

EUROPEAN INTEGRATION PROCESS IN SERBIA WITH REFERENCE TO “JURISPRUDENCE RESEARCH LINES” IN SERBIA AND SLOVENIA

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SUMMARY: I. INTRODUCTION. – 2. EU INITIATIVES VIS-À-VIS SOUTH EASTERN EUROPE. – 3. THE STABILIZATION AND ACCESSION PROCESS AND AGREEMENT BETWEEN THE EU AND SERBIA.

1. Introduction

Cooperation between states enhances security and stability among them. The example of the European Union (EU) is often pointed out as an undertaking that maintains peace and prosperity among its member-states. The integration of Europe will not be complete until the EU includes the region of the Western Balkans¹, affected in the recent past by interethnic conflicts. Moreover, the prospective enlargement of the EU to the Western Balkans is perceived as the EU's contribution to security and stability in this region. It is likely that the candidate country status recently granted to one of the region's countries (Croatia) would bring stability not only to the country itself but also to the broader region. In addition, reconstruction and institutional capacity building are mostly financed by the EU and its member-states².

In quest of possible definitions of regional cooperation, the “European” definition fits very well within the context of the paper – «Regional cooperation is one of the consistent elements of European integration itself [and] serves to bring about peaceful

¹ The Western Balkans refers to the region comprised of South Eastern European countries involved in the EU Stabilization and Association Process: Albania, Bosnia and Herzegovina, Croatia, Serbia, Montenegro and the Former Yugoslav Republic of Macedonia.

² The EU countries provide the largest part of the financial assistance for development and reconstruction projects. See: Economic Reconstruction and Development in South East Europe. Source: <http://www.scerecon.org/>.

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cooperation, economic development and democratization and has therefore repeatedly been advanced and promoted by the EU as a successful example and development model for other regions³. Regional cooperation has different aspects and considering it from these perspectives, different priorities can be seen as the main substance of regional cooperation.

When speaking about the political dimension, regional cooperation is a crucial ingredient of political stability and conflict prevention. This is written in the text of respective Stabilization and Association Agreements (SaA), as well as in the Thessalonica Agenda for Western Balkans of June 2003. Also, regional cooperation is the accelerator of good political relationships with neighbours and other countries in the region that can significantly facilitate the process of replacing nationalism and intolerance with cooperation and political dialogue in the region.

Regional cooperation is important for economic growth. By stimulating free trade, energy and transport, the Western Balkan countries have already made effort in order to connect themselves with EU member-states. Trade liberalization and facilitation, for instance in regard to the new *The Central European Free Trade Agreement* (CEFTA)⁴, will provide access to a wider market practically for all types of products. One aspect of the economic dimension of regional cooperation that needs to be closely observed is the potential of the recently launched energy (Energy Community Treaty) and air transport (European Common Aviation Area) agreements directly linking the countries of the region with those of the EU.

An aspect of regional cooperation also refers to security and justice in the region through combating organized crime and corruption and strengthening cooperation among police, prosecution and customs institutions.

2. EU initiatives vis-à-vis south eastern Europe

The first initiative of the EU regarding the stabilization process in South Eastern Europe was the Royaumont process, established in December 1996, during the French EU presidency. It was aimed at providing support for the implementation of the Dayton-Paris Agreement⁵.

³ D. BECHEV, *Carrots, Sticks and Norms: The EU and Regional Cooperation in Southeast Europe*, Journal of Southern Europe and the Balkans Volume 8, Number 1, April 2006.

⁴ *The Central European Free Trade Agreement* (CEFTA) is a trade agreement between Non-EU countries in Central and South-Eastern Europe. As of 1 May 2007, the parties to the CEFTA agreement are: Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Moldova, Montenegro, Serbia and UNMIK (on behalf of Kosovo). CEFTA membership ends when the member joins the EU.

⁵ Initially, the Royaumont process had the goal of promoting regional projects within the area of civil society, culture and human rights. Now, the Royaumont process deals with enhancing inter-parliamentary cooperation among countries of the Western Balkans, within the Stability Pact for South Eastern Europe.

In April 1997, the EU Council of Ministers adopted a regional approach, providing in this manner economic and political preconditions for bilateral relations development with countries of the region. Conditions included the respect of democratic principles, human rights, the rule of law, minorities' protection and reforms. The goal was creating a market economy and enhancing regional cooperation. The European Commission proposed a Stabilization and Accession Process on May 26, 1999 for Bosnia and Herzegovina, Serbia, Montenegro, Croatia, the Former Yugoslav Republic of Macedonia and Albania. The aim was to promote relations with each of the countries by establishing special contracts relations with them – Stabilization and Association Agreements – created specifically for each country. The deadline for the beginning of negotiations on the Stabilization and Association Process (SaP) and concluding the Stabilization and Association Agreements (SaA) and their implementation was different for each concrete case.

The Stabilization and Accession Process includes:

- Signing the Stabilization and Accession Agreement.
- Asymmetrical trade subventions and other economic and trade relations.
- Economic and financial aid.
- Humanitarian aid for refugees.
- Cooperation in the field of justice and internal affairs.
- Political dialog⁶.

The Stabilization and Accession Process, sets certain economic and political conditions. Demands for assessing the EU set for countries of Central and Eastern Europe, also apply to Western Balkans countries. These demands are called the Copenhagen Criteria, which were defined by the European Council at the summit in Copenhagen in 1993⁷, and which are also set forth in the EU Treaty⁸. This means that Western Balkans countries must direct their political, economic and institutional development according to the values and models upon which the EU is based: democracy, respect of human rights and market economy. To the mentioned criteria for assessing the EU, conclusions of the General Affairs Council were added in 1997. The new criteria established full cooperation with International War Crimes Tribunal for the Former Yugoslavia (ICTY), as well as the creation of realistic chances for the return of refugees and internally displaced persons, as well as enhanced cooperation of all countries in the region according to the EU model. The European Commission monitors the respective development and publishes Annual Reports of the Commission for each country.

The Stability Pact for South Eastern Europe was an initiative adopted on June 10,

⁶ Cf. *Proces Stabilizacije i pridruživanja* (Stabilization and Accession Process), Government of the Republic of Serbia, The EU Integration Office, 2006.

⁷ *The Copenhagen criteria* established by the Copenhagen European Council in 1993. Source: http://ec.europa.eu/enlargement/enlargement_process/accesion_process/criteria/index_en.htm.

⁸ *The EU Treaty* (Art. 6 and Art. 49). Source: <http://eur-lex.europa.eu>.

1999 in Cologne. Its goal was to provide peace in the region, stability and economic development. By its structure, the Stability Pact is not a direct instrument of the EU, but the EU contributes very much to the realization of the Pact. The Pact represents a cooperation framework of the EU, USA, Russia, Japan, countries of the South Eastern Europe, Turkey and other countries, and includes other regional and international financial institutions.

The EU makes different contract arrangements with countries which are not EU members. The Stabilization and Association Agreements for countries of the Western Balkans are part of the EU regional strategy concerning the region and are based on Article 310 of the European Community Treaty. These treaties are similar to other European agreements (e.g. the European Economic Area Agreement⁹).

The Stabilization and Accession Agreement belongs to a new generation of agreements on accessing the EU, which are made for countries in the process of stabilization and accession. It has all elements of the previous treaties, signed with Central and Eastern Europe countries. These countries became members of the EU in 2004. The Agreements contain several sections referring to general principles, political dialog, free flow of goods, services, labor and capital, right to a business establishment, harmonization of legislation, cooperation within justice and internal affairs, political cooperation, financial cooperation and institutional, general and final provisions.

3. The stabilization and accession process and agreement between the EU and Serbia

Serbia has a key economic and political role in the region and is also important for the stability of the region, which would benefit from a stable and prosperous Serbia fully integrated into the family of European nations. The Stabilization and Accession Process of Serbia began in 2001, by forming the Consultative Task Force, as a mechanism which would enable the European Commission and Serbia to look into the issues in many areas of social and economic life, as well as to promote a more efficient approach to EU standards.

Negotiations regarding the Stabilization and Accession Agreement between Serbia and the EU were officially opened in October 2005. However, the Commission suspended negotiations in May 2006, because Serbia did not fulfill its commitments regarding cooperation with the War Crimes Tribunal. After parliamentary elections in February 2007, the Council renewed the readiness of the Commission to continue SaA negotiations with the new Government in Belgrade, under the condition that concrete

⁹ The goal of these treaties is that the unique EU market is transferred to countries which are not members of the EU, but could become members within a short period of time, because they satisfy the greatest part of economic criteria for membership.

and productive measures for full cooperation with the Tribunal must be taken¹⁰. The new Serbian Government fulfilled some, but not all conditions set by the Council. The Council pointed out that speed and conclusion of the negotiations would depend on Serbia's efforts to improve the necessary legislative frame and the administrative capacities in order to fulfill the obligations in the Agreement, as well as the effort to fully cooperate with the War Crimes Tribunal in The Hague. Negotiations were held in June 2007, and in August the Government of Serbia adopted the Plan for the Implementation of Priorities Contained in the European Partnership¹¹, and the Action Plan for the Approximation of Draft Laws with the EU Regulations¹².

However, just before the early parliamentary elections in May 2008, and with severe opposition from the out-going Prime Minister (V. Koštunica) and the radical nationalistic political camp, Serbia signed the Stabilization and Accession Agreement on April 29, 2008 and by doing so announced the beginning of new, deeper reforms. The EU Council of Ministers welcomed the signing of the Agreement with Serbia and emphasized that the practical application of that document will be possible after the Council is convinced that Serbia fully cooperates with the War Crimes Tribunal. By signing the Stabilization and Accession Agreement, Serbia made an important step in institutionalizing relations with the EU.

The Stabilization and Accession Agreement between the EU and Serbia provides the framework for mutual obligations in a wide range of political, trade and economic matters. This Agreement represents the key instrument, with which preparations for membership of Serbia to the EU are to begin. The Agreement positions the relations between Serbia and the EU in all three pillars of the EU:

- European Community and its economic and other aspects.
- Mutual foreign and security policy.
- Cooperation within justice and internal affairs.

The Stabilization and Accession Agreement means that Serbia is on the course of becoming a candidate country for EU membership, as the Agreement confirms the status of a potential candidate for full EU membership. The Agreement emphasizes the individual approach in measuring the achievements of Serbia in the process of the EU accession. This means that move toward full membership is based on the capability to accept EU legal standards and criteria and achieve internal and regional stability. The two most important responsibilities that Serbia took over with this Agreement are the establishment of a free trading zone and the harmonization of legislation between Serbia and the EU.

¹⁰ *Enlargement Strategy and Main Challenges 2007-2008*. Commission staff working document – Serbia 2007 Progress Report. Source: http://ec.europa.eu/enlargement/key_documents/reports_nov_2007_en.htm.

¹¹ *Plan for the Implementation of Priorities Contained in the European Partnership* is accessible on the web site www.seio.sr.go.yu.

¹² *Action Plan for the Approximation of Draft Laws with the EU Regulations* is accessible on the web site www.seio.sr.go.yu.

Legal and economic adjustments related to conducting the Stabilization and Association Process represent a serious beginning in which adjustments must be made. The adjustments will launch fully after Serbia becomes a candidate for full membership to the EU. Reforms and a thorough adjustment to legal, economic and political standards of the Union demand engagement of institutions in Serbia.

The Stabilization and Association Agreement does not deal exclusively with relations between the EU and Serbia, but in the first place with relations within Serbia itself in light of strengthening the efficiency of a legal state and supporting economic and institutional reforms which are necessary in order for Serbia to become a modern and developed country.

a) *General principles*

Respect of democratic principles and human rights, international law and the rule of law, as well as the market economy, form the basis for internal and foreign policy of Serbia and member-states of the Union. These principles are the key elements of the Stabilization and Accession Agreement.

In the preamble of the SaA, basic values are mentioned, to which the parties are dedicated, as well as the significance of establishing close and lasting relations between Serbia and the EU. Those values are:

- Establishing and consolidating a stable European system based on cooperation, as well as cooperation through mechanisms of the Stability Pact.

- Developing civil society and democracy, enhancing capacities of institutions and public administration reform, increased trading and economic cooperation, as well as cooperation within justice matters and internal affairs.

- More political and economic freedoms, with respect of human rights, minorities' rights and the democratic principles through a multi-party system, with free and legitimate elections.

- Free market economy and readiness of the Union to support the economic reforms in Serbia.

- Free trade in accordance with rights and responsibilities, based on principles of the World Trade Organization (WTO).

- Regular political dialogue in bilateral and international matters of mutual interest, including regional aspects, trade development and investments.

- Harmonization of the legislation in relevant areas with the legislation of the EU.

- Conducting reforms using all the existing forms of cooperation, as well as technical, financial and economic assistance of the EU¹³.

According to the Agreement, international and regional peace, development of

good relations between countries of the region and respect of human rights and the rights of minorities are of the highest significance for the Stabilization and Accession Process. Serbia has the commitment to continue the encouragement of cooperation and good relations with other countries of the region, exchange of goods, capital and services, as well as development of projects of general interest, especially those concerning the fight against organized crime, corruption, money laundering, people trafficking and smuggling of weapons and drugs. This commitment is the key factor in developing relations and cooperation between the parties, and therefore contributes to regional stability (Art. 7).

b) *Regional cooperation*

Regional cooperation is specially pointed out in the Agreement. In accordance with its dedication to international and regional peace and stability and good relations with the countries of the region, Serbia commits to actively promote regional cooperation in order to build peace and stability. The main elements of the Agreement on regional cooperation are the establishment of a political dialog, free trade zone, mutual concessions – with regard to the free flow of labor, the right to a business establishment, services, payments and capital flow, as well as cooperation in the areas not regulated by the Agreement, especially in the areas of justice and internal affairs.

Regional cooperation and good relations between countries of the region make the key element of Serbia's approach to a full membership in the EU. In May 2007, Serbia took over the role of the presiding member-state in the Committee of Ministers of the Council of Europe. From November 2006 to May 2007, Serbia was the presiding member-state in the Black Sea Economic Cooperation Council (BSEC). Beside that, Serbia is an active participant in other regional initiatives, including the Stability Pact and in the process of its transformation into a framework of cooperation with greater regional jurisdiction. Serbia is an active and constructive participant in the negotiations on the Central Europe Free Trade Agreement and in September 2007, adopted the CEFTA Agreement.

Serbia continues to have good bilateral relations with other candidate countries in its neighbourhood¹⁴. Relations with Montenegro after it proclaimed independence are getting better. Since then, several agreements were signed, including the Social Security Agreement.

Relations with Croatia are also getting better. The temporary non-visa regime is still in force. The Croatian state prosecutor and the Serbian War Crimes Prosecutor signed an agreement on cooperation concerning war crimes trials. Steps were made towards cooperation concerning missing persons. However, these two countries have still not signed the border agreement and the International Court of Justice is still processing

¹³ *Stabilization and Accession Agreement*, Government of the Republic of Serbia, EU Integration Office, Belgrade, 2005.

¹⁴ Annual Report of the European Commission on improvements of the Republic of Serbia in 2007.

Croatia's case against Serbia for genocide. There are a few other unsolved matters concerning property issues and the return of refugees.

Relations with Bosnia and Herzegovina need improvement due to the February 2007 decision of the International Court of Justice regarding genocide committed in Srebrenica. The Court reached the verdict that Serbia did not commit the genocide and did not violate its commitments from the Convention. However, the Court found Serbia responsible as it did not take all the necessary steps to prevent the genocide in Srebrenica and bring the perpetrators to justice. In July 2007, Serbia adopted the Special Parallel Relations Agreement with the Republic of Srpska. Serbia and Bosnia and Herzegovina still did not sign the border agreement, and there are, also, some open issues regarding trading and property matters.

Serbia has good relations with the Former Yugoslav Republic of Macedonia. A bilateral agreement on minorities' protection entered the legal force.

With Slovenia, Hungary, Bulgaria and Romania, Serbia maintains good relations. After the accession to the EU, Bulgaria and Romania adopted a preferential visa regime for the citizens of Serbia.

Serbia continued to contribute the regional cooperation and to conduct policies with the goal of promoting relations with its neighbours. Also, Serbia improved cooperation with the ICTY, although it is still necessary to accomplish full cooperation (i.e. transfer the remaining three indicted).

c) *Harmonization of legislation*

Gradual harmonization of Serbian legislation with the EU legislation is an important and demanding task. This enormous task began in 2003, by the adoption of the First Annual Action Plan for Harmonization of the Domestic Legislation with EU Regulations. In March 2005, the Third Annual Action Plan on Legislation Harmonization was adopted.

The Agreement sets the responsibility of Serbia in harmonizing the domestic legislation with the EU regulations within given deadlines. In the early stages, harmonization will focus on the basic elements of legal matters in the areas of internal market, justice, freedom and security, as well as on other areas related to trade. In later stages, Serbia will focus on the rest of legal matters of the Community (Art. 72, Para. 2 of the SaA). In agreement with the European Commission, Serbia will define the ways of monitoring how the harmonization is conducted and define legislative measures which should be provided in regard to the implementation.

In 2006, the European Commission started negotiations regarding Visa Facilitation and Readmission Agreements. The draft agreements were signed on 18 September 2007. The Readmission Agreement set out clear obligations and procedures for the authorities of both Serbia and the EU member-states as to when and how to re-admit persons who are illegally residing in the territories covered. The effective implementation of the Visa Facilitation and Readmission Agreements will ensure a better manage-

ment of the migration pressure and will make it possible to envisage a structured dialogue along the path set out by the Thessalonica agenda towards a visa-free travel regime also for Serbian citizens.

d) *Cooperation policy*

Cooperation policy is a part of the Agreement by which the EU will direct its technical and financial aid to Serbia. The aid deals with economic policy, tax, cooperation in foreign affairs, agriculture and the agriculture/industrial sector, encouraging and protecting investments, statistics, banking, insurance and other financial services, industrial cooperation, small and middle enterprise, tourism, tolls, industrial sector, fishing, education, cultural cooperation, information and communication, audio-visual cooperation, electronic communication infrastructure and similar services, information society, cooperation in exploration and technological development, as well as regional and local development.

The basic, but not the only instrument, with which the European Commission will help the cooperation policy, is the CARDS (Community Assistance for Reconstruction, Development and Stabilization) program. This is an instrument of technical-financial assistance of the EU for South Eastern Europe and is dedicated to the needs of the Stabilization and Accession Process. The priorities of the CARDS program are:

- Renewal and stabilization of the region.
- Establishing the institutional and legislative frame (democracy, human rights, minorities' rights, reconciliation, civil society, independence of media, fight against organized crime).
- Sustainable economic development and economic reform leaned towards the market economy.
- Social development.
- Trans-border, trans-national and regional cooperation⁹.

The Stabilization and Accession Agreement for Serbia is neutral concerning Kosovo, as according to the Article 135, it is not applicable for Kosovo.

By signing the Stabilization and Association Agreement, Serbia made the EU understand that it is politically ready and responsible to conduct institutional and structural reforms of its legal and economic system. Also, signing this Agreement, Serbia has the chance to strengthen its political position and self-respect in the region and Europe. The SaA represents a basis for providing additional assistance in knowledge and technology transfer of the EU member-states in areas which were not covered adequately by reforms within Serbia.

Bearing in mind that Serbia signed the SaA, its further goal is to reach the level of readiness for membership by the end of 2012. That means that in the following years ef-

⁹ <http://en.wikipedia.org/wiki/CARDS>.

forts will be directed at the complete harmonization of legislation with the EU, as well as at strengthening of institutions, which will be responsible for the implementation of the adopted regulations. After that, the economic system adjustments will follow, in order to establish the efficient market economy and strengthen the competition of the domestic economy. This provides the conclusion that the readiness of Serbia for EU membership is not the goal in itself, but an instrument for modernization and recovery of Serbia and its more active inclusion in regional affairs.

The real criteria for a more efficient accession of Serbia to the EU will be the success in implementing the Agreement. In that sense, it is important that the Agreement is applied as the plan of reforms, which stand before Serbia on its path of integration into modern European structures. What will be the speed of Serbia's more active inclusion into the process of European integrations will to a large extent depend on the political situation in the country, as well as the readiness of its institutions to bring Serbia to the status of candidate for membership in the EU.