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# Progress Shown, Challenges Still Ahead

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Serbia began its EU accession negotiations in January 2014, while the screening process was completed in March 2015. The newly issued Serbia 2015 Report clearly states that the country *has taken major steps that should lead to the first chapters of the EU accession negotiation being opened*. This has been confirmed by the Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn, expressing his belief that conditions are in place to open the first chapters by the end of 2015.<sup>1</sup> Furthermore, the Committee on the Affairs of the EU of the German Bundestag officially gave Serbia the “green light” for opening the first chapters within the Intergovernmental Conference,<sup>2</sup> which was enthusiastically welcomed by Serbian officials as “a significant, positive signal”<sup>3</sup> and “a big thing for Serbia.”<sup>4</sup> Given that the German standpoint is considered an imperative in Brussels, it is evident why this decision was interpreted as a direct stimulus for gaining the approval of all EU members, which was finally achieved at the Second Intergovernmental Conference held on December 14, 2015, almost two years after the first one.

*The Commission’s support for opening the first chapters is finally confirmed by the EU member states at the second IGC, held on December 14, 2015. Chapter 32 – Financial Control and 35 – Relations with Kosovo\* are officially opened.*

As a result, **Serbia has finally opened the first two negotiating chapters with the EU: Chapter 32 – Financial Control and 35 – Relations with Kosovo\***, while chapters 23 and 24 are reserved for the first half of 2016. All of these developments may be characterised as predictable, given the efforts which have been put by the Serbian authorities into attaining what is proclaimed as the most essential requirement – the normalisation of relations with Pristina, and the finalisation of the action plans required for chapters 23 and 24 (pertaining to the fields of judiciary and fundamental rights, and justice, freedom and security respectively). In addition, regarding the area of financial control, all conditions had already been met and there were no opening benchmarks, therefore this chapter was ready for being opened among the first ones. It should be emphasised that, whereas the Prime Minister holds that Chapter 32 will be closed very soon, presumably because “financial control works very well”<sup>5</sup> in Serbia, the delicacy and political nature of Chapter 35 (although repeatedly emphasised as a non-replacement for the bilateral Belgrade-Pristina dialogue) might indicate this could be the chapter to be the last to close.

<sup>1</sup> “Otvaranje poglavlja za Srbiju do kraja godine” [Opening of Chapters for Serbia by the End of Year] <http://www.politika.rs/rubrike/dogadjaji-dana/343387.sr.html> (10.11.2015)

<sup>2</sup> “Nemačka preporučila otvaranje prvih poglavlja sa Srbijom” [Germany Recommends Opening First Chapters with Serbia] <http://www.srbija.gov.rs/vesti/vest.php?id=253198> (2.12.2015)

<sup>3</sup> “Otvaranje poglavlja korak napred, 35. nije zamena za dijalog” [Opening chapters a step further, 35 not a replacement for dialogue] <http://tanjug.rs/full-view.aspx?izb=216711> (2.12.2015)

<sup>4</sup> “Odluka Bundestaga velika stvar za Srbiju” [Bundestag’s Decision a Big Thing for Serbia] <http://beta.rs/vesti/politika-vesti-srbija/19164-stefanovic-odluka-bundestaga-velika-stvar-za-srbiju> (2.12.2015)

<sup>5</sup> “Vučić o poglavljima i državnom udaru” [Vučić on Chapters and Coup d’Etat] <http://beta.rs/vesti/politika-vesti-srbija/19197-vucic-o-poglavljima-i-drzavnom-udaru> (2.12.2015)

*Both the Enlargement Strategy and the country reports call for a stronger regional cooperation on the migration issue, but do not indicate the concrete measures.*

Apart from the positive developments in the aforementioned chapters, one of the key observations in this year's Report is that Serbia has shown *an increasingly constructive and leading role in the region*, which according to the Commission is essential for ensuring stability and strengthening ties with neighbouring countries, consequently moving Serbia

further towards the EU. This is particularly underlined in the context of the increasingly challenging refugee and migration influx, since both the Enlargement Strategy and the country reports call for stronger regional cooperation on this issue, in addition to the urgent requirement for improved cooperation between and the region and the EU itself. However, the documents do not indicate which concrete measures of cooperation among the countries in the region are expected. Nevertheless, Serbia's approach in managing the migration and refugee crisis is exceptionally positively evaluated in the Report, being characterised as very constructive and humanitarian-oriented. Serbian efforts to ensure proper treatment of the refugees are recognised by the EC; however, a recommendation for further improvement of the asylum system and enhancement of accommodation capacities is given as well.

While the political leaders' rhetoric focuses exclusively on the most positive of EC's statements, emphasising Serbia's success and expressing a strong commitment to the EU integration process,<sup>6</sup> the Report preserves a more rigorous tone in a number of areas (principally in the "fundamentals"), indicating that challenges are still ahead for Serbia and that its ambitious political and economic reforms need further implementation. This particularly relates to the rule of law, where judicial reform, the fight against corruption and fight against organised crime remain decidedly concerning, despite the improvements in the legal and institutional framework. Moreover, while commendable achievements were made in public administration reform, particular issues remain to be tackled (e.g. depoliticisation), which will be further elaborated below. Additionally, a highly significant matter, not only in Serbia but in the other enlargement countries as well, is the freedom and freedom

*Substantial majority of remaining challenges pertains to the "fundamentals", and should not be taken for granted and remain overshadowed.*

of expression: in the case of highlighted as the ones which effort, considering that no made, despite Serbia having preparedness. Finally, criteria, in addition to the in terms of a substantially

decreased budget deficit, low level of inflation and decreased percentage of unemployment, the process of economic reforms needs to continue, "with particular emphasis on restructuring state owned enterprises." In addition, an important Commission's remark relevant for the economic reforms, despite being included within PAR, is related to the insufficient progress in public finance management: the Commission recognises country's focus on reforming certain parts of public finance system, however, it

<sup>6</sup>"Milićević: Izveštaj je potvrda vidljivih rezultata" [Milićević: The Report is a Confirmation of Visible Results] <http://www.rts.rs/page/stories/sr/story/9/Politika/2100463/Mili%C4%87evi%C4%87%3A+Izve%C5%A1taj+je+potvrda+vidljivih+rezultata.html> (10.11.2015)



underlines the need to adopt a comprehensive multi-annual public financial management reform programme.

If we take into consideration that the substantial majority of issues pertain to what the EU calls “fundamentals”, which are therefore vital for the pace of the EU negotiating process, one cannot but agree that the contentment with the Report’s results is somewhat premature and that persisting challenges should not be overshadowed by some improvements that should have been accomplished long ago. More precisely, there are numerous matters that are reiterated by the Commission (in almost the same wording) year after year, and there are no explicit comments from those in charge on why new issues emerge before tackling the old ones.<sup>7</sup>

In sum, the overall favourable results of the EC’s assessment for Serbia were indeed achieved in several political and economic fields, such as **a constructive approach to the migration crisis, normalisation of relations with Pristina, improvements in public administration reform, fight against terrorism, lowering budgetary deficit, progress in public procurement policy, and financial control**. However, more emphasis needs to be placed on those fields which are characterised as particularly challenging and demanding for the upcoming period. Those are *inter alia* the **freedom of expression, functioning of the judiciary, fight against corruption and cooperation with independent regulatory bodies and the Ombudsman**. All of these will be further elaborated below, in an overview of the main findings from the current Serbia 2015 Report, examined separately for political criteria, economic criteria, and the ability to assume the obligations of membership.

## Key Findings

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### 1. Political Criteria

Overall, although **public administration reform** is the field with the highest score in both the level of progress towards the EU and the level of preparedness, the assessment “**moderately prepared**” should still be taken with caution, especially when analysed more in-depth. On the other hand, **the lowest score in terms of progress (in other words, no progress at all) can be observed in the area of the freedom of expression**. Other fields with clearly applied grading (i.e. functioning of the judiciary, fight against corruption and fight against organised crime) reveal only **some progress** and **some level of preparation** for the accession. In addition, several fields within the political criteria do not fall under the five-tier scale assessment and the level of progress and preparedness is not clearly expressed. For these fields, there is an extensive amount of recommendations (such as the failure to address the recommendations of the OSCE/ODIHR concerning transparency of election campaign financing, the claims of irregularities on the local elections which have not yet been properly investigated) which have not changed compared to the 2014 Progress Report. In other words, **there might be progress, but not substantially** in this regard.

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<sup>7</sup> For instance, excessive use of urgent parliamentary procedures, or undermined role of independent regulatory bodies. All of these repeated issues will be elaborated in the further sections.

## 1.1 Democracy

The section on democracy is marked by several crucial issues, some of which remained untouched since the 2014 Progress Report (and, hence, left with no progress), and others that emerged due to particular developments in the country. More precisely, apart from the aforementioned issues regarding the election process, the Parliament's extensive use of urgent procedures is criticised once again this year. Despite being more increasingly involved in the accession negotiation process, the

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Parliament uses urgent procedures for even the most important pieces of legislation (including those related to the EU accession), which threatens to undermine the scrutiny of draft legislation and limits the possibility for a parliamentary debate. **Such practices pinpoint to two seemingly irreconcilable necessities: on the one hand, to adopt and enforce the growing body of the EU acquis in the context of fulfilling conditions in the EU accession negotiations; on the other hand, to ensure the quality of policymaking and the adoption of legislative acts.**

Furthermore, one of the most important problems when democracy is concerned, are the relations with the independent regulatory bodies and the Ombudsman's office, whose reports, according to the Commission, are discussed but whose recommendations and findings are not sufficiently promoted and monitored by the Parliament. Nonetheless, this is not surprising bearing in mind the recent developments.<sup>8</sup> In addition to the last year's Progress Report which stated "there was a decline in the follow-up of the Ombudsman's recommendations by the authorities, especially those requiring systematic changes", and called on better respect and understanding of the Ombudsman's independence, **this year the issue is even more rigorously pointed out as "a matter of concern" in the section dedicated to governance, where the members of the government are claimed to be undermining the work of the independent regulatory bodies.** In spite of "recent steps to increase the dialogue" in the form of regular meetings with the Prime Minister, which is welcomed, the Commission expresses concern that sufficient cooperation with independent regulatory bodies, which play a crucial role in holding the executive accountable, is still not entirely existent.

Concerning civil society, the Commission registers **some progress** in improving the cooperation between CSOs and the government, but requests additional measures for ensuring more transparent dialogue in this regard. The Commission highlights Prime Minister's "initiative to call regular meetings with representatives of leading CSOs" since May 2015, but it is not evident what is meant by "regular" and by

*The CSO participation in policy making is to a large extent ad hoc, reactive and untimely, which hinders the full potential and capacity of the sector.*

"leading CSOs", considering the fact that the preference and priority of the invitees remains unknown. The relation with civil society is at further risk of deteriorating as the director of the Office for Cooperation with Civil Society has still not been appointed since March 2015. In addition, as the Commission acknowledges, the CSO

participation in policy making is to a large extent ad hoc, reactive and untimely, which hinders the full

<sup>8</sup> "UN Concerned over Pressures on Ombudsman", [http://www.b92.net/eng/news/politics.php?yyyy=2015&mm=05&dd=06&nav\\_id=94023](http://www.b92.net/eng/news/politics.php?yyyy=2015&mm=05&dd=06&nav_id=94023) (21.11.2015)



potential and capacity of the sector. At the moment, **CSO involvement boils down to participation in public discussions and legal drafting working groups, whereas its participation in the policy formulation phase remains limited.**<sup>9</sup> This is primarily caused by poor policy making procedures and practices that give excessively predominant role to the legislative drafting procedure. Finally, an indicator of the civil society's still insufficient involvement in the accession process could be the result of a rapid web-content research conducted for the purposes of this report: out of 15 "leading CSOs" that attended the meetings with the Prime Minister, only 5 organisations referred to Serbia 2015 Report, through their web pages or social media (between publication date and 20 November).

## 1.2 Public Administration

According to the Report, the legal framework for public administration reform has been put in place, with the adoption of the Action Plan for PAR Strategy Implementation, Law on Inspection Oversight, National Training Strategy for Local Self-Government and the Law on Maximum Number of Public Sector Employees. This contributed to achieving **a good level of progress** and a **moderate level of preparedness** which is, among the political criteria, **the highest Serbia's score in the Report**. Although the Commission recognises that good progress has been achieved with the adoption of the PAR Action Plan, it warns about the challenge of implementing the ambitious reform agenda. **This particularly relates to the need of focusing on the long-lasting problems of professionalisation, depoliticisation and recruitment of administrative staff, which CEP has argued in its previous publications.**<sup>10</sup> Moreover, the Commission observes that there are numerous overlapping strategies with no clear hierarchy and that sustainability of strategies and reform programs are jeopardised by the lack of a systematic link between policy planning and medium-term fiscal planning. **Three recommendations are given in this regard, relating to the need for clearer roles and responsibilities in the institutions in charge of policy making and coordination, amendments to the current civil service framework for ensuring merit-based recruitment, promotion and dismissal procedures, and adoption of a comprehensive multi-annual public financial management reform programme.**

## 1.3 Rule of Law

In the rule of law field, the predominant wording for Serbia is **"some progress"** and **"some level of preparedness"**, and the numerous recommendations are given for each sub-section, which indicates that there are still highly problematic and delicate areas which need to be tackled. Concerning the functioning of the judiciary, **the observations are significantly different compared to the positive remarks from the beginning of the report**, becoming more alarming and listing a substantial number of serious shortcomings, including:

- The lack of judicial independence in practice, with the Constitution and other legislation allowing for political influence. This *inter alia* includes failure to protect judicial independence in cases of

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<sup>9</sup> Research presented in greater details in: A. Orza, "Civil Society and Government: Participatory Policy Formulation in Serbia", European Policy Centre, November 2014, available at: [http://www.cep.org.rs/images/train/train\\_final\\_eng.pdf](http://www.cep.org.rs/images/train/train_final_eng.pdf)

<sup>10</sup> For instance, please see: M. Lazarević, S. Marić, "BETWEEN DISCRETION AND PROFESSIONALISM: Merit-based Recruitment Policy in the Context of Serbia's Accession Negotiations with the EU", European Policy Centre, November 2014, available at: [http://cep.org.rs/images/french/study\\_final\\_english.pdf](http://cep.org.rs/images/french/study_final_english.pdf)

political interference, failure to thoroughly apply the system of random allocation of cases and failure to fully implement the legal framework on preventing judges from being removed.

- Efficiency remains an issue of a great concern with slow administration of justice and significant backlog of cases, which is not surprising considering a four-month strike of lawyers, also acknowledged by the Commission.
- Insufficient training and a systematic approach to career development.
- The judicial system is adequately resourced, but the resources are not always allocated efficiently.

**Harsh and alarming observations are also made regarding the fight against corruption.** Despite **some progress** in implementing the current legislation and adopting the new Law of Whistle-blower Protection, the Report detects that the “national Anti-corruption strategy has so far not yielded the expected results” and underlines the need to establish a proper system for monitoring implementation of the Anti-corruption strategy and the accompanying Action Plan. In addition, the Commission recommends amending several sections of the Criminal code, and to adopting the Law on the Anti-corruption Agency in order to strengthen its role. The Commission finds that corruption “remains widespread” in Serbia, with no final convictions of high-level corruption. Fields identified as particularly vulnerable to corruption in Serbia are healthcare, education, construction and spatial planning, infrastructure projects and privatisation of public enterprises, as well as local administration. Moreover, the Report states that political influence in corruption investigations is high, with Ministers and MPs continuously criticising the investigations and court rulings. Furthermore, the means to fight corruption remain insufficient: the problem of proper functioning of the Anti-Corruption Agency, in terms of the repeated need for adequate financial, material and human resources, is **nothing new compared to the previous period**, and the same applies to law enforcement, more specifically prosecutors, judges and police.

**The situation is not better in the area of the fight against organised crime.** The European Commission sees **some level of preparation** and **some progress** in reorganising the Ministry of Interior and in increasing the capacity for border control, but emphasises the need for stronger efforts to investigate wider criminal networks and to process money laundering cases. However, a number of more negative aspects remain:

- Low number of final convictions for organised crime.
- Lack of financial investigations and the concept of intelligence-led policing.
- Insufficient application of precautionary freezing of assets and low level of confiscated assets.
- Lack of independent and transparent oversight of the police.

#### 1.4 Human Rights and the Protection of Minorities

**The overall state of play within the human rights and protection of minorities is not characterised by any significant advancement. Additionally, even the sentence formulation in this year’s Report remains the same compared to previous years:** despite adequate legislation and institutions necessary to protect these rights, “sustained efforts are needed to ensure effective and consistent implementation across the country.” In particular, the Commission is still not entirely satisfied with the promotion and protection of the rights of vulnerable groups such as the LGBTI persons, persons with disabilities, or persons with HIV/AIDS, as well as the integration of Roma population. Furthermore, considerable space, as a separate section within this part, is dedicated especially to the highly controversial matter of freedom of expression



and media, present not only in Serbia but in other enlargement countries as well.<sup>11</sup> In the Serbian case, **almost every issue remains unresolved, compared to the previous Progress Report**: problems such as political interference in the work of public broadcasters, intimidation of journalist and threats of violence (including physical assaults at the local level), a growing trend of media self-censorship, lack of transparency over media ownership and sources of media advertising and funding, are all interlinked and seriously undermine the exercise of these rights, especially hampering professional and investigative journalism. Adding to all this the fact that criminal charges are rare and final convictions even less existent, it is not strange why **this is the only part of the political criteria where Serbia records absolutely no progress since last year**, despite the firm statement of the Head of the EU Delegation to Serbia Michael Davenport that he “could not agree that the Report notes no progress over the past 12 months”<sup>12</sup> and that there is appropriate media-related legislation which just needs proper implementation.

### 1.5 Regional Issues and International Obligations

As previously mentioned, one of the positive highlights of the current Report, extensively pointed out by the mainstream media and political leaders in the country and abroad,<sup>13</sup> belongs to the Serbian *constructive commitment to good neighbourly relations*. **This part of the Report does not record any outstanding novelty, but preserves almost the same rhetoric compared to the last year’s assessment**. It describes that Dayton Agreement is respected, the cooperation with ICTY remains appropriate, that cooperation between Serbian and BiH prosecutors on processing war crimes continues on an “upward course”, and that close cooperation under the Sarajevo Declaration Process is in place. The only concern, which has continuously been expressed year by year, are the unresolved cases of missing persons from the 1990s conflicts, which are characterised as vital for reconciliation and stability and, hence, leaders are called for enhanced political commitment in this respect.

A large number of multilateral cooperation platforms with Serbia’s participation are once again described as successful in enhancing the efforts for establishing good neighbourly relations, such as the South-East Europe Cooperation Process, the Brdo process, the Regional Cooperation Council, the Central European Free Trade Agreement, *et cetera*. Concerning bilateral relations, **no progress** is made in respect of concluding the Bilateral Convention on Regional Cooperation with Albania and Macedonia, although relations with these two countries have improved overall. In addition to pending demarcation of borders with BiH, Montenegro and Croatia, the table below represents an overview of the Commission’s conclusion on the current state of play regarding Serbia’s relations with neighbouring countries, compared to 2014. Overall, **while relations with all outlined countries remains good or stable in 2015, or even improved/upgraded, only relations with**

*It is to an extent debatable whether good neighbourliness conditionality will be strictly applied in the accession process, in terms of tangible results. It can be expected that bilateral issues with neighbouring Member States slow down Serbia’s accession.*

<sup>11</sup> For more details, please see the Enlargement Strategy.

[http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_strategy\\_paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_strategy_paper_en.pdf) (10.11.2015)

<sup>12</sup> “Davenport: Significant Progress on EU Path” <http://europa.rs/eng/davenport-significant-progress-on-eu-path/>

<sup>13</sup> “Kurc: Srbija motor reformi i stub stabilnosti” [Kurcz: Serbia Driving Engine for Reforms and a Pillar of Stability] [http://www.b92.net/info/vesti/index.php?yyyy=2015&mm=11&dd=10&nav\\_category=11&nav\\_id=1061471](http://www.b92.net/info/vesti/index.php?yyyy=2015&mm=11&dd=10&nav_category=11&nav_id=1061471) (10.11.2015)



**Croatia suffered ups and downs, which is a setback compared to 2014.** Moreover, it is interesting to see how these regional relations are classified, with no exact explanation of the criteria used to form the range of these “descriptive grades”. All in all, it is to an extent a controversial question of whether good neighbourliness conditionality will be strictly applied in the accession process in terms of tangible results (despite not being a part of the *acquis*), as a *sine qua non* for the advancement towards the EU. However, given that the member states possess veto powers in each single step of the EU accession process (i.e. opening and closing negotiation chapters, defining opening, interim and closing benchmarks), it can be expected that contested bilateral issues with the member states neighbouring Serbia (Croatia, Bulgaria, Romania, Hungary) will slow down Serbia’s accession process and thus become inevitable condition for Serbia’s EU membership.

Relations between Serbia and...	2014	2015
Albania	<i>Stable overall</i>	<i>Improved overall</i>
Bosnia and Herzegovina	<i>Remained good</i>	<i>Remained good</i>
Macedonia	<i>Remained good</i>	<i>Further upgraded</i>
Montenegro	<i>Further upgraded</i>	<i>Remained good</i>
Turkey	<i>There were ups and downs</i>	<i>Remained stable</i>
Bulgaria, Romania, Hungary	<i>Remained good</i>	<i>Improved further overall</i>
Croatia	<i>Remained good</i>	<i>There were ups and downs</i>

Table 1. Comparative overview of relations between Serbia and the neighbouring countries, according to the 2014 and 2015 Reports.

■ EU Member State  
 ■ Candidate  
 ■ State Potential Candidate

### 3. Normalisation of Relations between Serbia and Kosovo

In addition to the political criteria, the economic criteria, and the ability to assume the obligations of membership, a special attention in this year’s report on Serbia, unlike the previous ones, is dedicated solely to consideration of the progress in normalisation of relations between Serbia and Kosovo. Moreover, one of the first highlights in the country summary belongs to the statement that the number

*The Commission calls Serbia to sustain from preventing Kosovo’s participation in regional forums, leaving room for speculation whether it refers to membership in certain intergovernmental organisations.*

of achieved agreements with Kosovo represent a “milestone in the normalisation process.” **The Commission’s approach was not critical at all, but predominantly recognising Serbia’s commitment to the normalisation**, outlining key developments in this regard, the current state of play and issues to be done, commending efforts on both sides and identifying areas where progress is evident. While expressing that “steps taken gave fresh momentum

in the normalisation of relations”, further recommendations directed to Serbia relate to 1) the necessity for additional measures to stop illegal crossings in the north of Kosovo for the reasons of smuggling goods; 2) the necessity for continued implementation of the agreement on Kosovo’s participation in regional forums, though not précising which forums and thus leaving open space for speculation whether Serbia is expected to give consent on Kosovo’s membership in certain international intergovernmental organisations. The Commission concludes in a rather declarative and, simultaneously, slightly warning manner, stating that “further progress in this area remains essential for advancing the European future of

both Serbia and Kosovo”, that way confirming its special focus on the normalisation process and, on the other hand, seemingly supporting the claims that this will be a single determining condition for the future of Serbia’s membership.

#### 4. Economic Criteria

Regarding the economic criteria, Serbia shows overall positive results in the current Report and the **progress is evident compared to the last year’s assessments**. The Commission’s observations are mainly encouraging, nonetheless, they contain a number of remaining concerns (i.e. high fiscal imbalances, weak credit activity, underdeveloped private sector) and a set of recommendations for further advancement. Unlike the last year, when Commission’s assessment revealed “limited progress” towards establishing a functioning market economy, this year a **moderate level of preparedness** is achieved in the both assessed criteria – the existence of a functioning market economy, and capacity to cope with competitive pressure and market forces within the Union, while there is **good progress** and **some progress** in these areas respectively. **If the Commission’s assessment is approvingly received by the economic experts, this might be a promising step further, bearing in mind the economic consequences of the heavy floods that hit the country in 2014 and marked the previous Progress Report, and hence leaving a number of severe challenges outlined by the Commission.**

While the previous Report registered that “Serbian government set itself ambitious economic goals”, this time the Commission seems confident in the economic reforms undertaken by the Government (which is said to be similar to the reforms currently being implemented in the EU Member States), and therefore calls for preservation of the “positive momentum”. Concerning the macroeconomic stability, the Report states that Serbia is slowly overcoming recession, with GDP remaining around the pre-crisis level. Additionally, more optimistic aspects such as sharp decrease in budget deficit, increased employment (although still not sufficiently), low inflation rate and stable prices are acknowledged and appreciated, but their sustainability will keep being monitored. Although the Report recognises some positive steps towards restructuring state enterprises, whereas level of subsidies to these enterprises has dropped significantly since the beginning of this year, Serbia still experiences fiscal risk, as the restructuring has been delayed (e.g. financial restructuring of Srbijagas is still awaited), which is confirmed by the Republic of Serbia Fiscal Council, reporting that it is not clear how effectively the biggest problems of restructuring are being solved.<sup>14</sup> Consequently, the Commission is calling for efforts towards advancements in line with the recommendations from the Economic Reform Programme covering the 2015–2017 period. Another emphasised issue are the privatisation tendencies, whose results shown thus far are referred to as “marginal”, pointing out Smederevo steel meal as a crucial challenge. This is also in line with the mentioned Fiscal Council’s Report. Furthermore, **one of the most critical observations within the economic criteria this year** is that “legal predictability and enforcement have remained weak and significant efforts are needed to further improve the business environment.” This is to a great extent connected to the shortcomings within the previously elaborated political criteria and the rule of law field, as a large amount of legislation aimed at structural reforms is, as the Report argues, being adopted

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<sup>14</sup> Republic of Serbia, Fiscal Council, “Fiscal Developments in September 2015”, 3 November 2015, p. 1. Available at: <http://www.fiskalnisavet.rs/doc/mesecni-izvestaji/Fiskalna%20kretanja%20u%20septembru%202015.%20godine.pdf>



through urgent procedures, avoiding any public consultation or debate and often lacking adequate implementation due to delays in by-laws adoption.

Regarding the capacity to cope with competitive pressures and market forces, a major challenge highlighted by the Commission is the inefficiency of the education system in Serbia, since low quality of education<sup>15</sup> creates “skill mismatches” (incompatibility between the skills offered and the labour market needs), which therefore contributes to the paradox of high number of (poorly skilled) workers on the one hand and high unemployment on the other. Considering that public spending on education is not much different compared to the figures in the EU, according to the Report, Serbia is advised to rationalise school network and improve labour market policies, focusing on youth and discouraging informal employment.

A final issue of a greater concern is the state influence on competitiveness, as “state support for loss-making state-owned enterprises remained significant.” Comparing the ever increased share of state aid in GDP in Serbia (2.74%)<sup>16</sup> with that in the EU (0.5% in 2013)<sup>17</sup>, it is easy to conclude why the Commission strongly recommends the introduction of more “predictable instruments of state support to the private sector”, and especially supporting SMEs that, according to the Commission, are disadvantaged compared to companies that receive state aid. **The significance of this issue lies in the fact that it spreads through several chapters of the acquis as well, above all to the Chapter 8 – Competition Policy, where Serbia is recommended to continue aligning legislation on state aid control with the acquis and ensure greater independence of the Commission for State Aid Control.**

## 5. Ability to Assume the Obligations of Membership

This year, the Commission introduced an improved approach towards the assessment of the country’s progress, namely, the clear-cut five-tier assessment scales indicating the level of progress and the level of preparedness for the accession. The scales are also harmonised so as to achieve greater comparability among the enlargement countries.

### 5.1 Progress

Looking at the assessment of the progress level over the past year, Serbia showed **good progress in a total of 5 negotiating chapters out of 33 measured**, which is significant but still not entirely praiseworthy compared to the exact same number of chapters in the last year, which obtained “progress” or “good progress” marks. Furthermore, while the majority of chapters (more precisely, 26 of them) note **some level of progress**, chapter 33 – Financial and Budgetary Provisions, remains the most problematic, as **no progress** is spotted here since two years ago. Nevertheless, these grades are showing an overall advancement, bearing in mind the last year’s results where only 9 chapters demonstrated some level of progress. The chapters with the highest score are those predominantly pertaining to the economic/financial domain, namely: 5 - Public Procurement, 9 - Financial Services, 14 - Transport Policy, 18 - Statistics, 29 - Customs union and 32 - Financial control. It should be additionally emphasised that

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<sup>15</sup> Results of PISA (Programme for International Student Assessment) testing for Serbia are for years below average. See more at: <http://www.oecd.org/pisa/keyfindings/> (21.11.2015)

<sup>16</sup> Komisija za kontrolu državne pomoći, Izveštaj o dodeljenoj državnoj pomoći u Republici Srbiji 2014. Godine [Commission of State Aid Control of the Republic of Serbia, Report on State Aid Granted in 2014] <http://www.kkdp.gov.rs/doc/izvestaji/Izvestaj%20o%20dodeljenoj%20drzavnoj%20pomoci%20u%20Republici%20Srbiji%20u%202014.%20godini.pdf> (19.11.2015)

<sup>17</sup> European Commission, State Aid Scoreboard [http://ec.europa.eu/competition/state\\_aid/scoreboard/non\\_crisis\\_en.html](http://ec.europa.eu/competition/state_aid/scoreboard/non_crisis_en.html) (19.11.2015)



though there is no **backsliding** in any chapter, the top grade – **substantial level of progress** – remains unreachable.

Consequently, it remains to be seen whether the more straightforward recommendations introduced this year, as an unambiguous signal of shortcomings and clear message of what needs to be done, if addressed properly by the institutions, will lead to increasing the level of progress. All things considered, in contrast to the rough calculation by the Prime Minister that Serbia showed progress in 33 out of 34 fields,<sup>18</sup> the precisely nuanced grading should be observed with additional caution: if all these descriptive grades within the progress assessment were transformed into numerical values, the average score for Serbia would be 1.105<sup>19</sup> out of maximum 3, which in general indicates progress but not even near the desired and presented one.

## 5.2 Preparedness

In terms of the assessment of Serbia's **preparedness** for membership, results are more varying as all stages of preparedness are represented, whereas only **high level of preparedness** remains unattainable. The Report overall states that "Serbian legislation is now largely aligned in areas such as intellectual property, anti-trust and mergers, and monetary policy" but that the country "will need to align its foreign and security policy progressively with the European Union's Common Foreign and Security Policy in period up to accession." While on the one hand Serbia is **well prepared** in the area of company law, intellectual property law, science and research as well as education and culture, most troublesome areas, regarded as in an **early stage of preparation**, include agriculture and rural development, environment and climate change and financial and budgetary provisions. Considering the initial absolute incompatibility of Serbian legislation with the *acquis* under the chapter 27 – Environment and Climate Change, it is understandable why this highly critical chapter is still at the early stage of preparation, which on the other hand cannot be said for chapter 33 – Financial and Budgetary Provisions, where no major difficulties were expected at the beginning of the assessments. This chapter is therefore **the only one stagnating in both the level of progress and the level of preparedness**.

The overview of the chapters and stages of preparation is given below.

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<sup>18</sup> "Vučić: Napredak u 33 od ukupno 34 poglavlja" [Vučić: Progress in 33 out of 34 Chapters]

<http://www.novosti.rs/vesti/naslovna/politika/aktuelno.289.html:576166-Vucic-Napredak-u-33-od-ukupno-34-poglavlja-Prosvetarima-7000-dinara-pomoci> (10.11.2015)

<sup>19</sup> The method of conversion of descriptive grades into numerical ones is given in the Appendix 7.1 of the Western Balkans Comparative Overview – Independent analysis and follow up of EC country reports of the Western Balkans countries.

Assessment	Chapters
Early stage of preparation	11 – Agriculture and rural development 27 – Environment and climate change 33 – Financial and budgetary provisions
Some level of preparation	23 – Judiciary and fundamental rights 24 – Justice, freedom and security
Moderately prepared	1 – Free movement of goods 2 – Freedom of movement for workers 3 – Right of establishment and freedom to provide services 4 – Free movement of capital
	5 – Public procurement 8 – Competition policy 9 – Financial services 10 – Information society and media 12 – Food safety, veterinary and phytosanitary policy 13 – Fisheries 14 – Transport policy 15 – Energy 16 – Taxation 17 – Economic and monetary policy 18 – Statistics 19 – Social policy and employment 20 – Enterprise and industrial policy 21 – Trans-European networks 22 – Regional policy and coordination of structural instruments 28 – Consumer and health protection 29 – Customs union 30 – External relations 31 – Foreign, security and defence policy 32 – Financial control
Good level of preparation	6 – Company law 7 – Intellectual property law 25 – Science and research 26 – Education and culture
High level of preparedness	No chapters

Table 2. Negotiation chapters and their level of preparedness.

With a **moderate level of preparation** sustained in the vast majority of chapters, as the table above shows, the corresponding average numerical grade for the level of Serbia's preparation for accession would be 2.5 out of 5 – but it remains debatable whether it realistically represents “half way” towards the full preparation for membership. Nevertheless, looking both the progress and the preparedness levels in parallel, it can be concluded that the absolute winners of the Commission's assessment are the chapters listed above as the most successful in terms of **progress**, since the same pace is kept regarding the level of **preparedness**.