

CHAPTER 14.

ANALYSIS OF THE POLITICAL ASPECTS OF THE EUROPEAN INTEGRATIONS: PERSPECTIVES FOR BALKAN COUNTRIES¹

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Abstract:

Since 2000 perspectives of European integration for the West Balkan countries became realistic. Long period of conflicts was finally behind and through Pact for Stability in South-East Europe the EU tries to provide political and other assistance for affected countries. The main goal is their candidate status and prospectively EU membership. Not all of these countries had the same history of accession to the EU. Moreover, their problems and obstacles are not always the same. But some common main lines may be identified. Different to the new EU member states, for West Balkan countries the EU established a set of special conditions for their European integrations. Although accession process is mainly politically coloured, political aspects or criteria became main condition or obstacle for some or most of the west Balkan countries. Since the economic crisis jeopardizes the stability of the EU, the enthusiasm for accession of new members falls. For the time being, only one country has secured EU perspective.

Key words: *West Balkan countries, European Union, European integration, political aspects.*

INTRODUCTION

Accession to the EU requires fulfilment of different conditions. During the development of the EU, these conditions were multiplied. However, they didn't

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have always the same importance. Every candidate country has to meet political, economic and legal criteria. These criteria are known as Copenhagen set in 1993. Since 1995 and Madrid Summit new criteria were defined. The candidate state has to have necessary administrative capacity for implementation of all obligations set before it during the process of accession. However, this criterion is not strictly defined. More or less it may refer to the creation of professional, efficient, depoliticized and transparent administration etc.⁴

Although membership criteria are not only political, the previous experience demonstrates that these criteria prevailed. The best examples are East-European countries entered in the EU in 2004 and more recent example of Romania and Bulgaria in 2007. The European Council declared West-Balkan countries in June 2000 as potential EU candidate countries. In the same year EC established Stabilization and Association Process (SAA) for EU integration of new members. This process represents gradual accession of the concerned countries in function of their progress in reforms⁵ and building a stable state. For states created after disintegration of former Yugoslavia, additional conditions have been set, because of the complexity of their integration. Only Slovenia entered the EU as the full member state. From 1st of July 2013 Croatia will follow. For other West-Balkan countries, Serbia, Montenegro, FYROM, Bosnia and Herzegovina and Albania EU perspective depends on their capacities to continue reform process and also from the EU interest and capacity for enlargement. Special case is Kosovo⁶ which unilaterally declared independence from Serbia in February 2008, but not recognized as independent state from Serbia and big number of countries as well as from five EU member states.

INTEGRATION CRITERIA

As it is mentioned above every EU candidate country has to meet political, economic, legal and administrative criteria. Political criteria require fulfil of standards of democracy and rule of law. Economic criteria suppose the establishing of market based economy. Legal criteria include harmonization of legislation with EU regulations and adoption of *acquis communautaire*. Since 1995 administrative capacity for implementation of obligations is also required.

⁴ Mišćević, Tanja, Madridski kriterijum: administrativni kapaciteti kao uslov članstva u Evropskoj uniji, p. 97.

⁵ Töglhofer, Theresia, Beitrittsregatta in der Flaute: Der lange Weg des Westlichen Balkans in die EU, p. 2.

⁶ Kosovo under UNSCR 1244/99; this label does not prejudice the status of Kosovo and is in accordance with Resolution 1244 and the opinion of the ICJ on Kosovo's declaration of independence.

From 2000 former Yugoslav countries are included in Pact for Stability in South-eastern Europe. Special conditions are set for former Yugoslav republics and their integration. These conditions are respect of Dayton/Paris Peace Agreement, cooperation with the ITPY in The Hague, arrest and extradition of indicted for the war crimes, return of refugees and readiness for regional cooperation. These conditions are specific for former Yugoslav countries and are related to the conflicts they had in the past. The objective is to stabilize the region through building of the legal state and democracy and to integrate gradually concerned countries in the EU.

INTEGRATION PROCESS BY COUNTRY

Serbia

Following positive outcome of negotiations on customs and integrated boundary management between Serbia and Kosovo* intermediated by the EU, European Council granted Serbia EU candidate status in March 2012. Serbia already participates in the Stabilisation and Association Process since April 2008. The SAA and Interim Agreement on trade and trade-related matters were signed and implemented unilaterally since 1st of January 2009. This decision of the European Council was the result of Serbia's full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). The EU implements the Interim Agreement since 1st February 2010. Serbia applied for EU membership on 22 December 2009⁷.

The Serbian government implements a national programme for integration into the EU and has used quarterly reporting as a monitoring mechanism. Considerable progress has been made in reforms. As the result of substantial progress European Council granted visa liberalisation for Serbian citizens travelling to the Schengen area⁸. As a candidate for EU membership, Serbia aligned itself with 51 CFSP declarations out of a total of 74 relevant declarations. The EU Delegation in Belgrade implements pre-accession financial assistance under the Instrument for Pre-accession Assistance (IPA). The harmonization of national legislation with European standards progressed. However, adopted regulations have to be implemented in practice.

In the area of democracy and the rule of law Serbia has advanced in the implementation of the constitutional framework. However, the laws regulating

⁷ Official web page of the Serbian European Integration Office, www.seio.gov.rs, 01.07.2012.

⁸ Commission Serbia 2011 progress report, <http://ec.europa.eu/enlargement/>, 01.07.2012.

public property and Autonomous Province of Vojvodina's own resources remain an open issue. Parliament's relations with other state bodies and institutions have to be reconsidered in order to improve functioning of the independent regulatory bodies. As regards to legislation work on harmonization with the EU *acquis*, urgent procedure affected the quality of the legislative output. In addition, public consultation on content and impact of draft laws remains insufficient. Parliament control of the government is constant, but remains formalistic and constitutional and legal provisions as well as the electoral framework legislation have to align with European standards. Public administration in Serbia has been reformed, but European standards (merit-based career system and effective human resources management) are still to be met. The Ombudsman's Offices, Commissioner for Information of Public Importance and Personal Data Protection at all levels were very active. The State Audit Institution is established and provided with the necessary resources. The capacity of the public administration is considered as good. Civilian oversight of security forces is almost completed. In addition, parliamentary control has to be strengthened⁹. However, reform of judicial system aiming the alignment with European standards marked small progress. This chapter is one of key priorities of the European Partnership. There are serious concerns, in particular the reappointment of judges and prosecutors. This procedure was carried out in a non-transparent way in the manner that the principle of the independence of the judiciary is put at risk¹⁰. Some progress is made in the Anti-corruption policy by implementing outstanding GRECO recommendations. Good cooperation between the police and the state prosecution in processing of corruption cases is continued. As regards to financing of political parties, new legislation rendered it more transparent, but control of expenditure still has to be adopted. Public procurement, privatisation procedures, public expenditure and corruption within the police continue to be serious problem and require effective implementation of legislation in practice. In the area of human rights Serbia has signed and ratified all significant international instruments. On the European level, the European Court of Human Rights (ECtHR) rendered 45 judgments on violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Over 3,000 eligible cases regarding Serbia are pending before the ECtHR. The legal framework for human rights protection is generally respected. Prison system, prevention of torture, ill-treatment, and the fight against impunity has a small progress. Legislation providing free legal aid is still missing, but access to justice is generally ensured.

Freedom of expression is guaranteed by the Constitution and legal framework for the protection is generally respected. However, further efforts are needed to

⁹ *Idem.*

¹⁰ *Idem.*

prosecute incidents against journalists. Media freedom is ensured and provided legal framework. As for freedom of assembly and freedom of association, they are guaranteed by the Constitution and in general respected. All existing and new political organisations passed the process of re-registration. Generally, Serbia has stable constitutional framework providing for respect for civil and political rights. Implementation and alignment with European standards still remains.

Bigger progress is marked in the area of economic and social rights. New legislation improved position of women's and children's rights, but it is still not sufficiently applied in practice. Legislation on socially vulnerable persons and persons with disabilities is adopted, but legal framework lacks capacity and resources. Labour rights are affected due to the economic crisis. Social dialogue remains weak and consultation of social partners irregular. In practice, the Economic and Social Council still does not play an active role in strengthening the social dialogue. The legislative framework prohibiting any kind of discrimination and establishing a mechanism for protection against discrimination is in place. However, discrimination continues, particularly against the Roma, the LGBT community, women, national minorities, and persons with disabilities. In the area of property rights, the legislation regulating private ownership of urban construction land is adopted. The legislation on restitution has been adopted. However, its implementation is slow and inefficient. Serious concern remains the issue of ownership over land acquired through the privatisation process. As for protection of minorities and cultural rights, legal framework is at place and good progress has been made. The situation in multi-ethnic areas continued to improve. Although stable, the situation in southern Serbia remains tense. Bigger concern remains 83,000 refugees and 205,000 internally displaced persons (IDPs) in Serbia¹¹. Many of these persons still do not have adequate housing; they are unemployed or live in poverty. Some improvement in the position of the Roma population is made, but they continue to face discrimination and they live in inhuman conditions¹².

Regarding its regional issues and international obligations Serbia has no outstanding issues in compliance with the Dayton/Paris peace agreement. Serbia has a constructive role in relation with Bosnia and Herzegovina. The Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) noted in his latest report to the UN Security Council that Serbia cooperates with the Office of the Prosecutor and that no requests remain outstanding. All fugitives indicted before ICTY are arrested and extradited. Serbia also respects EU's guiding principles and the EU Common Positions on the integrity of the Rome Statute of

¹¹ Official web page of the United Nations High Commissioner for Refugees, www.unhcr.org, 01.07.2012.

¹² Commission staff working paper, Serbia 2011 progress report.

the International Criminal Court. However, the Serbian government has continued to contest Kosovo's* declaration of independence. This case was brought before the International Court of Justice (ICJ), initiated by Serbia. Opposition to the participation of Kosovo in regional meetings and initiatives other than under the UNMIK umbrella is also maintained. Serbia and the EU co-sponsored the UN General Assembly joint resolution as a follow-up to the ICJ advisory opinion on Kosovo. The resolution 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. The policy on Kosovo has also affected Serbia's bilateral relations with its neighbours. Regional cooperation was affected by a lack of agreement between Serbia and Kosovo on the latter's participation in various regional meetings. However, some progress has been made in the area of customs stamps and integrated management of the administrative boundary line¹³. Since Serbia became the EU candidate country, essential part of its process of integration will be regional cooperation and good neighbour relations. In 2010 Serbia held the Chairmanship of CEFTA and actively participates in the preparations for the forthcoming Danube Strategy. Serbia has good relations with its neighbour countries. Regional cooperation had significant progress with other enlargement countries, particularly Croatia and Bosnia and Herzegovina. On the basis of the Special Parallel Relations Agreement and the related Protocol on Cooperation Serbia continues to cooperate closely with Republika Srpska. Progress is marked in relations with Albania and Montenegro, Turkey, Romania, Bulgaria and Hungary are considered as good. However, border demarcation and issue of missing persons with Bosnia and Herzegovina and Croatia remain open. With the Former Yugoslav Republic of Macedonia Serbia has good relations, but do not recognize the border demarcation agreement between the Former Yugoslav Republic of Macedonia and Kosovo. An open issue remain the relation between Orthodox churches in the two countries.

Kosovo (under UNSCR 1244/99)¹⁴

Kosovo declared its independence from Serbia in 2008. This decision is not recognized by Serbia and five EU member states. In September 2012 its supervised independence ends. However it does participating in the Stabilisation and Association Process (SAP). At Kosovo EULEX¹⁵ operates and fulfils its mandate. The situation in northern Kosovo with Serbian majority represents

¹³ *Idem*.

¹⁴ Kosovo under UNSCR 1244/99; This label does not prejudge the status of Kosovo and is in accordance with Resolution 1244 and the opinion of the ICJ on Kosovo's declaration of independence.

¹⁵ European Union Rule of Law Mission in Kosovo.

specific challenges to the mission. Kosovo also benefits from the Instrument for Pre-accession Assistance (IPA), the Instrument for Stability (IfS) and other sources of funding. The EU pre-accession assistance is focusing on support for the rule of law, the economy, trade and industry, and for public administration reform.

Considering democracy and the rule of law area the parliamentary control powers remain weak. Serious shortcomings were registered in the process of general elections. Limited progress has been achieved on strengthening parliamentary control of the government. Somme progress has been made on improving scrutiny of proposed legislation in line with European integration priorities. Inter-institutional architecture governing the European integration process needs to be improved and more efficient. Government continued the efforts on decentralisation in order to find sustainable solutions for the long-term of the newly created Serb-majority municipalities. However, this process is blocked from the Serbia-supported structures in northern Kosovo. The integration of municipalities and Serb communities in northern Kosovo is a particular challenge. Public administration reform marked a limited progress. The serious concern represents lack of financial resources and insufficient political support.

Some progress is achieved in the field of civil service reform. However, the necessary legal framework is still not complete and lacks implementation in practice. Institutions remain weak and without political support to ensure its proper functioning and financial independence. Civilian oversight of the security forces lacks implementation. Private security networks of the main political parties remains as a concern. In the judicial sector Kosovo has made some progress but remains weak. Political influence in the work of the judiciary is very strong. The Constitutional Court has issued a number of key decisions, with a significant impact. UNMIK remains the formal point of contact with Interpol and the ICTY and for mutual legal assistance received from non-recognising countries. Since EULEX took over some duties and it also acts as intermediary. There is no mutual legal assistance between Serbia and Kosovo¹⁶. Kosovo continues to face significant challenges in fighting corruption. Its capacities remain limited and the legislative framework is still not complete. In the area of human rights and the protection of minorities Constitution contains strong provisions to secure international standards on human rights. Kosovo is not in a position to become UN or the Council of Europe member and to ratify the relevant international human rights instruments. Consequently, this area remains a major challenge. As regards to civil and political rights, the government needs to

¹⁶ Commission staff working paper, Kosovo* 2011 progress report, accompanying Communication from the Commission to the European Parliament and the Council, from 12.10.2011, <http://ec.europa.eu/enlargement/>, 01.07.2012.

continue its efforts to address torture and ill-treatment. Limited progress has been made improving access to justice. Freedom of expression, transparency of media, freedom of assembly and association are guaranteed by a law and the law is properly enforced. The environment for NGO activities needs to be improved. However, journalists continue to face political pressure and intimidation. Kosovo continues to face considerable challenges in this area, including political interference¹⁷. Kosovo continues activities in order to renovate Serbian Orthodox sites. However, tolerance towards religions remains fragile because of lack of respect towards symbolic sites and believers, irrespective of religion. In the areas of women's rights and gender equality, some progress can be reported. Labour and trade union rights are largely guaranteed and some progress is achieved. However, domestic and gender-based violence continues to be a challenge in Kosovo. Child protection system is still weak and needs to be improved. Implementation of the relevant legislation in combating all forms of discrimination lacks, which is a major issue of concern. In the area of property rights, Kosovo adopted a range of laws improving the legal framework, but faces many challenges in implementation. Constitution guarantees respect for and protection of minorities and cultural rights. Some progress is made regarding protection of minorities. Decentralisation and support for the newly-founded Serb-majority municipalities are positive developments. However, this progress remains limited. Refugees and internally displaced persons and the return process remain a challenge for Kosovo. Future negotiations between Pristina and Belgrade need to improve this issue. As for cultural rights, the legislative framework governing protection of cultural heritage remains implements very little.

In the area of regional issues and international obligations Kosovo continued cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). There is still problem of missing persons, over 1,800 related to the conflict in Kosovo. Investigation of war crimes is conferred to EULEX. It has established a special Brussels-based task force with a liaison office in Pristina to investigate allegations on illicit trafficking in human organs. The authorities are cooperating with EULEX in the investigation of allegations raised in the resolution adopted by the Parliamentary Assembly of the Council of Europe. Kosovo's Constitution stipulates Kosovo's external representation. However, Kosovo has continued to participate in many treaties as formally represented by UNMIK. The most important challenge and issue will be an agreement on a sustainable solution for participation by both Kosovo and Serbia in regional fora, which is essential for inclusive and functioning regional cooperation.

¹⁷ *Idem.*

Montenegro

Montenegro made big progress in its EU integrations. On the 29th of June 2012 EU opened entry talks with Montenegro. This is a result of continued implementation of obligations under the Stabilisation and Association Agreement (SAA). First chapter to be negotiated will be on judiciary and fundamental rights. Before decision on new step in the EU integration process the political and economic dialogue between the EU and Montenegro was improved. Montenegro participated for the first time in the multilateral economic dialogue between the Commission, EU Member States and candidate countries in the context of the EU fiscal surveillance procedure, including by attending a meeting at ministerial level in May 2011¹⁸. SAA bodies encouraged and monitored reforms. Together with Serbia, Montenegro was granted visa liberalisation for its citizens travelling to the Schengen area. The visa-free regime has been respected. The EU provides financial assistance to Montenegro under the Instrument for Pre-accession Assistance (IPA). Montenegro is participating in cross-border cooperation programmes with neighbouring Western Balkan countries and prepares one with Kosovo*. Montenegro is participating in several EU programmes¹⁹. It is considered that the establishment of the legal and institutional framework required for an independent country is complete and the political consensus on State-building has been consolidated. Legislative framework for elections is amended in order to implement OSCE/ODIHR and Venice Commission recommendations. It should provide authentic representation of minorities. However, gender equality is still not guaranteed. Parliament has continued intensive legislative activity. Consensus between parliamentary parties on EU-related matters remains high. Parliament's role of control of the government has been improved, notably in the areas of security and defence and interaction with civil society. Stronger support to parliamentary committees is also provided. However, administrative capacity needs to be strengthened. Government coordination and policy-making has been improved. The improvement of administrative capacity involved in coordination of European integration requires financial and technical assistance. Montenegro faced the challenges related to the public administration reform. Ombudsman and State Audit Institution lack capacities. Parliament's role in the civilian oversight of the security forces has to be clearly defined. Progress has been made in judicial reform in order to reinforce

¹⁸ Commission staff working paper, Montenegro 2011 progress report, accompanying Communication from the Commission to the European Parliament and the Council, Brussels, from 12.10.2011, <http://ec.europa.eu/enlargement/>, 01.07.2012.

¹⁹ The Seventh Research Framework Programme; the Entrepreneurship and Innovation Programme and the Information Communication Technologies Policy Support Programme, both under the Competitiveness and Innovation Framework Programme, Culture and Customs 2013.

the independence, accountability, impartiality and efficiency of judges and prosecutors. Amendments to the Law on the State prosecution office provide changes in the composition of the Prosecutorial Council and broaden its scope of action. Amendments to the Law on the Judicial Council provide transparency and involvement of the judiciary in the procedure of appointment of judges. However, corruption and conflict of interest rules and publicity of court rulings remain a concern. Notary system is introduced in Montenegro, in order to reduce the burden on courts and administrative bodies. Legal framework necessary for combating corruption is established. In repressing corruption some progress has been made. However, it still remains a serious concern, because final convictions remain limited. In the area of human rights Montenegro has complied with all its formal post-accession commitments before the Council of Europe and has also ratified several important conventions²⁰. The Constitution (Article 20) has to be harmonized with Article 13 of the European Convention on Human Rights (ECHR). It affects safeguard of the right to an effective remedy before national authorities for violations of rights under the Convention. National courts ensure better dissemination of the relevant case law of the European Court of Human Rights (ECtHR). Ombudsman's Office has increased influence and its cooperation with civil society has been improved. In media freedom, the legal framework has been improved. However, a sustainable implementation needs to be ensured. In prevention of torture and ill-treatment and the fight against impunity some progress has been made, but occasional cases of violence continue to be reported. Progress has been achieved regarding the prison system and access to justice. Generally, freedom of expression and freedom of assembly and association are respected in Montenegro. State institutions and civil society organisations are cooperating regularly in the legislative and policy-making or monitoring process. Freedom of thought, conscience and religion, inter-faith relations have remained normal. However, the open issue remains the relation between Serbian Orthodox Church and canonical non recognised Montenegrin Orthodox Church. Legal and policy framework in the area of economic and social rights is improved, especially in combating discrimination and women's rights and gender equality. However, its implementation remains a challenge. Enforcement of women's rights marked a progress, but cases of domestic violence are lagging behind. Montenegro progressed in protecting children's rights and socially vulnerable persons and persons with disabilities, notably by improving the legal framework and stepping up the activities of employment offices. However, the efforts regarding positive action and the sanctions mechanisms still have to be done. Anti-discrimination policies also marked a progress, notably in awareness-raising of inclusion of the most vulnerable groups, but effective implementation of

²⁰ The Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS N°201, 2007, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS N°210, 2011.

relevant legislation still remains a challenge. Labour and trade union rights enforcement remains a serious challenge. Regarding property rights limited progress has been made. Denationalisation issue is opened, but the process of restitution remains very slow. Especially, efforts have to be made to solve cases of property subject to restitution which has been privatised in the meantime. As regards to protection of and cultural rights some progress has been. The relevant legislation was amended in order to harmonise it with the Constitution and introduce a guarantee of authentic representation of minorities in parliament and local assemblies. Some progress has been made on improving the situation of displaced persons. Interethnic relations in Montenegro remain good, but progress on economic, social, cultural and political inclusion of some minorities has to be improved.

Considering regional issues and international obligations Montenegro has no open issue. In cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) no specific problem was reported. Montenegro supports the International Criminal Court and promotes the widest possible participation in it. However, bilateral immunity agreement with the United States granting exemptions from the jurisdiction of the International Criminal Court does not comply with the EU common positions. Montenegro has good regional cooperation, good neighbourly relations and continues to be strongly involved in developing regional cooperation. It participates in all regional initiatives²¹. Montenegro has ratified and started to implement extradition agreements with Croatia, Serbia and Former Yugoslav Republic of Macedonia covering own nationals involved in serious and organised crime. An equivalent agreement was also signed with the. Agreements on police cooperation were signed with Croatia and Serbia. Cooperation with enlargement countries continues as well as with Italy. Delimitation of borders with Croatia, Serbia, Bosnia and Herzegovina and Kosovo remains to be done. Relations with countries in the region are good. Relations with Serbia are generally good and two countries cooperate is developing, in particular in the economic, environmental and scientific fields. Distribution of assets and liabilities and citizenship rights after dissolution of the State Union remain an open issue²².

²¹ The Central European Initiative (CEI), the South-East European Cooperation Process (SEECP), the US-Adriatic Charter, the Adriatic-Ionian Initiative (AII), the Regional Anti-Corruption Initiative (RAI) and the Multinational Advisory Group of the Centre for Security Cooperation, Organisation for Black Sea Economic Cooperation (BSEC), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty, the European Common Aviation Area Agreement, and the EU Strategy for the Danube region. Montenegro continues actively to support the Igman initiative on reconciliation

²² *Idem*.

Bosnia and Herzegovina

Stabilisation and Association Process started for Bosnia and Herzegovina in July 2008. The All EU Member States ratified Stabilisation and Association Agreement (SAA), but it has not yet entered into force²³. However, the Interim Agreement (IA) is implemented in Bosnia and Herzegovina. Open issue is breach of the IA due to non-compliance with the European Convention on Human Rights and with the rules on State aid²⁴. Bosnia and Herzegovina conducted limited reforms and there is a lack of a credible process for the harmonization of the Constitution with the European Court of Human Rights' (ECtHR), notably after decision of December 2009 in the Sejdic-Finci case²⁵.

Considerable EU resources have been deployed in Bosnia and Herzegovina. The EU Special Representative's mandate was transferred from the Office of the High Representative. In December 2010 visa liberalisation was granted for citizens of Bosnia and Herzegovina by the European Parliament and the Council. The rules for visa-free travel have been respected by the vast majority of travellers. Bosnia and Herzegovina benefits financial assistance under the Instrument for Pre-accession Assistance (IPA) and multi-beneficiary programmes, implemented by the EU Delegation in the country. Decentralized management of EU funds (DIS) has small progress²⁶. In the area of democracy and the rule of law the Dayton/Paris Peace Agreement represents the key document for modern Bosnia and Herzegovina. It established a complex and inefficient institutional state structure. Complicated decision-making process delays structural reforms and reduce the country's capacity to make progress towards the EU²⁷. Consequently, harmonization process with the EU *acquis* advances very slowly both on state and entity level. Ethnic based condition (Bosniak, Serb and Croat) to become candidates for the Presidency and the House of Peoples of the Parliamentary Assembly represents discrimination against citizens on the grounds of ethnicity. In the one entity, the Federation complex and costly governance multilevel structures are in place. The international community continued its presence in Bosnia and Herzegovina, notably in the Brcko District. The High Representative

²³ Although ratified by all member states, the entry into force of Bosnia's SAA has been delayed due to the fact that Bosnia has yet to make the required constitutional amendments, www.ec.europa.eu/enlargement/, 01.07.2012.

²⁴ Commission staff working paper, Bosnia and Herzegovina 2011 progress report, accompanying Communication from the Commission to the European Parliament and the Council, Brussels, from 12.10.2011, <http://ec.europa.eu/enlargement/>, 01.07.2012.

²⁵ Sejdic and Finci v. Bosnia and Herzegovina (application nos. 27996/06 and 34836/06), from 22.12.2009, Official web page of ECtHR, hudoc.echr.coe.int, 01.07.2012.

²⁶ Commission staff working paper, Bosnia and Herzegovina 2011 progress report.

²⁷ *Idem*.

used Bonn powers on several occasions. The HR also lifted all ICTY-related sanctions, including bans against a number of persons²⁸. Parliamentary Assembly of Bosnia and Herzegovina needs to make steps to improve the functioning. However, parliaments are functioning satisfactory on the Entity level. In the Republika Srpska National Assembly (RSNA) has improved the legislative process and adopted amendments on Constitution allowing non constituents to be elected²⁹. Effective cooperation mechanism between two Entity Parliaments and the Council of Ministers and the State-level Parliament needs to be strengthened. Presidency of Bosnia and Herzegovina was established thanks to direct elections for its members. There has been improvement in efforts for joint policy formulation and implementation. However foreign policy coordination remains subjected to disagreements. The length process of formation of authorities characterizes Federation, because of divergent political and ethnic interests involved. Croatian community established its own National Assembly, comprising of municipalities and Cantons with a Croat majority. The administrative capacities in Bosnia and Herzegovina have been improved, but still lack effective coordination mechanism with the State-level authorities on EU matters in order to harmonise the transposition of the EU *acquis* throughout the country. The lack of capacity for coordination of EU-related matters within the Federation government and between the Entities and the State-level remains an issue of concern³⁰. In the Brcko District harmonisation of legislation with the EU *acquis* is established. The lack of up-to-date census data in Bosnia and Herzegovina as a whole remains the concern. Regarding self-government, legislation is harmonised with the European Charter for Local Self- Government at the Entity level. In the area of public administration reforms made a limited progress. Continued fragmentation and politicisation of the civil service system remain issues of concern. In Bosnia and Herzegovina the institution of Ombudsman functioning, but most of its recommendations have not been implemented by the relevant authorities at State, Entity and Cantonal level. Development of an impartial, independent, effective and accountable judiciary in line with European standards remains at an early stage. The legitimacy and role of the High Judicial and Prosecutorial Council (HJPC), the Court and the Prosecutor's Office of Bosnia and Herzegovina have been challenged from Republika Srpska. Small progress has been made concerning efficiency, but the lack of financial resources remains a problem³¹. Very limited progress has been made in tackling corruption, effective investigation, prosecution and conviction of

²⁸ *Idem*.

²⁹ Macić, Bećir, *Kako poslije ratnog konflikta u Evropku uniju*, p. 120.

³⁰ Commission staff working paper, *Bosnia and Herzegovina 2011 progress report*.

³¹ *Idem*.

corruption. Implementation of existing legislation is insufficient and continues to negatively impact all spheres of life, economic development and the rule of law³².

In the area of human rights and the protection of minorities Bosnia and Herzegovina has ratified all major UN and international human rights conventions. However, in a number of cases, the decisions of the Constitutional Court of Bosnia and Herzegovina have not been enforced, which led to cases being lodged before the European Court of Human Rights (ECtHR)³³. However, little progress has been made in the promotion and enforcement of human rights.

Regarding civil and political rights Constitution of Bosnia and Herzegovina prohibited death penalty, as in Republika Srpska it is not applied. The legal framework for prohibition of torture and ill-treatment and the fight against impunity is established and generally respected. Prison system is fragmented, but some improvement is made. Overcrowding remains an issue of concern. In the area of access to justice the legal framework formally guarantees equality before the law, but remains fragmented. Freedom of expression, freedom of assembly and freedom of association are provided by the Constitution. However, political pressure on all media, threats and violence against journalists and lack of state reaction remain. The media are still fragmented and polarised along political and ethnic lines. Freedom of thought, conscience and religion are generally respected. However, cases of discrimination on religious grounds continued, in particular towards religious minority in certain communities. Legal framework guarantees women's rights and gender equality, but political participation of women has further increased, but remains low. Some progress was registered in Republika Srpska regarding domestic violence. Children's rights marked some progress in both Entities. General framework for education has been improved. However, much more needs to be done to effectively address the number of schools divided along ethnic lines. *De facto* ethnic-based separation and discrimination in public schools remain a serious concern³⁴. Strategy for people with disabilities has been adopted in both Entities, but the lack of harmonisation between the social protection systems of the Entities and Cantons remains. Anti-discrimination legislation is adopted. However, its implementation remains weak and it does not include age and disability and allows for a broad range of exceptions. Discrimination against lesbian, gay, bisexual and transgender (LGBT) people remains widespread. Legal framework regarding labour and trade unions rights has to be harmonised across the country. Its fragmentation represents an open issue. In the area of property rights, the vast majority of cases of property

³² Idem.

³³ Idem.

³⁴ Idem.

repossession requests have been resolved³⁵. The framework for the protection of minority rights is in place and minority rights are broadly respected. Roma continue to face very difficult living conditions and discrimination. In Bosnia and Herzegovina, there are 113,365 internally displaced persons and 7,000 refugees³⁶. They face problems in return assistance and discrimination in access to employment, health care, pension rights etc.

In the area of regional issues and international obligations, implementation of the Dayton/Paris Peace Agreement continued but political representatives in Republika Srpska frequently challenged the territorial integrity of the country. Cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) has continued to be satisfactory. At the operational level, cooperation is adequate, and access to witnesses and archives remained good. The local prosecution of war crimes cases has continued. Moreover, cooperation between the courts and the Prosecutors' offices from Bosnia and Herzegovina, Croatia and Serbia is in progress. Bosnia and Herzegovina supports the EU Council Decision advancing universal support for the International Criminal Court³⁷. Bosnia and Herzegovina is under the monitoring of the Parliamentary Assembly of the Council of Europe (CoE) in fulfilling the obligations and commitments relating to its membership of the CoE, which are considered as insufficient. Significant progress was made with 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. Approximately 10,000 people are still missing from the conflict in Bosnia and Herzegovina. Regional cooperation and good neighbourly relations form an essential part of Bosnia and Herzegovina's process of moving towards the European Union. Active participation in regional initiatives is continued³⁸. Bosnia and Herzegovina continues to actively support the Igman initiative on reconciliation, which brings together NGOs from Bosnia and Herzegovina, Croatia, Serbia and Montenegro and the RECOM initiative³⁹.

³⁵ *Idem*.

³⁶ *Idem*.

³⁷ Bosnia and Herzegovina still maintains the 2003 bilateral immunity agreement with the United States granting for US citizens exemptions from the jurisdiction of the International Criminal Court.

³⁸ The South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty, the European Common Aviation Area Agreement and the EU Strategy for the Danube region.

³⁹ Regional Commission for Establishing the Facts About Victims of War in Former Yugoslavia.

Bilateral relations with other enlargement countries remained stable, especially with Croatia, Serbia, Montenegro and Turkey. With Croatia some limited progress was achieved in resolving outstanding issues, including on the use of the port of Ploče, border demarcation, property issues, dual citizenship and refugee return. Relations with Montenegro have continued to improve. The delimitation of the border remains pending with Montenegro and Serbia. Republika Srpska and Serbia have Parallel Relations Agreement. As Bosnia and Herzegovina has not recognized Kosovo as an independent state, there are no official relations with Kosovo.

Croatia

Croatia made the biggest progress among all West-Balkan countries in its EU integration. As of 1st of July 2013 Croatia will become 28th EU member state.

Public administration is in the process of the reform under the State Administration Reform Strategy and there had been some improvements. An Ombudsman position was empowered by the creation of the follow-up mechanisms of his recommendations. Process of the reform of judiciary system is under way and it takes good steps toward successful completion. Particular steps were taken in the sense of the independence of the judiciary. The State Judicial Council (SJC) and State Prosecutorial Council (SPC) were reformed and further empowered. Nevertheless, further steps are to be taken in order to ensure proper implementation of the disciplinary rules and procedures and their transparency.

Specific area of the war crime cases is under the new strategy that puts these cases as the priority cases on national and regional level. Additionally, Croatia has adopted new measures in the area of witnesses' protection. Finally, new four courts specialized for the war crime cases are competent for all new cases and they use the evidences collected at ICTY. Corruption prevention is under legislative framework of the anti-corruption action plan. Croatia has undertaken high number of measures to ensure an implementation of this action plan. Transparency was more increased with implementation of new law on financing of political parties and campaigns for the elections. In that regard, further empowerment of the State Electoral Commission is needed. Conflicts of interest was often seen as major problem in state owned companies, but with new Law on Conflict of Interest there have been laid down the rules on depolitized appointments of supervisory boards. Implementation of the adopted rules is supported with fully staffed Office for the Fight against Corruption and Organized Crime (USKOK) and the Police National Office for the Suppression of Corruption and Organized Crime (PNUSOK). Good example of implementation

of anti-corruption policy is the case against former Prime Minister that is under way and several more midlevel cases.

In the period 2010-11 there were 22 judgments from the European Court of Human Rights (ECtHR) concerning violation of the rights guaranteed by the European Convention on Human Rights (ECHR).⁴⁰ Torture and ill-treatment prevention is under new legally framework after the adoption of the new Law on Police. Responsibility of the police and transparency are now on the higher level. Impunity of the war crime remains one of the major concerns. Prison system is in the process of reform and there are plans on the expansion of the facilities. In the area of access to justice, amended law makes application forms concerning legal aid are made more user-friendly and therefore there is an increase of the legal aid cases. As regard to the freedom of expression, new Media Law provides for the greater transparency of the media ownership, but they are still under constant pressure and political interference. These cases concern mostly the journalists who were investigating the case of corruption and organized crime. Freedom of assembly and association is hampered due to the incidents during the Gay Pride in Split. In that regard there are huge number of NGOs that try to promote fundamental freedoms and rights. Finally, exercising of the freedom of thought, conscience and religion was particularly good apart from few cases in the field of three religious communities in 2007. Some improvements have been seen in the area of the protection of women's rights and gender equality concerning approximation of law with EU *acquis*. The Ombudsperson for Gender Equality is merged with the Office of the Ombudsman. Related to the women's rights, the protection of all forms of violence against women needs to be strengthened. Lack of information concerning the rights of the victims of family violence still exists. The position of women is further weakened having in mind the percentage of unemployed women and their position on the labour market. Progress on children's rights is seen in the active engagement of the Ombudsperson for Children in promoting their rights, especially concerning family violence where they are mostly involved⁴¹. The newly adopted Social Welfare Act makes some improvements on the social inclusion of socially vulnerable persons and/or persons with disabilities, but there is still lack of information on social welfare, health care and pension insurance rights and entitlements. Croatia has adopted

⁴⁰ Particularly, there were violations of the following articles from the ECHR: Article 6 (length of the proceedings), Article 8 (right to respect for private and family life), Article 46 ((binding force and execution of judgments) and article 14 (prohibition of discrimination) in conjunction with article 9 (right to freedom of thought, conscience and religion). In addition, there was one case sensitive in manner that it concerned violation of the right to life guaranteed by Article 2 of the person of Serbian ethnicity.

⁴¹ Ombudsperson for Gender Equality, the Ombudsperson for Children is merged with the Office of the Ombudsman.

new Anti-Discrimination Law and legislation on hate crimes. The most affected by discrimination are following social groups: lesbians, gays, bisexual and transgender people (LGBT) who face daily threats and attacks. Significant progress has been made as regard to labour and trade unions rights. Protection of minorities and cultural rights is currently at good level. However, there are still some concerns such as limited access to the public sector employment and schooling. Special attention is given to the Serb minority where there is a decrease in ethnically motivated attacks, but there are still numerous cases of vandalism against monuments for war victims. Additionally, limited access of Serb minority to public service remains on high level. As for the Roma minority, some progress was made in pre-school education access, but there are still many cases of discrimination. Process of refugees return has been good. Majority of the refugees are Serbs and there has been registered over 130,000 returnees which is around half of those who were expelled till 1995⁴².

Conformity with the Dayton/Paris and Erdut Peace Agreements and cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) are on the good step. Croatia was not able to fully deliver the missing military documents to ICTY. In 2011 ICTY has adopted decision on war crimes against Croatian Generals Gotovina and Markač⁴³. This and other similar events have showed that Croatia is still not fully prepared to create positive climate for more productive reconciliation process after the war. As for the cooperation on criminal matters and with judicial authorities on bilateral and regional level, one can say that it is on satisfactory level. There is a regular cooperation with Serbia and Bosnia and Herzegovina. In addition, Bosnia and Herzegovina, Serbia, Croatia and Montenegro cooperate within the Sarajevo Declaration Process⁴⁴. Although, Croatia has made some progress on resolving the problems of missing persons, there is still large number of unidentified person's remains. Participation in regional initiatives remained on high level⁴⁵. Bilateral relations with former Yugoslav republics are especially good when we talk about the cooperation with Bosnia and Herzegovina. Progress in relations with Serbia has been made. Meetings on high level between the presidents of two countries have shown good

⁴² For those who returned there is a special housing program under Action Plan on the Housing Care Program for returning refugees/former tenancy rights holders.

⁴³ The ICTY case IT-06-90-T, judgement from 15th of April 2011, which has met huge protests in Croatia.

⁴⁴ Sarajevo Declaration aims to find solutions for those refugees who were misplaced due to armed conflict in ex-Yugoslavia between 1991 and 1995.

⁴⁵ EU Strategy for the Danube Region, the South-East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation Area Agreement.

intentions on the future good relations. However, the issue of investigation and prosecution of war crimes against citizens of the other country have periodically burdened bilateral relations. Secondly, Serbia counter-suit against Croatia before the International Court of Justice on genocide allegations and this proceeding is still pending. Relations with Slovenia have improved. The Arbitration Agreement on the border entered into force in 2010. As for the Ljubljanska Banka/SFRY Succession Agreement (guarantee of foreign currency deposits), Croatia agreed to continue negotiations on the issue at the Bank of International Settlements in Basel.

Former Yugoslav Republic of Macedonia

Dialogue between political parties was on stake due to the boycott of the Parliament. Social Democratic Union of Macedonia (SDSM) together with opposition parties boycotted work of the Parliament. Despite the boycott, two ruling parties - Internal Macedonian Revolutionary Organisation (VMRO-DPMNE) and Democratic Union for Integration (DUI) managed to adopt over 200 acts, among them - amendments to the Constitution, the Electoral Code and the Law on Lustration.

Members of the Parliament are enabled to greater access to information, but still needs to become operational. Oversight of intelligence and counter intelligence services is on the low level. FYROM has adopted new Law on Lobbying, but it provides selective access to interest groups. The elections held in April 2011 showed that polarization of the parties that are exclusively along ethnic lines still remaining⁴⁶. The new Government started actively working on the European integration process, but the adopted National Program for the Adoption of the Acquis (NPAA) does not bring any specific deadlines, staffing requirements and budgetary implications. The main five priorities of the Government were laid down in the Government Work program 2011-15⁴⁷. Process of decentralization continued under the new Government. Newly adopted Law on management provides for capacity-building programs to assist municipalities in the areas of property tax administration, human resources and financial control. Social care services are still to be centralized, because they are still governed by the Ministry of Labour and Social Policy. There was progress as regards the framework for

⁴⁶ Some of the recommendations from ODIHR were addressed before the elections.

⁴⁷ This programme aims: increasing economic growth, integration into the EU and NATO, fighting against corruption and economic crime, maintaining good interethnic relations on the basis of the Ohrid Framework Agreement, investment in education, science and a knowledge based society.

public administration. The Law on public servants entered into force and was further amended and harmonized with the Law on civil servants.

Although the government took steps to address the excessive use of temporary staff, a number of questions remain open. A lack of consistency in applying requirements regarding education or experience was observed in a number of cases; some requirements appeared to be tailor-made for particular candidates. Similarly, hiring of new temporary staff in many instances did not comply with the procedures laid down by law.

The payroll system in the PA remained fragmented, affecting the unity and mobility of the civil and public service. The practice of paying ad hoc allowances to public servants for assuming certain types of tasks pertaining to their job duties continued to lack transparency and proper justification.

About 1,600 civil servants from the non-majority communities have been assigned to the civil service since February 2011 to comply with the principle of equitable representation. However, the trend of recruiting employees from these communities on a quantitative basis without regard to the real needs of the institutions continued.

There was some progress on police reform with the entry into force of the Act on Systematisation. It provides the basis for strengthening the efficiency of police; however additional human resources are needed in order to implement it. After conducting a performance evaluation process, a merit-based career and appraisal system was introduced. At the same time, a large number of positions were filled without publishing vacancies, which raised doubts about a transparent and merit-based process.

Judicial system

The Minister of Justice's voting rights on the Judicial Council were removed in line with European Standards and his *ex officio* participation on the Council of Public Prosecutors was abolished. A judicial reform package was enacted consisting of a new Criminal Procedure Code and amendments to the Law on courts, the Law on the Judicial Council, the Law on administrative disputes, the Law on the court budget and the Law on the court service, and amendments to the Law on Litigation entered into force. The purpose of the new Criminal Procedure Code is to improve the efficiency of criminal procedures by strengthening the role of the public prosecutor, establishing a judicial police, streamlining the investigation phase and introducing new investigative techniques. It aims to

considerably improve the capacity to tackle complex organized crime and corruption cases.

Amendments to the Law on Litigation entered into force in September 2011, introducing electronic service of documents, audio recordings of hearings, tighter procedural deadlines, the use of a preparatory hearing and an obligation on courts to inform the parties of the possibility of mediation. The changes aim at improving the civil procedure in order to shorten the duration of court proceedings, as well as promoting alternative dispute resolution. The amendments to the Law on Courts and the Law on the Judicial Council refined or introduced measures to ensure the competence of judges, including minimum educational and professional requirements, psychological and ethics testing and annual evaluation criteria. The amended Electoral Code introduced a requirement to submit financial reports for all election campaigns to the relevant authorities. However, the Law on financing of political parties still remains to be amended. The case of high level corruption concerning the former Director of the Public Revenue Office was completed when the conviction was confirmed by the Supreme Court⁴⁸. The capacity of the judiciary to deal with sensitive high level corruption cases remains weak. Transparency of public expenditure remains unsatisfactory and the internal control mechanisms in public administration remain critically weak. The State Commission for the Prevention of Corruption (SCPC), the Anti-corruption Unit within the Organized Crime Department of the Ministry of Interior and the Basic Public Prosecutor's Office for the Fight against Organized Crime and Corruption all remain understaffed and underfinanced. No progress was made as regards the ratification of international human rights instruments. The European Charter for regional or minority languages has still not been ratified. During the reporting period, the European Court of Human Rights (ECtHR) delivered 8 judgments finding that the Former Yugoslav Republic of Macedonia had violated rights guaranteed by the European Convention on Human Rights (ECHR). Limited progress can be reported in the promotion and enforcement of human rights. The implementation of legal framework was uneven⁴⁹. Legislative provisions in the area of prevention of torture and ill-treatment and the fight against impunity are yet to be translated into a consistent and comprehensive practice. Systemic deficiencies remain with regard to

⁴⁸ The four other high-level corruption cases in which the defendants (including a former prime minister, a former minister of defense and a former governor of the National Bank) had previously been sentenced to imprisonment, were quashed on appeal and returned to the first instance courts for retrial, due to insufficient examination of the facts.

⁴⁹ In November 2010 the country concluded its chairmanship of the Council of Europe Committee of Ministers. The country's program focused on the three priorities of strengthening human rights protection, fostering integration while respecting diversity, and promoting youth participation.

combating impunity within the law enforcement agencies. The effectiveness of prosecutors and judges in taking appropriate action when there are indications of ill-treatment by the police remains a concern. Knowledge of international and European standards among police officers is low and safeguards against ill-treatment in police stations are not adequately enforced⁵⁰. In the field of prison system reform an annual program is adopted, but overcrowding and poor health-care remain causes for concern. The first year of implementation of the Law on legal aid has helped to improve access to justice. The overall constitutional and legal framework for the protection of freedom of expression is generally in place, but attention needs to be paid to ensuring that its implementation is consistent, transparent and in line with the case law of the European Court of Human Rights. As regards the media, the first independent trade union of journalists and media employees has been established. However, media ownership remains opaque, highly concentrated and with strong political links. Editors and journalists are faced with increasing undue political pressure and intimidation. With regard to freedom of assembly and association, the overall situation is satisfactory. Involvement of civil society in the policy development process and in legislative drafting is making modest progress. As regards freedom of thought, conscience and religion, 28 religious entities were registered under the Law on the legal status of churches, religious communities and religious groups, while 6 were rejected. As regards women's rights and gender equality, implementation of the national strategy against domestic violence has continued. However, participation of women in political life at local level remains low. Roma women and girls still suffer from both racial and gender discrimination. Some progress was made in the area of children's rights. The percentage of children living under the poverty line rose further to nearly 37%. Concerning socially vulnerable persons and/or persons with disabilities, efforts have been made towards deinstitutionalization, but material conditions and inhumane and degrading treatment in psychiatric institutions remain a concern. The implementation of the national strategy on equality of rights of people with disabilities 2010-2018 has not progressed. Some progress can be reported in the area of anti-discrimination policies. However, the law on anti-discrimination remains to be fully aligned with the *acquis*. Discrimination on grounds of sexual orientation is still omitted. As regards labour and trade unions rights, there are 39 trade unions listed in the register. However, the capacity of social partners has not improved, as trade unions still do not have stable finances and management capacity. As regards property rights, the process of returning property confiscated during the period of the Socialist Federal Republic of Yugoslavia continues to extend substantially beyond the legal deadlines. The Constitutional Court annulled the retroactive effect of the

⁵⁰ Decisions by the ECtHR requiring an independent mechanism for oversight of the police, in the light of ill treatment of the Roma population, have still not been implemented.

amendments to the Law on denationalization. As regards minorities, the 10th anniversary of the Ohrid Framework Agreement (OFA) provided an important opportunity for enhanced dialogue between the communities in the country. Some progress was made in the implementation of the Law on the use of Languages spoken by at least 20% of the citizens. In parliament, implementation of the Law on Languages made headway. Inter-ethnic relations were strained by certain incidents. The administrative capacities and visibility of the agency for protecting the rights of minorities which represent less than 20% of the population have increased slightly. The overall number of civil servants from the non-majority ethnic communities reached 30%, which is broadly in line with the demographic structure. Efforts were made to increase the representation of the smaller communities in the civil service, notably the Roma and the Turkish community. Some progress can be reported in the area of Roma inclusion. However, allegations of police brutality and excessive use of force towards the Roma continued.

The Former Yugoslav Republic of Macedonia continues to cooperate fully with the International Criminal Tribunal for the former Yugoslavia (ICTY). There are no remaining cases or appeals pending in The Hague. The Former Yugoslav Republic of Macedonia has aligned with the Council Decision advancing universal support for the International Criminal Court and promoting the widest possible participation in it⁵¹. The country remained fully engaged in regional initiatives⁵². The Former Yugoslav Republic of Macedonia continues to play a constructive role as regards bilateral relations with neighbouring Member States and other enlargement countries. Relations with Albania, Bosnia and Herzegovina, Montenegro, and Serbia remained good. However, Serbia continued to maintain its policy of no recognition of the border demarcation agreement between the Former Yugoslav Republic of Macedonia and Kosovo. Unresolved issues remain concerning relations between the Orthodox churches. Relations with Kosovo intensified further. Relations with Greece remained close, particularly in the economic sphere, but they continued to be adversely affected

⁵¹ However, FYROM still maintains the 2003 bilateral immunity agreement with the United States granting exemptions for US citizens from the jurisdiction of the International Criminal Court. This does not comply with the EU Common Positions on the integrity of the Rome Statute or the related EU guiding principles on bilateral immunity agreements.

⁵² The South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation Area Agreement. The country signed the additional protocol for further liberalization of agriculture under the CEFTA agreement. The country continued to contribute to the EU ALTHEA mission in Bosnia and Herzegovina.

by the unresolved name issue. The country remains engaged in talks, under the auspices of the UN, as well as through direct meetings of the prime ministers, in order to resolve it. The hearings started on the legal proceedings initiated by the country against Greece before the International Court of Justice in The Hague regarding the bilateral interim accord of 1995.

Albania

Political scene in Albania is largely disturbed due to the very low level of cooperation between ruling majority and opposition in the Parliament. The elections held in 2009 were considered to be organized with recognition of the most of international standards as stated by OSCE-ODIHR. Nevertheless, post-election period was followed by protests which created unstable political atmosphere. Reason for violent demonstrations was controversial counting of votes. Despite these election outcomes, government managed to make some achievements regarding EU accession process. Joint agreement on Action Plan based on the Commission's recommendations from 2010 between ruling majority and opposition was positive step forward.

Improvements of internal functioning of the Parliament are made in sense of rule on limited number of amendments on rules of procedure and transparency. Even though, large majority in Parliament agreed on trust between ruling and opposition side remained on the level after controversial elections from 2009. Further, there had been adopted more rigid measures against the MPs and there has been an attempt to create European Committee ruled by opposition with an aim to work on Opinion on process of European Integration. Process of appointment to the Constitutional Court and High Court remained burning issue, because it is imbued with politicization. Government is administered by two parties - Democratic party (DP) and the Socialist Movement of integration (SMI). Some progress was made by the Ministry of European Integration which prepared Action Plan containing the priorities of the Opinion. However, the Action Plan is still in the process of adoption in the Parliament. Secondly, the National Plan for the Implementation of the SAA 2009-2014 was adopted, but it does not cover all the chapters from EU law approximation and therefore it is insufficient as a guide in the process of European integration. Some limited progress can be reported in the area of public administration reform. The Government has adopted a policy paper exploring various changes to be put in place by means of a new Law on the Civil Service⁵³. No progress was made on the appointment of the Ombudsman, which has been pending since February 2010. A Judicial Reform Strategy and Action Plan were adopted. However, relevant legislation such as the law on

⁵³ Commission staff working paper, Albania 2011 progress report.

administrative courts and amendments to the criminal code, which requires a three-fifths majority vote in Parliament, is pending. No further progress has been made as regards the independence of the judiciary. The process of appointing judges to the High Court and the Constitutional Court remains an issue of concern in terms of the length the process and most of all in terms of the risk of politicization. As regards impartiality, a computerised case management system and random allocation of cases in criminal and civil procedures are in place in most judicial offices. In relation to accountability in the judiciary, the issue of overlap of inspection powers between the inspectorates of the HCJ and of the Ministry of Justice (MoJ) is still unresolved. No progress has been made in combating corruption within the judiciary. In relation to the strategic policy approach on corruption, a new anti-corruption action plan for the period 2011-2013 was adopted in June 2011. There has been progress in strengthening the legal framework by implementing recommendations of the Group of States against corruption (GRECO) related to the issue of incrimination and political party financing. The institutional framework to combat corruption has been further developed.

Albania has continued the process of ratification of international human rights instruments by ratifying the Council of Europe Convention on Human Rights and Biomedicine. Ratification of the UN Convention on the Rights of Persons with Disabilities, signed in December 2009, is still pending. Delays in application and non-compliance with judgments of the European Court of Human Rights (ECtHR) are an issue of concern. Albania's respect for human rights continues to be monitored by international bodies. Taking additional measures to improve the treatment of detainees in police stations, pre-trial detention and prisons; strengthening the judicial follow-up of case of ill-treatment and improving the application of recommendations of the Ombudsman in this field is a key priority of the Opinion. Cases of ill-treatment and excessive use of force continue to be reported. Mentally ill persons convicted of crime and under obligatory treatment continue to be held in the Institute of Kruja. Some progress has been made concerning the prison system. However, important problems remain, particularly with regard to poor conditions in some older prisons and pre-trial detention centres. As regards access to justice, a memorandum of understanding was signed in March 2011 between the State Commission for Legal Aid and the Commissioner for Protection from Discrimination to set provisions for free legal assistance for victims of discrimination. Freedom of expression continues to be generally respected, although progress in this field has been very limited. There have been developments in the field of freedom of thought, conscience and religion, which continues to be respected⁵⁴. In November 2010, the Albanian

⁵⁴ Idem.

Evangelical Alliance became the fifth official religion alongside the Sunni Muslim, Bektashi, Orthodox and Catholic religions. Some progress has been made regarding women's rights and gender equality. However, the gender quota was not respected throughout the country in the May 2011 local elections. Progress in the treatment of socially vulnerable and/or persons with disabilities are insufficient. Individuals with mental disabilities still do not have an official status. Some limited progress has been made regarding the implementation of anti-discrimination policies. Property rights remain an issue of great concern. In order to integrate the electronic databases for land and property, the Government has committed to establish the Register of Territory. However, specific technical measures and legal instructions have yet to be put in place. There has been very limited progress in the field of protection of minorities. In May 2011, Albania changed the format of its civil status certificates; these no longer include the notion of "nationality" or ethnicity of individuals, but only their citizenship. Some minority representatives expressed concern over this initiative.

Albania has undertaken to cooperate fully with EULEX for a complete investigation of the allegations raised in the resolution adopted by the Parliamentary Assembly of the CoE on inhuman treatment of people and illicit trafficking in human organs in Kosovo, while at the same time rejecting the allegations. Regional cooperation and good neighbourly relations form an essential part of Albania's process of moving towards the European Union. Albania continued to take part actively in regional initiatives⁵⁵. In this context, it supported the proposal to create a visa-free zone between the participating states that would allow citizens to travel with biometric ID cards only. Albania has completed the process of establishing visa-free regimes with all the countries of the region.

CONCLUSION

Although West-Balkan was the most problematic area in Europe from 1991, it became since 2000 overall stable. All countries now have clear determination towards EU integrations. However, not all of them progressed equally. Serbia, who was behind now has a candidate status and waits opening of the membership talks. The biggest challenge will be its relation with its province of Kosovo* who proclaimed its self-independence. Moreover this issue is the main political condition for further Serbian integration in the EU. Croatia had the biggest

⁵⁵ South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty and the European Common Aviation Area Agreement. Albania held the Presidency of MARRI (the Migration, Asylum, Refugees Regional Initiative) until May 2011.

progress and becomes 28th EU member state from 1st of July 2013. Montenegro starts membership talks, but still faces problems in the area of justice and fight against corruption and organised crime. Albania faces political crisis which blocks its progress. In FYROM, interethnic stability seems to be in place but still vulnerable. The name dispute with Greece remains important obstacle. As for Bosnia and Herzegovina, its complicated political structure slows the progress and reduces its functionality. Moreover it remains ethnical divided without capacity for unanimous decisions. Generally, after “Arab spring” in 2011, West-Balkan ceased to be in focus of the EU and became a “victim” of its own stability. New economic crisis in the EU slowed the EU enthusiasm and opened new set of political conditions for this region. Existing criteria will be surely more strictly examined, in particular legal and economic.

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