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## SERBIA AND THE EUROPEAN UNION—START OF LONG MEMBERSHIP TALKS?

### ABSTRACT

European integration is the main foreign policy goal of the Republic of Serbia from 2000. In this sense, the author analyses what will happen after the beginning of the EU negotiation process of the Republic of Serbia and its institutional frameworks for the membership talks.

The author gives some predictions of this process, especially having in mind public opinion polls in the EU leading countries (Germany, France and the United Kingdom) dealing with enlargement, economic crises and other problems in the EU and region of the Western Balkans.

*Key words:* Serbia, European Union, EU negotiations, membership, *acquis communautaire*, Western Balkans.

Serbia's commitment to EU membership became evident after the change of power in Belgrade on 5 October 2000 and the end of the armed conflicts at the territory of the former Yugoslav Federation (1991-1999). This orientation has gradually become a kind of *mainstream* foreign policy aspirations of all countries that have emerged in the Western Balkans.<sup>3</sup> The European Union was seen as the main instrument to ensure the political, economic and democratic stability of all countries.

Over the past decade, Serbia's path to EU membership was often delayed due to certain political issues, related to the legacy of the disintegration processes of the former

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SFR Yugoslavia. For nearly a decade, Serbia has been oriented towards ending cooperation with the International Criminal Tribunal for crimes committed in the former Yugoslavia, as well as addressing issues related to the (dys)functionality of the former two-member Federal Republic of Yugoslavia (2000-2003) and the State Union of Serbia and Montenegro (2003-2006). The second half of the last decade and the beginning of this one were characterized by the problems related to defining the final status of Kosovo, which, according to many estimates, had the highest impact on slowing down the European integration process, especially after 2008, when this entity, under the protection of the United Nations, unilaterally declared its independence.<sup>4</sup>

However, despite the obvious delay compared to the Western Balkans, especially Croatia and Macedonia, in the past few years Serbia has managed to accelerate the accession process and, besides Montenegro, become a kind of European integration leader to the rest of the Western Balkans. At this moment, behind Serbia in this process are Albania, Bosnia and Herzegovina and Macedonia. After receiving *the Feasibility Study* (25 April 2005), Serbia also concluded the *Stabilisation and Association Agreement with EU* (29 April 2008). One of the most important milestones in the process of European integration of Serbia is certainly obtaining a candidate status on 2 March 2012, but definitely the most important element in this process will be getting the date for start of membership talks, which are expected in late June this year.<sup>5</sup> Although the mentioned date for starting accession negotiations is questionable, given the certain resistances in the leading countries of the EU, especially in Germany, as well as the ending of the treaty on the implementation of the agreement between the authorities in Belgrade and Priština related to the formation of the Association of Serb Municipalities in Kosovo,<sup>6</sup> eventual start of negotiations on Serbia's membership in the EU would contribute to the continuation of intensive reforms in the country, further harmonization of national legislation with the EU *acquis* and stabilization of the situation in the Western Balkans.

It is reasonable to expect that a very complex process of membership negotiations will certainly take several years, perhaps a decade.<sup>7</sup> However, it should be noted that this event is a milestone in the process of European integration. On the other hand, Serbia has very good institutional capacities to implement European reforms and gradually regulate a number of open issues related to the process of internal modernization.

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<sup>4</sup> Dragan Đukanović, "Spoljnopolitički prioriteti Republike Srbije u bilateralnim i multilateralnim odnosima sa susedima", in: Edita Stojić-Karanović i Slobodan Janković (urs), *Elementi strategije spoljne politike Srbije*, Institute of International Politics and Economics, Belgrade, 2008, pp. 85-105.

<sup>5</sup> On the course of the accession of Serbia to the European Union see: „Serbia: Membership status, Candidate country“, Internet, [http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm), 15/04/2013.

<sup>6</sup> The Agreement between authorities in Belgrade and on forming the Association of Serb municipalities in Kosovo see on *web* portal – <http://www.politika.rs/rubrike/tema-dana/Sta-pise-u-sporazumu.lt.html>, 21/04/2013.

<sup>7</sup> This has been confirmed by the experiences of Romania, Bulgaria (five years) and Croatia (six years). However, it should be noted that these countries did not have many internal political problems and difficulties.

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Given the complexity of the political situation in Serbia and the Western Balkans, one should expect that this process will be followed both by further policy conditionality of the European Union, and the desire of mostly all neighbouring countries (Croatia, Hungary, Romania and Bulgaria) to implement the “second line” of conditioning of country in order to regulate certain problems in bilateral relations. Also, the future negotiations between Belgrade and Priština on certain sensitive issues, such as status of state property of Serbia in Kosovo, the position of the Serbian Orthodox Church, and mostly the issues related to Kosovo’s membership in international organizations (United Nations, the Council of Europe, the Organization for Security and Cooperation, etc.) can contribute to the slowdown of the negotiations with the European Union.<sup>8</sup>

## **Initiation and the Process of Negotiations on Serbia’s Full EU Membership**

On 22 April 2013, the European Commission recommended starting of negotiations of Serbia and EU on full membership (*Negotiation Framework Proposal*).<sup>9</sup> This opinion was sent to the Council of the European Union to make a decision on this, which will then be confirmed by the European Council, which will set a date for the start of negotiations and organization of the Intergovernmental Conference. Only after completion of this procedure Serbia can get a date for start of EU membership talks.<sup>10</sup>

Membership negotiations between a candidate country and the European Union imply full interiorization of all legal acts of the European Union. This *acquis* includes founding treaties, regulations, directives, decisions, recommendations and opinions. There are also judgments of the European Court of Justice, international treaties and general legal principles.<sup>11</sup>

The next, very important step will be screening, which represents analytical overview of harmonization of legislation of Serbia in relation to the EU *acquis*. This refers to the thirty five (35) chapters of negotiations, which are being individually opened and closed. All chapters are closed temporarily, as they may be revised by the end of closing of the final chapter.<sup>12</sup>

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<sup>8</sup> “Novi sastanci s predstavnicima Prištine u maju“, *Beta*, 29 April 2013, 14:17. Internet - <http://www.akter.co.rs/25-politika/38817-novi-sastanci-s-predstavnicima-pritine-u-maju.html>, 21/04/2013.

<sup>9</sup> On negotiations for membership in the European Union see more in: Tanja Mišćević, *Pridruživanje Evropskoj uniji*, ESPI – Institut za ekonomska i socijalna istraživanja, Belgrade, 2005, pp. 160-162.

<sup>10</sup> On negotiations between Croatia and Montenegro with the European Union see the following web sites: “Kako smo pregovarali?“, Ministry of Foreign and European Affairs of the Republic of Croatia, Internet, <http://www.mvep.hr/hr/hrvatska-i-euopska-unija/kako-smo-pregovarali>; “Pregovori o pristupanju Crne Gore Evropskoj uniji“, Ministry of Foreign Affairs and European Integration of Montenegro, Internet, <http://www.mip.gov.me/index.php/Opste/pregovori.html>, 29/04/2013.

<sup>11</sup> „Pregovori o pristupanju Crne Gore Evropskoj uniji“, Ministry of Foreign Affairs and European Integration of Montenegro, op.cit.

<sup>12</sup> See the list of mentioned chapters in the appendix at the end of the paper.

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Screening can be *multilateral*, and presents an overview of European legislation and comparison with national legislation, as well as *bilateral*, meaning presentation of Serbian national legislation.<sup>13</sup> This process is followed by adoption of the screening report, which determines the degree of (non)compliance of European and national, in the case Serbian legislation.

At the same time, the European Union, that is, the European Commission also determines benchmarks for opening and start of the negotiations under individual chapters. It is expected that Serbia in the process of membership negotiations with the EU will first open the Chapter 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security). Experience of Montenegro during the EU membership negotiations shows that Chapters 23 and 24 were opened, and then the Chapter 25 – Science and Research. However, it is important to emphasize that the absence of application of criteria in Chapters 23 and 24 may suspend negotiations on all the other chapters.

The schedule of numerous chapters for negotiations on the EU membership of a country differs from one candidate country to another. In this sense, one takes into account the specific peculiarities of a candidate country (*tailor-made approach*). Within the preface of Chapters 23 and 24, there are also interim benchmarks, based on which evolves the progress in the harmonization of legislation of the candidate country with the EU acquis. After this follows the preparation of reports on the closure of a chapter, and closing benchmarks are defined. Closure of chapters is related to the decision of the Intergovernmental Conference. Moreover, in addition to harmonizing national legislation with the EU aquis, during the accession negotiations attention is also paid to the implementation of the adopted legislation.

In order for negotiations on EU membership of a candidate country to be successful, transitional periods are determined, which provide that certain criteria can be implemented even after gaining the full membership. These transitional periods cannot compromise the EU founding principles – free movement of services, people, goods and capital.

This procedure is the same for all 35 chapters, after which follows the adoption of the final opinion of the European Commission and delivering of the report to the European Council regarding the signing of the accession treaty. The European Parliament must also agree on this. Upon completion of this process, ratification of the accession treaty by the candidate country and all European Union member states follows.<sup>14</sup>

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<sup>13</sup> Research interview with Vladimir Međak, MA, Assistant Director of the Office for European Integration of the Government of the Republic of Serbia.

<sup>14</sup> Duško Dimitrijević, “Process of integration of the Republic of Serbia with European Union”, in: Miroslav Antevski, Dragana Mitrović, (eds), *Western Balkans: From Stabilisation to Integration*, Institute of International Politics and Economics, Belgrade, 2012, pp. 53-62.

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## Forming of Negotiation Team and Working Groups for Negotiations on Membership

After getting the date of start of negotiations between Serbia and the EU, the Negotiation Team will be formed, which, according to the experience of our neighbouring candidate countries, should be competent for the European integration process. The Negotiation Team should be independent from political office-holders in Serbia, and not connected to any changes of power in the candidate country. On behalf of Brussels administration, negotiations will be led by chairman of the EU Council of Ministers. Also, it is very important that there is a broad social consensus in the candidate country on European integration, which implies a kind of agreement between political factors of the government and the opposition.

Since 2007, working groups for negotiations within the structure of the Coordination Body have been formed,<sup>15</sup> and the following year *the National Programme for Integration* was adopted, which was in force until 31 December 2012.<sup>16</sup> It is important to emphasize that *the National Programme for the Adoption of the EU acquis* was adopted in February this year, and it foresees acceleration of harmonization of Serbian legislation with the EU acquis in all areas.<sup>17</sup>

Serbia currently has 35 formed working groups. Working groups for negotiations are led by the state secretaries in the competent ministries of the Government of the Republic of Serbia, and they will determine the positions of our country in the negotiations with the Union. The formation of these intergovernmental working groups is essential, for they will be dedicated to certain negotiation chapters. Working groups, after internal compliance, submit their opinions to the Negotiation Team, and the competent ministry, in cooperation with the Negotiation Team, will propose solutions to the Serbian government related to the course of negotiations on individual negotiation chapters.

The course of negotiations between Serbia and the EU in the future period, as always, will be evaluated in the report of the European Commission on progress of the country towards EU membership, and as noted before, in the screening report.<sup>18</sup>

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<sup>15</sup> “Odluka o osnivanju Koordinacionog tela za proces pristupanja Evropskoj uniji”, *Official Gazette of the RS*, No 95/2007. The valid Decision was published in the *Official Gazette of the RS*, No. 93/2012.

<sup>16</sup> “The National Programme for the Integraion of the Republic of Serbia in the European Union“, Belgrade, 2008. See: Internet, <http://www.seio.gov.rs/dokumenta/nacionalna-dokumenta.203.html>, 29/04/2013.

<sup>17</sup> “Nacionalni program za usvajanje pravnih tekovina EU“, Belgrade, February 2013, Internet: [http://www.seio.gov.rs/upload/documents/nacionalna\\_dokumenta/npi\\_usvajanje\\_pravnih%20tekovina.pdf](http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npi_usvajanje_pravnih%20tekovina.pdf), 29/04/2013.

<sup>18</sup> “Zajednički izveštaj Evropskom parlamentu i Savetu o napretku Srbije u postizanju neophodnih kriterijuma za članstvo, a naročito ključnog prioriteta preduzimanja koraka ka vidljivom i održivom poboljšanju odnosa sa Kosovom“, European Commission and the High Representative of the EU for foreign policy and security, JOIN(2013) 7 Final, Brussels, 22 April 2013, Internet: [http://www.seio.gov.rs/upload/documents/Izvestaji/2013/izvestaj\\_ek\\_april%202913.pdf](http://www.seio.gov.rs/upload/documents/Izvestaji/2013/izvestaj_ek_april%202913.pdf).

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## From Negotiations to EU Membership – Numerous Challenges before the Republic of Serbia

Despite the obvious commitment of the Government of the Republic of Serbia to accelerate the European integration process, one should be wary of the fact that the region is still very unstable, with a number of problems that are related to both inter-ethnic tensions and a number of outstanding bilateral issues in the region. In addition, one should keep in mind the obvious restraint of leading EU countries (Germany, France and Great Britain) on the new enlargements. Very bad experience after the “big” enlargement in 2004 and the accession of Romania and Bulgaria in 2007 resulted in the decrease of public support of these countries to “round up” the EU project by receiving all of the countries of the Western Balkans.<sup>19</sup> The global economic crisis, which to a great extent affected the EU, may influence the refusal of leading EU countries to receive economically very unstable countries of our part of Europe.<sup>20</sup>

Therefore, one should point to a number of potential problems which in the political sphere can influence the eventual slowdown of Serbia’s accession to the European Union. One of the major challenges, which Serbia will surely face, is the regulation of a number of remaining open issues with the authorities in Priština. Despite the recently concluded agreement on the formation of the Community of Municipalities of Kosovo between the Serbian authorities in Belgrade and Priština (19 April 2013), in the further course of the negotiations issues related to Kosovo’s membership in international organizations (United Nations, the Council of Europe, the Organization for Security and Cooperation, etc.), and the position of the state and private property, telecommunications, energy and the return of displaced persons will be opened.<sup>21</sup> An additional issue will be the status of the Serbian Orthodox Church in Kosovo, including the prevention of further devastation of its religious sites and the smooth running of this religious community. In this context, it is important that Kosovo, in accordance with the policy conditionality of the EU, secures the rights of Serbian and other non-Albanian people who live in it. The situation was similar regarding the approval of the start of negotiations on the Agreement on Stabilisation and Association of Kosovo to the EU, when numerous requirements of the European Union emerged.<sup>22</sup>

In addition to the aforementioned, any political instability in Serbia, the absence of an EU-wide consensus and potential insistence of neighbours, the EU member states (Hungary, Romania, Bulgaria and Croatia), in relation to the rights of their communities

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<sup>19</sup> Dragan Đukanović, Aleksandar Jazić, „Proširenje EU na Zapadni Balkan pod uticajem ekonomske krize i političkih prilika u regionu“, *Evropsko zakonodavstvo*, year XI, No. 42, Belgrade, 2012, pp. 297-312.

<sup>20</sup> Duško Lopandić, “‘Evrokriža’ i budućnost Evropske unije”, *Međunarodna politika*, year LXII, No. 1144, October-December 2011, pp. 8-18.

<sup>21</sup> See the statement of Mr Ivica Dačić, Head of the Negotiation Team of Belgrade authorities– “Novi sastanci s predstavnicima Prištine u maju“, op. cit.

<sup>22</sup> “Evropska komisija preporučila pregovore o SSP za Kosovo“, Radio-televizija Srbije, Belgrade, 22 April 2013, Internet: <http://www.rts.rs/> 29/04/2013.

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can result in a slowdown of the negotiation process.<sup>23</sup> Also, any inter-ethnic tension in southern Serbia (Preševo and Bujanovac), Raška/Sandžak and Vojvodina can be used as a model for a new EU conditionality policy, but also of our neighbours.<sup>24</sup> There are also issues of protection of sexual minority communities and organisation of their events.

Given the very bad experience in government relations between Ljubljana and Zagreb, related to Croatia's accession to the European Union, despite the official positions of the government of Croatia to support Serbia's European integration, it is expected that this country will post some additional conditions.<sup>25</sup> If we keep in mind that the two countries have accused each other of genocide before the International Court of Justice in the Hague, that they don't have established international border, as well as that position of refugees from this country to Serbia is still pending, the above-mentioned option is becoming more likely.<sup>26</sup>

In the following period Serbia should insist on consistency of individual approach of the EU towards the countries of the Western Balkans. In this sense, it is not acceptable, and it should be suppressed, to talk about the rest of the Western Balkans, after Croatia's membership in EU, as a "package" of countries, which after meeting the requirements for membership, should join together the European Union. On the contrary, very important is the mutual support between the countries of the Western Balkans related to the EU integration, but evaluation of their progress towards EU membership must be individual.

Additional problem related to Serbia's membership negotiations with the European Union may be the forthcoming elections for the European Parliament (2014), and the procedure of subsequent formation of the European Commission and other EU institutions. The above-mentioned would affect the EU's ability to make certain decisions in the future. This, however, can be bypassed if Serbia in June this year gets a date for start of accession negotiations with the EU.<sup>27</sup> The European Commission has traditionally avoided in the year of elections for the European Parliament to open and close accession negotiations with a new candidate country.

Upon completion of negotiations on membership in the European Union, Serbia will face the necessity of changing its constitutive act. Given the complexity of the

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<sup>23</sup> Romania has challenged the acquisition of candidate status of Serbia because of the position of the Vlach community in eastern Serbia. See: "Rumunija uvjetuje status kandidata Srbiji", *Al Jazeera*, Sarajevo, 28 February 2012, Internet: <http://balkans.aljazeera.net/vijesti/rumunija-uvjetuje-status-kandidata-srbiji>, 29/04/2013.

<sup>24</sup> *European Commission: 2012 Progress Report for Serbia*, SEC(2012) 333, Brussel, 10 October 2012.

<sup>25</sup> Enis Zebić, "Vučić u Zagrebu: Hrvatska potpora Srbiji za EU", *Radio Slobodna Evropa*, Prague, 29 April 2013, Internet: <http://www.slobodnaevropa.org/content/vucic-u-zagrebu-sa-hrvatskim-drzavnim-vrhom/24971023.html>, 30/04/2013.

<sup>26</sup> Brano Miljuš and Dragan Đukanović, *Dobrosusedski odnosi u svjetlu srpsko-bosanskohercegovačkog pitanja*, Institute of International Politics and Economic, Belgrade, 2012, pp. 172-173.

<sup>27</sup> Research interview with Vladimir Međak, MA, Assistant Director of the Office for European Integration of the Government of the Republic of Serbia.

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changes to the Constitution of the Republic of Serbia (2006),<sup>28</sup> success of the eventual referendum would be also questionable (given the current mood of public opinion), which could additionally complex the situation related to joining the EU.

The most important, though, is to keep Serbia on the path of European integration and to respect its geo-strategic position. This means that it is already surrounded by the EU member countries. The path to full membership in the EU will certainly be long and full of many challenges, but the final result will affect the new foreign policy position of the country, its strengthened credibility in the contemporary international relations, but also the internal modernization of the country.

## Conclusions and Recommendations

If Serbia gets the date of start of membership talks with the European Union in June this year, it will be very important that in addition to the technical preparations for this process all state agencies participate in them. In this sense, it is important *to develop good inter-agency coordination within the Government of the Republic of Serbia, as well as to form and then strengthen the capacity of the Negotiation Team.*

In addition to these procedural prerequisites, it is essential to strengthen the long-term strategic partnership with *the Federal Republic of Germany*, as the leading country in the EU, and the United States of America.<sup>29</sup> This partnership means that these states have a big impact on the future enlargement process. In this respect, significant progress has already been made after the formation of the new Government of the Republic of Serbia in mid last year. Second, very important aspect will be the *full and accelerated harmonization of national legislation with the EU acquis.* The assessment of the European Union on the fulfilment of the criteria for membership of Serbia in the EU will certainly depend on the success of this process.

The next important factor is the successful *completion of reforms in specific sectors* – public procurement, justice, minority rights, public administration reform, the fight against corruption, the media, etc. It is important, also, to continue the negotiations between the authorities in Belgrade and Priština on a number of the outstanding issues, but still in good spirit and the intent to improve the free movement of people, goods, services and capital, as well as the position of the Serbian people in Kosovo. *Addressing a wide range of outstanding issues* with its neighbours, must also be one of the most important goals in order to accelerate Serbia's EU integration process. This is very important in order to avoid possible blackmail capacities of these countries in Serbia's European integration process. Directly related to the above-mentioned is *the attempt to improve the overall and foreign policy reputation of Serbia in modern international*

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<sup>28</sup> "The Constitution of the Republic of Serbia", Chapter 9, Articles 203-205, *Official Gazette of the RS*, No. 98/06.

<sup>29</sup> "Srbija i EU – kako dalje?: trinaest preporuka za brži ulazak Srbije u Evropsku uniju", Centar za spoljnu politiku, Fondation *Friedrich Ebert*, Belgrade, 2012, pp. 13-21.



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*relations*, which due to the dissolution of the former Socialist Federal Republic of Yugoslavia was essentially collapsed.

In addition, a very important question is how to *preserve and present Euro-enthusiasm of Serbian citizens* during the very long and “exhausting” process of joining the European Union. This will not be simple at all, given the necessity of undertaking many “painful” moves by the Government. However, the role of the political elite of the government and the opposition is to persist on our path to the EU and to point out the benefits for the country and the citizens from the EU accession process.

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