

Serbia on Systemic Examination

A line of criticism, a line of commendation – is in a nutshell description of the latest Serbia 2010 Progress Report by the European Commission (EC) that is ultimately positive for Serbia.

The European Commission has published on November 9 the report on the progress of countries that seek membership in the European Union (EU), among which is Serbia along with Croatia, Bosnia and Herzegovina, Macedonia, and Montenegro. This report has been specially awaited in Serbia, because it was published immediately after the EU Council of Ministers at a meeting in Luxembourg on the October 25th passed on Serbia's candidacy for EU membership. The European Commission was requested to prepare an opinion on the readiness of Serbia to become a candidate for EU membership. Belgrade was waiting the report as evidence that the conditions to accept Serbia's candidacy for membership in the European Union is met.

Belgrade has been commended for the announced dialogue with Pristina and cooperation with neighbors, as well as the progress made in the fight against organized crime. On the other hand, Serbia is criticized for judicial reform and fight against corruption. **Milica Delevic**, Director of the Government of Serbia Office for European Integration believes that the report **“shows that certain progress has been made, but that Belgrade still has a lot to do”**.

European Commission report on the progress of Serbia is essentially positive and opens the door to further European integration. However, these observations are actually requirements that Serbia needs to meet till the next report. **“All unsolved issues remain as a problem. So, for us, this kind of report is a map indicating which recommendations to adopt in order to have positive assesment on the application for EU membership. In fact, whatever we fail to do will show up as something that can stop us”**, said Milica Delevic.

“Serbia has made a small progress in aligning its judicial system to the European standards which is a key priority for the European Partnership”, it is said in the report of the European Commission. The European Commission says it is a **“valid amendment and completion of judicial reform”** is an imperative task for the Serbian authorities. In the EC report it is concluded that **“Serbia's judicial system only partially meets its priorities”** and that **“there are serious concerns over the way recent reforms were implemented, in particular the reappointment of judges and prosecutors”**. **“The reappointment procedure for judges and prosecutors was carried out in a non-transparent way, putting at risk the principle of the independence of the judiciary. Bodies responsible for it, the High Judicial Council and the Council of the State Prosecutor's Office, worked as a transitional structure, which disregarded proper representation of the profession, and created a great risk of political interference”**, the report said. The Commission adds that objective criteria haven't been applied in the re-election, that judges and prosecutors were not interviewed during the procedure, that they did not receive a satisfactory explanation for the decision. Furthermore, judges and prosecutors were entitled to appeal only to the Constitutional Court, which has no capacity to consider them all. The EC notes that **“the backlog of cases is also a cause for concern”** and that **“progress in domestic prosecutions for war crimes remains slow”**.

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The Commission assessed that corruption is still widely present in many areas and poses a serious problem.

“There has been little progress in the investigation and prosecution of corruption cases, with the number of final convictions remaining low, in particular in high level cases”, it is said in the EC report, which points to the problems of the Anti-Corruption Agency.

Serbia was found a flaw for not adopting **“a new law on political parties’ financing that is more transparent and provides better control of costs”**, with recalling that, after the efforts of the Anti-Corruption Agency to ban officials to be on more than one function, the relevant law was amended in order to partially suspend the ban, which **“causes concern”**. **“Public procurement, privatization procedures and public spending remain areas of serious concern, while independent supervision is not provided. Organizing of the State Audit Institution is slow and the first report covered only a small part of the state budget”**, it is stated in the Report.

While corruption can be recognized as a systemic problem that has not only Serbia, but also other countries in the Western Balkans and some EU members, such as Bulgaria and Romania, and a problem which requires time and political will, the problem with judicial reform in Serbia was created by the power itself. Specifically, judicial reform in Serbia was conducted in 2009 by the general reappointment of judges, prosecutors and deputy prosecutors and establishment of a new network of courts and prosecutors. “Reappointment” of judges and prosecutors was conducted under the leadership of the Ministry of Justice in the second half of 2009, and came into force in January 2010. **“The number of judges and prosecutors was reduced by 20-25 %”**, the EC said, adding that **“more than 800 judges were not reappointed, out of previously around 3.000 judges and misdemeanour judges”**. After the rebellion of professional association of judges and prosecutors and public criticism, Serbia was sent a number of European missions such as MEDEL (European judges and public prosecutors for democracy and fundamental right) as well as experts of the European Commission. In their reports there are serious objections to the procedure of reappointment. Reappointment of judges and prosecutors in Serbia was mentioned in the Council of Europe and the European Parliament. During a September visit to Belgrade, the European Commissioner for Enlargement, **Stefan Fule**, expressed concern on behalf of the

EU, according to media reports, for the way judiciary reform had been carried out. Belgrade hadn’t on time understood messages from Brussels, and consequently the issue of judicial reform found its place in the EC report. Independence, professionalism and efficiency of the judiciary is one of the foundations on which rests the European Union. The EU is very sensitive on this issue when it comes to the admission of new members because of the most recent bitter experience from the Union enlargement in 2007 – when Romania and Bulgaria were joined, while in both countries the judiciary reform was not conducted in accordance with European standards. Croatia also has a problem with the EU due to the judiciary, as this country is expected to become an EU member in the next two years. The EC has recently advised Croatia that it **“must quickly and thoroughly reform the judiciary”**. That is why Belgrade shouldn’t be surprised by the pressure from the EU on this issue, as judicial reform and fighting corruption are key areas in the EU accession process, so all the Western Balkans candidates will begin negotiations on EU membership exactly on these topics.

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That Belgrade this time seriously understood the message from Brussels was expressed in the statement of Serbian President **Boris Tadic**, the day after the publication of the Report, in a speech at the Judicial Academy, when he said that **“reform of the Serbian judiciary will be completed by the standards of the European Union”**. **“At the end of this road, we want to be in the EU. This is not a dictate but our will, because in that way we want to contribute not**

only to our judicial system, the security of our society, rule of law, but also to the prosperity for our citizens”, Tadic said. Serbian Minister of Justice **Snezana Malovic** greeted the remarks of the EC and said they would be a **“stimulant to the problems to be solved in an appropriate manner”**.

After these reactions it can be expected that official Belgrade in cooperation with professional associations of judges and prosecutors, under the supervision of the EU, will correct the deficiencies in the reform of the judiciary regarding the reappointment of judges and prosecutors. Whether other objections will be resolved, especially those pertaining to judicial independence and efficiency of judicial proceedings, the time will show. Or, as **Milica Delevic** said **“the more laws you pass more space you give to the Commission to monitor how these laws are being applied and the closer you are to the EU, you are under sharper scrutiny”**. In addition to judiciary, as the biggest problem in Serbia the European Commission reported **“widespread corruption”**. **“In the fight against corruption, what is expected is improvement of the legal framework, enforcement of the legal framework, and transparent prosecution procedures and judgments, not only arrests”**, says Milica Delevic.

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Organization Transparency Serbia assessed that for the citizens and the government of Serbia, it would be **“far better not to wait for reports from Brussels in order to solve problems”**, already indicated by independent anti-corruption bodies, expert public and NGOs. This organization noted that the EC report should be seen as a **“serious warning to carefully monitor the adoption of anti-corruption laws, the willingness to put them into practice, and the relationship between executive and legislative power and independent government agencies and their work”**.

President of the NGO Transparency Serbia **Vladimir Goati** said that the **“Serbian progress requires political will for implementation of already adopted legal solutions.”** According to him, in the period between 2000 and 2007 Serbia made certain progress in bringing the necessary legal decisions, but has stagnated in recent years, primarily due to the lack of political will to implement the adopted legal provisions. Goati noted that some legal provisions encourage corruption, such as the Law on Election of MPs, based on indirect proportional election system, and reiterated that we should abolish **“blank resignations”**. **“In Serbia we have a party-despotism and I doubt we can take it to the EU. Completely unsanctioned, political parties via MPs carry out their will, including the transfer of huge sums of money in the party, and often in their pockets”**, he said. Goati said he believed that the **“blank resignations”**, would, however, be eliminated, but **“not because it is the citizens’ interests, but because it was demanded by the EU”**, which, he said, was **“not a good practice”**.

The European Commission has praised the economic policies of the Government of Serbia, assessing that **“the fiscal program for the period 2010-12”**, submitted earlier by the Serbian government to the European Commission, is **“the appropriate medium-term policy and a realistic macro-fiscal scenario that is broadly in line with the Serbian reform agenda”**. **“In general terms, the macroeconomic stability in Serbia has been largely preserved during the global economic crisis, thanks to the timely adoption of measures in the agreement with the IMF”**, it was pointed out in the Report. The European Commission, however, cautioned that further implementation of the **“mid-term fiscal and structural reforms in Serbia can not be delayed, because this is an important condition for strengthening the resilience of the Serbian economy to possible new economic challenges”**. Serbia’s economy, as assessed in the EC report, **“suffers from the global economic crisis and its recovery is still slow and unstable”**.

The European Commission has concluded that Serbia has made significant progress **“in the fight against organized crime, as well as the cooperation of key security services in Serbia, the region and on international level”**.

Serbia is required to have a more “**affable attitude**” toward Kosovo’s participation in regional cooperation and trade, with the acceptance of the Kosovo customs stamps, and further strengthening of cooperation with EULEX. It was estimated that “**good progress in the protection of minorities**” has been achieved, that “**relations among ethnic groups in Vojvodina are improved**”, but that there’s still trouble with the establishment of the National Council of Bosniaks. Of course, the EC report clearly states that without the completion of cooperation with The Hague, Serbia can not make substantial progress towards EU membership. The European Commission has words of praise to encourage fruitful cooperation of Serbia with its neighbors, particularly with Croatia and for the latest moves in relations with Bosnia and Herzegovina. In the report, great importance is given to the decision of the Belgrade authorities to work with the EU, via the UN resolution, to initiate a dialogue with Pristina, which is seen as a pledge to strengthen regional stability, improve people’s lives and advance on the European path.

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Euro-enthusiasts in Serbia can be very glad that the reactions of political parties in Serbia to the EC report confirmed that major political actors of the country almost have a consensus on Serbia joining the EU. The consensus has been arrived at only two years ago and is considered a very important internal condition for the country to join the European Union. Specifically, this consensus guarantees that the Government would have the support of the opposition in implementing necessary reforms and fulfilling other obligations that await the country on the path towards full EU membership. The consensus ensures that the opposition will be committed to Serbia’s joining the European Union if it becomes part of government.

The leader of the strongest opposition Serbian Progressive Party, **Tomislav Nikolic**, said immediately after publication of the report that “**obligations to The Hague must be met, including the arrest of Ratko Mladic and**

Goran Hadzic (the last two Hague indictees wanted by the International Tribunal Hague from Serbia). “**Pride is to fulfill the laws and respect the Constitution**”, Nikolic explained his views on fulfilling obligations towards The Hague. Also, a new coalition partner of Nikolic’s progressives, a longtime ally of the coalition party of former Prime Minister Kostunica and Minister Kostunica’s government, **Velimir Ilic**, (leader of the opposition party New Serbia) said that the arrest of Ratko Mladic was an obligation, and it would be best if he surrendered. “**Everyone must understand that this is an obligation. If he can hear us, it would be best if he volunteered to do that**” said Ilic. Statement by Ilic, who until recently opposed the cooperation of Serbia with the Hague tribunal shows that the political forces that oppose to Serbia’s European path are in the convincing minority in the Serbian society, or more precisely, they have only about 15 percent support in the electorate. Today, this is the percentage of Euro-skeptics present in almost each European Union member state.

The European Union has clearly established a relationship of trust with Belgrade when it comes to cooperation with the ICTY. This means that it is possible to imagine the integration of Serbia into the European Union even if Mladic is not arrested, provided that Belgrade continues to provide evidence for tracing him unconditionally and will do anything to arrest him. That is why at this moment cooperation with the Tribunal for Belgrade is much less problematic than the issue of dialogue with Pristina on which the EU insists.

Since September, when the EU and Serbia submitted to the General Assembly proposal of a joint resolution on Kosovo, there is a principal publicly expressed readiness of Belgrade and Pristina to begin a dialogue. However, the dialogue did not happen, its starting date is unfamiliar, as well as possible topics for discussion. Perhaps, the most important reason is that in the meantime, Prime Minister Thaci’s government of Kosovo fell and early elections are scheduled.

Vincent Degert, Head of the European Union Delegation in Serbia said that the EU is in close contact with both sides to see if the dialogue could begin. “**For us, the sooner the better. Now we can not speak in detail about the role of EU in the talks. There are high expectations; there is good will on all sides, to improve the process.**

It is already a positive sign, now we have to come to more concrete steps", said Degert. Serbian President Boris Tadic confirmed that Belgrade was ready, but could not say the date when the dialogue would start, so he shifted the ball to Pristina. **"We are completely open to dialogue. We are waiting when the Albanian side will be ready. We are active and waiting for the other party, without the two sides there can be no dialogue"**", says Tadic. For the first time since 2000, Belgrade is like in a military offensive in relation to Kosovo and Pristina is obviously disoriented by the new role of Serbia. Now, for the first time resistance to dialogue between Belgrade and Pristina is shown by Kosovo, by the Kosovo Albanians, and it is much stronger resistance than that in Serbia. Obviously it dawned on the Serbian leadership that progress in the dialogue with Pristina will be perhaps the most important test of the country's path towards EU membership. One gets the impression that the EU has managed to find a formula for Serbia and Kosovo, which consists of the combination of pressure and opening a clear European perspective.

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The London Times wrote about it on October 28th, commenting that **"Serbia has to swallow the pride for the common good"**. It was stated in the British newspaper that **"the question of what Serbia is ready to sacrifice to join the EU, has become one of the most important in Europe"**, and admits that Serbia has made "some progress, among the rest by taking a more lenient stance on Kosovo". At the end of comments, Britain's The Times concluded:

"In Serbia today live highly educated young people who often find employment in Europe. Therefore, the point is not in Belgrade falling on its knees on each cue from Brussels, but to somewhat soften the national pride and give up some historical myths in the interests of its citizens".

Serbia 2010 Progress Report indicates that Belgrade is progressing towards the European Union membership. Problems recognized are more or less the same as in other countries candidates, such as Macedonia or Croatia, which is about to join the EU, or Montenegro and Albania that have become candidates for EU membership. Unlike its neighbors, Serbia has two problems more - the arrest of General Mladic, that is cooperation with the ICTY and the problem with the status of Kosovo. These two issues have so far hindered Serbia on its European path. But, considering its particularly significant role in the Western Balkans, the commitment of political elites and the reform capacity, it deserves to be a country that will join the EU after Croatia. Out of ten years that have elapsed since the democratic change in Serbia, at least 5-6 years the country spent in unsuccessful resolving of some additional problems that have blocked the European integration.

Even the European Union has wandered in finding the right policy towards Serbia. Only recently was abandoned the policy of unconditional conditioning and was superseded by the policy of partnership. An opinion has matured that Serbia integrated into the EU will more easily solve difficult problems than Serbia isolated and under pressure. This opportunity has been recognized in Serbia, and that is the reason why the problems in the Western Balkans began to resolve after years of stalemate. And all positive that has happened only confirms that Serbia is the central western Balkan country by whose integration into the EU this part of Europe shall cease to be a problem. If we take into account that the main rival of Serbia in the western Balkans - Croatia, is likely to become an EU member in the next two years, it becomes clear that in this region it is possible to make a shaft Serbia - Croatia, which will lead the Western Balkans to progress and play a role similar to the role of Germany and France in the process of unifying Europe.

Ahead of Serbia, the region and the EU appeared a chance can be hopefully used. There's the impression that all actors in the region, especially the EU and Serbia, are aware of the chance and the path embarked upon is giving results. Of course, resolving of problems will not happen overnight because they had been created for centuries, but finally things on the western Balkans are moved from a standstill and problems began to be addressed.