)		68.2	68.9	68.4	68.9	66.4	65.2	63.6	63.4	62.7	60.6	59.0
* Employment rate (15-64): share of population aged 15-64 in employment (%)		59.2	59.7	58.5	57.9	53.4	51.0	49.9	51.5	53.7	50.4	47.2

Employment rate male (15-64) (%)		68.2	68.6	67.1	67.0	63.1	61.2	59.2	60.0	62.3	58.1	54.4
Employment rate female (15-64) (%)		50.4	50.8	50.0	48.7	44.0	40.8	40.6	43.0	45.3	43.0	40.1
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		43.3	42.1	42.0	44.3	37.3	35.4	32.6	33.5	36.7	35.4	32.8
Employment by main sectors (%)												
Agriculture	4)	:	:	:	:	24.0	23.3	20.5	20.8	25.1	23.9	22.2
Industry	4)	:	:	:	:	21.7	21.5	23.3	23.4	19.9	20.1	21.0
Construction	4)	:	:	:	:	5.2	6.1	6.0	6.1	6.3	5.2	5.0
Services	4)	:	:	:	:	48.9	49.0	50.1	49.7	48.6	50.8	51.7
Unemployment rate: share of labour force that is unemployed (%)		13.3	13.3	14.5	16.0	18.7	21.1	21.0	18.3	13.6	16.1	19.2
Share of male labour force that is unemployed (%)		11.1	11.5	12.9	15.1	15.3	17.0	18.1	16.0	11.9	14.8	18.4
Share of female labour force that is unemployed (%)		15.9	15.7	16.5	17.2	23.1	26.5	24.9	21.2	15.8	17.8	20.2
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		50.2	46.4	45.3	44.8	48.1	47.7	47.8	43.7	35.2	41.6	46.2
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		9.9	9.0	9.9	11.0	14.5	16.7	17.0	14.8	9.7	10.5	13.3

#### Social cohesion

	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Average nominal monthly wages and salaries (national currency)		3 799.0	8 691.0	13 260.0	16 612.0	20 555.0	25 514.0	31 745.0	38 744.0	45 674.0	44 147.0	47 450.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		100.0	118.4	154.9	176.5	196.1	209.5	233.3	266.1	275.7	245.4	246.9
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	:	:	:	11.5	11.4	12.6	12.6	11.6	9.3	8.2

#### Standard of living

	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of passenger cars per 1000 population	5)	169.2	184.2	179.1	185.3	194.8	198.6	203.6	199.7	201.8	223.2	214.5
Number of subscriptions to cellular mobile telephone services per 1000 population		155.1	251.1	322.5	399.3	578.8	700.4	894.7	1 142.6	1 194.2	1 351.3	:

#### Infrastructure

	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		49.2	49.2	49.2	49.2	49.2	49.2	49.2	49.2	49.2	49.2	49.2
Length of motorways (thousand km)		0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.5	0.5	0.5

#### Innovation and research

	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Spending on human resources (public expenditure on education in % of GDP)		2.4	2.4	3.0	3.7	3.4	3.1	3.3	3.5	3.6	3.8	:
* Gross domestic expenditure on R&D in % of GDP		:	:	:	:	:	:	:	:	:	:	:
Percentage of households who have Internet access at home (%)		:	:	:	:	:	:	18.5	26.3	33.2	36.7	39.0

#### Environment

	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	413.1	413.6	660.7	:	:	:
Electricity generated from renewable sources in % of gross electricity consumption		42.1	43.3	41.2	36.5	44.9	46.9	41.8	37.9	35.1	39.3	:
Road share of inland freight transport (% of tonne-km)		:	:	:	:	:	:	:	:	:	:	:

#### Energy

	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Primary production of all energy products (thousand TOE)		:	:	:	:	:	7 729	7 925	8 797	9 441	9 487	:

Primary production of crude oil (thousand TOE)	:	:	:	:	:	:	:	:	654	652	676	:
Primary production of hard coal and lignite (thousand TOE)	:	:	:	:	:	:	6 696	6 966	7 073	7 369	7 330	:
Primary production of natural gas (thousand TOE)	:	:	:	:	:	:	:	:	198	231	232	:
Net imports of all energy products (thousand TOE)	:	:	:	:	:	:	1 431	1 686	7 260	7 477	5 046	:
Gross inland energy consumption (thousand TOE)	:	:	:	:	:	:	8 322	8 765	14 996	15 620	14 657	:
Electricity generation (thousand GWh)	32.0	31.0	31.0	32.0	34.0	36.0	36.0	37.0	37.0	38.0	:	:

<b>Agriculture</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Agricultural production volume index of goods and services (producer prices, previous year=100)		87.0	118.0	97.0	93.0	120.0	95.0	100.0	92.0e	108.0	101.0	99.4
Total utilised agricultural area (thousand hectare)		5 074	5 077	5 071	5 079	5 075	5 075	5 066	5 053	5 055	5 058	5 051
Livestock: cattle (thousand heads, end of period)	6)	1 162	1 128	1 112	1 102	1 079	1 096	1 106b	1 087	1 057	1 002	938
Livestock: pigs (thousand heads, end of period)	6)	3 615	3 587	3 634	3 439	3 165	3 212	3 999b	3 832	3 594	3 631	3 489
Livestock: sheep and goats (thousand heads, end of period)	6)	1 670	1 612	1 685	1 741	1 728	1 748	1 718b	1 756	1 760	1 647	1 604
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)	7)	1 585	1 594	1 596	1 590	1 593	1 616	1 602	1 562	1 548	1 488	1 471
Crop production: cereals (including rice) (thousand tonnes, harvested production)	8)	5 213	9 001	8 298	5 453	9 867	9 587	8 349	6 212	8 833	9 111	9 280
Crop production: sugar beet (thousand tonnes, harvested production)		1 070	1 806	2 098	1 738	2 814	3 101	3 189	3 206	2 300	2 798	3 325
Crop production: vegetables (thousand tonnes, harvested production)		1 043	1 283	1 340	1 172	1 340	1 289	1 348	1 128	1 277	1 257	1 314

: = not available

p = provisional

e = estimated value

b = break in series

\* = Europe 2020 indicator

All data refer to the territory of the Republic of Serbia excluding Kosovo.

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) GDP estimations in Euro are based on the average annual exchange rate.
- 2) Mid-year population figures used.
- 3) From 2004 onwards the data are not comparable with the previous years as since January 2004 Uniform Customs Document harmonized with EU regulations has been used.
- 4) 2004-2009, data according to NACE Rev. 1.1.
- 5) Ministry of Interior Affairs excluded the vehicles that were not registered before the given deadline (1 month)
- 6) Since 2006, the reference date is 1 December (instead 15 January as it is for the previous years).
- 7) In million litres, includes cows and sheep milk.
- 8) No rice production; since 2005, triticale is included.