

AD 21/16

LIMITE

CONF-RS 6

ACCESSION DOCUMENT

Subject: EUROPEAN UNION COMMON POSITION
Chapter 24: Justice, freedom and security

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This position of the European Union is based on its general position for the Accession Conference with Serbia (CONF-RS 1/14), and is subject to the negotiating principles endorsed therein, in particular:

any view expressed by either Serbia or the EU on a specific chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;

agreements reached in the course of negotiations on specific chapters, even partial ones, may not be considered as final until an overall agreement has been reached for all chapters;

as well as to the requirements set out in points 23, 24, 28, 42, 43, 44 and 48 of the Negotiating Framework.

The EU encourages Serbia to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general to develop already before accession, policies and instruments as close as possible to those of the European Union.

The EU notes that Serbia, in its negotiating position (CONF-RS 3/16) accepts the *acquis* under chapter 24 as in force on 1 January 2016 and that it will be ready to implement it by the date of its accession to the European Union.

1. Migration

The EU takes note of the information regarding the legal framework in place and in particular the Law on Foreigners, the Law on State Border Protection, the Law on Migration Management, the Law on Employment of Foreigners, the Law on the ratification of the Agreement signed between the Republic of Serbia and European Community on readmission of persons residing without authorization and the Criminal Code. It also notes that Serbia is implementing a Migration Management Strategy and a Strategy for the Reintegration of Returnees under the Readmission Agreement together with the accompanying Action Plans.

The EU further notes Serbia's commitment to amend the Law on Foreigners and the Criminal Code in 2016 and the Law on Employment of Foreigners in 2018, ensuring further alignment with the relevant *acquis* and to complete its alignment two years prior to accession. It also notes that Serbia will conduct an assessment of the administrative capacity, training needs, equipment and infrastructure, and roll out the necessary measures to ensure Serbia's readiness to correctly implement the *acquis* in the field of legal and irregular migration. The EU underlines the importance of Serbia continuing its efforts to align its legislation with EU requirements and to strengthen the institutional capacity in order to ensure full and effective implementation and enforcement of the *acquis* in the field of both legal and irregular migration.

The EU invites Serbia to step up its efforts to intercept irregular migrants and to effectively dismantle and prosecute criminal networks that smuggle people.

The EU notes that Serbia has 144 + 8 (for mothers with children) places to accommodate intercepted irregular migrants. It encourages Serbia to increase its efforts in relation to ensuring adequate accommodation capacity in its centres, with particular attention for minors and vulnerable groups. The EU invites Serbia to permanently monitor the adequacy of the accommodation capacity and to install and develop mechanisms that are able to cope with sudden increases. The EU recalls the need to ensure the necessary financial means for covering running and maintenance cost of accommodation facilities. Equally, sufficient and adequately trained staff is needed for operating these facilities and more broadly to implement all aspects of Serbia's migration policy.

The EU underlines the need to establish a robust return mechanism in line with EU requirements well before accession, based on a network of readmission agreements or other arrangements, both with Serbia's neighbours as well as with countries of origin and transit. The EU notes the arrangements in place for returning persons to Kosovo* and invites Serbia to continue to ensure their smooth implementation. The EU also invites Serbia to continue to implement the EU readmission agreement.

The EU notes that through the Post Visa Liberalisation Monitoring Mechanisms (PVLMM) the situation regarding unfounded asylum requests in the EU is being monitored and invites Serbia – in light of the most recent findings of the PVLMM - to continue to take preventive measures against unfounded asylum requests by its citizens in EU Member States, to regularly assess their effect, including on socio-economic inclusion and to adapt them as required.

2. Asylum

The EU takes note of the information regarding the legal framework in place and in particular the Law on Asylum, the Law on General Administrative Procedure, the Law on Foreigners and the Law on Administrative Disputes. The EU takes note of the information regarding the planned amendments to the Law on Asylum as well as of the gap analysis planned prior to the adoption of this new law. The EU notes that substantial further efforts are required to align its legislation with the EU *acquis*, and invites Serbia to closely monitor the implementation of the new law and to continue its efforts to ensure full legal alignment, implementation and enforcement at the date of accession.

The EU considers Serbia to be a key partner for finding a sustainable solution for an orderly management of the flows of displaced persons transiting through the Balkan region. The EU notes that in 2015, 579,518 persons were registered during their transit through Serbia and that 586 persons have effectively requested asylum, the majority of which – according to Serbia - is likely to leave the country in the course of the procedure. It also notes that in 2015 16 persons have effectively been granted refugee status and 14 persons received subsidiary protection.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

The EU notes that Serbia has put in place contingency measures to deal with the influxes of displaced persons and encourages Serbia to swiftly adopt on that basis a comprehensive early warning, preparedness and crisis management strategy.

The EU takes note of the fact that Serbia will increase its current capacity of 810 places with 300 permanent additional places and that Serbia's emergency response plan is allowing Serbia to expand its current capacity by 50 - 300% in case of mass influxes and depending on the needs. The EU also takes note of Serbia's immediate effort to accommodate more persons in need of international protection throughout the 2015-2016 winter by providing up to 6,000 additional places. The EU invites Serbia to continuously monitor accommodation needs and to adapt its infrastructure accordingly both in terms of places available and length of stay. It further encourages Serbia to ensure appropriate accommodation standards and to pay particular attention to the needs of vulnerable persons.

The EU encourages Serbia to give priority to establishing a functioning asylum system in line with the EU *acquis* with special focus on the *non-refoulement* principle, effective access to the asylum procedure, reception benefits, the processing time of asylum applications, the quality of the decisions taken, the circumstances in which beneficiaries of international protection (including vulnerable categories) recognised by Serbia are accommodated and the prevention of secondary movements of asylum applicants and of beneficiaries of international protection. The EU stresses the importance of taking the necessary measures to avoid that asylum seekers fall victim of people smugglers. The EU also invites Serbia to closely monitor the removal from its territory of persons that received a final negative decision on their asylum application and have no possibility of legally staying in Serbia on grounds other than the asylum legislation.

The EU takes note of the establishment of the Asylum Office as a permanent first instance body and the Asylum Commission as the independent second-instance body. The EU invites Serbia to step up its capacity, including as regards ensuring translation and interpretation capacity. The EU also notes that the budget of the Commissariat for Refugees will be increased and that the financial needs of the entire asylum system will be reassessed and adapted where needed. The EU recalls the need to also strengthen other relevant administrative (e.g. police and border police) and judicial authorities as well as cooperation mechanisms between all bodies involved.

The EU invites Serbia to start preparations well in time for the application of the EURODAC system, the Dublin Regulation and to accede to Dublin-net, all upon accession. In this respect, the EU takes note that Serbia plans an analysis of all requirements needed for implementing the EURODAC and Dublin Regulations. The EU notes Serbia's commitment to establish one year prior to accession the required structures necessary to cooperate with the European Asylum Support Office. The EU underlines the need for Serbia to start well in time preparations for implementing all aspects of the EU asylum policy upon accession. It stresses that the above measures will require substantial efforts in terms of additional human resources, equipment and training.

3. Visa policy

The EU takes note of the information regarding the legal framework in place and in particular the Law on Foreigners, the Law on Travel Documents and the Visa Rules. It notes that Serbia will adopt by the end of 2016 a new Law on Foreigners and a new Law on Foreign Affairs at the end of 2017, as well as relevant bylaws on visas to ensure compliance with the EU Visa Code. It also takes note of Serbia's plan to adopt at the end of 2017 a Visa Regime Harmonization Plan so as to bring its legal framework and visa policy in line with the EU visa policy, at the latest six months before accession. The EU takes note of the fact that citizens of 13 countries that are on the so called "EU negative list" (EC Regulation 539/2001) do not require a visa to travel to Serbia and invites Serbia to align its positive and negative lists with the EU lists well before accession.

The EU notes that Serbia intends to conduct a comprehensive analysis in view of creating the technical conditions for national Visa Information System (VIS) that can be connected to the EU VIS upon accession to the Schengen area. The EU also notes that Serbia will conduct a comprehensive needs analysis in preparation of adopting and implementing a Schengen Action Plan (SAP) which will also contain provisions related to the EU visa policy. The EU invites Serbia to ensure the necessary human and financial resources to effectively and correctly implement the SAP. Serbia is invited to cease issuing visas at the borders and to bring its policy in this respect in line with the EU *acquis*.

4. External borders and Schengen

The EU takes note of the legislation in place and in particular the Law on the Protection of the State Border, the Law on Foreigners, the Travel Documents Act, the Law on Managing Migrations and the Criminal Code. The EU recalls the need for Serbia to continue the process of alignment in order to ensure full compliance with the *acquis* at the date of accession at the latest. The EU notes that Serbia is fully committed to the continued normalisation of relations with Kosovo and to the implementation of all agreements reached in the context of the dialogue, including by cooperating with EULEX as appropriate. This applies in particular to the Integrated Border Management (IBM) agreement.

The EU notes that Serbia is implementing an Integrated Border Management (IBM) Strategy which is not yet entirely in line with the EU concept on IBM. The EU notes that Serbia plans to amend its IBM at the end of 2016 to bring it in line with the EU concept (e.g. including the four-tier access control model and providing the Border Police's with adequate enforcement competences). The EU invites Serbia to pay particular attention to ensuring smooth inter-agency cooperation at the border and to adequate staff training.

The EU takes note of Serbia's commitment to adopt a Schengen Action Plan (SAP) in 2018 following an assessment of the legal, technical, infrastructural and human resources requirements needed to correctly implement the *acquis* in this area. The EU notes Serbia's commitment to report every six months on progress in the implementation of the SAP. The EU underlines the importance of ensuring that the necessary budgetary funds are secured for the implementation of the SAP, in particular as regards infrastructure, technical equipment and required human resources. Equally, Serbia will need to ensure that staff is effectively trained. It notes in this respect that Border Police officials will receive training in line with FRONTEX's Common Core Curriculum. The EU recalls that Serbia's entry into the Schengen area will only take place following a Council decision to lift controls on persons at internal borders. The EU informs Serbia that such a decision will be taken on the basis of the applicable Schengen evaluation of Serbia's readiness, taking into account the Commission report confirming that Serbia continues to fulfil the commitments undertaken in the accession negotiations that are relevant for the Schengen *acquis*.

The EU recalls that the Balkan region is a transit region for illegal migration, smuggling of drugs, firearms and other commodities and that combating these phenomena and appropriate border management (including of green borders) needs to be further improved. The EU notes that Serbia proposes measures to improve the protection of external borders through more intensive operational cooperation with its neighbours. The EU takes note of the establishment of a risk analysis unit in the Border Police Directorate in 2015. The EU also notes that Serbia has concluded agreements on conducting joint patrols with Montenegro, Bulgaria, the former Yugoslav Republic of Macedonia, Hungary and Bosnia and Herzegovina and that Common Contact Centers were established with Hungary, Croatia, Bulgaria, the former Yugoslav Republic of Macedonia and the Common Trilateral Centre with Montenegro and Bosnia and Herzegovina. The EU invites Serbia to contribute to making them fully operational. It also notes that Serbia will start joint patrols with Romania and Croatia and that it will establish a Common Contact Centre with Romania after concluding the necessary procedures.

The EU further notes that Serbia proposes steps to effectively prevent cross-border traffic through alternative roads and concluding local border traffic agreements. The EU underlines the importance of effective border control, and invites Serbia to develop a robust risk analysis capacity, to increase the use of technical surveillance means and to conduct joint surveillance and control activities with all its neighbours. The EU invites Serbia to further intensify operational co-operation with FRONTEX.

The EU underlines the importance of effectively preventing and fighting corruption – as a facilitator for organised crime - at the borders. It notes that the Border Police Directorate is implementing measures in the context of the National Strategy Against Corruption as well as Serbia's commitment to take further measures to prevent corruption and to boost integrity of staff working in agencies active in the border area and to monitor the implementation of these measures.

5. Judicial co-operation in civil, commercial and criminal matters

The EU takes note of Serbia's plans is conducting – with the support of foreign experts – impact assessments that should result in 2016 in precise timelines and measures for harmonising national legislation with EU *acquis* in this area by the end of 2018 and that these assessments should also provide clear indications on administrative, budgetary, staff and training requirements. The EU notes that Serbia aims to achieve the same level of judicial cooperation in civil and criminal matters with Kosovo envisaged by European standards in this area, with strict adherence to the requirements of status neutrality. The EU underlines that substantial efforts – including as part of the overall reform of the judiciary – are required to ensure legal alignment, to strengthen the administrative capacity of the Ministry of Justice, the prosecution offices, the courts and among legal professions for handling judicial cooperation requests. It also notes Serbia's commitment to improve material conditions in courts and prosecution offices and underlines in particular the need for upgrading relevant IT equipment. The EU reminds Serbia that mutual trust is the cornerstone for successful judicial co-operation and is particularly important for the implementation of mutual recognition and cooperation instruments in the area of criminal law, such as for example the European Arrest Warrant.

The EU invites Serbia to make the best use of the expertise of EU experts to prepare these comprehensive impact assessments. It stresses the importance of having as soon as possible a detailed roadmap of steps and intermediate results expected for achieving full alignment with the *acquis* in this area by the date of accession. The EU underlines the need for substantial investments in human resources and specialised training, including on the use of foreign languages. The EU notes the importance of keeping records and statistics on judicial cooperation in both civil and criminal matters and of monitoring the efficiency of handling judicial cooperation requests in this area.

Judicial co-operation in civil matters and commercial matters

The EU takes note of the information regarding the legislation in place and in particular the Law on Resolution of Conflict of Laws with Regulations of Other Countries, as well as the Law on the Organisation of Courts, the Law on the Civil Procedure, the Law on Enforcement and Security, the Law on Non-Contentious Procedure and Court Rules of Procedure. The EU further takes note of the information regarding Serbia's participation in 25 multilateral and 32 bilateral agreements in this field.

The EU notes that Serbia ratified the Hague Conventions on the civil aspects of international child abduction (1980) in June 2001 and on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children (1996) in January 2016.

Judicial co-operation in criminal matters

The EU takes note of the information regarding the legislation in place and in particular the Law on Mutual Assistance in Criminal Matters, the Criminal Procedure Code, the Criminal Code, the Law on the Organisation of Courts as well as other legal acts that cover the field of judicial co-operation in criminal matters in Serbia. The EU further takes note of the information regarding Serbia's participation in international conventions on co-operation in criminal matters as well as regarding the 24 multilateral and 52 bilateral agreements it has concluded. The EU notes that Serbia lifted its reserve on Article 6 of the European Convention on Extradition, which provides for the right to refuse the extradition of its own nationals, while at the same time the Law on mutual legal assistance in criminal matters contains a provision in its Article 16 prohibiting the extradition of own nationals to countries that are not party to the above Convention. The EU invites Serbia to amend the law well before accession in order to allow the full and correct implementation upon accession to the EU of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between EU Member States.

The EU encourages Serbia to step up co-operation with Eurojust. The EU stresses in this respect the importance for Serbia to adopt and implement a robust data protection legal framework in line with the *acquis* as a precondition for concluding a Cooperation Agreement with Eurojust.

6. Police co-operation and fight against organised crime

Police co-operation

The EU takes note of the information on the legal framework in place and in particular of the Law on Police, the Criminal Procedure Code, the Criminal Code, the Law on International Legal Assistance in Criminal Matters, the Law on Personal Data Protection and the Law on Confidentiality of Data. It also notes that Serbia concluded an operational agreement with Europol in 2014, that its co-operation with Europol has intensified (a tenfold increase in the three previous years of SIENA messages exchanged) and that a liaison officer will be posted in The Hague in 2016. It further noted that Serbia exchanges information through Interpol, Europol, SELEC, and on a bilateral basis, including with EU Member States. The EU takes note of Serbia's participation in regional police cooperation initiatives. The EU also notes that Serbia recognises the necessity to improve cooperation on operational level with Kosovo and that it is ready to further discuss working arrangements for police cooperation with Pristina.

The EU notes that further efforts are needed to align Serbia's legislation and underlines the need to continue the alignment of legislation in the field of police cooperation in order to ensure full compliance with EU requirements at the date of accession at the latest. The EU notes Serbia's commitment to further strengthen its operational and administrative capacity required for duly implementing police cooperation instruments, such as the so called "Swedish initiative" (on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union) and the "Prüm Decision" (on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime). In this respect the EU underlines that also for cross border police co-operation it is essential to have a secure domestic electronic communication system, robust data protection provisions and modern IT-equipment.

The EU notes the fact that Serbia will upgrade human resources and provide training on the use of Europol and Interpol databases and that Serbia will strengthen the capacity of its 24/7 service for international police co-operation. The EU notes the planned steps for Serbia to prepare for cooperation with EU Member States on issues such as the security of football matches, the protection of public figures and cross border vehicle crime. The EU encourages Serbia to continue to develop its police co-operation with EU Member States and to ensure that remaining steps are taken well in time before accession in view of the full implementation of the *acquis* in this area.

The EU also highlights the need for adequate training on all the above tools and notes that CEPOL will aim at signing a working arrangement with Serbia in 2016.

The EU invites Serbia to take the necessary measures to strengthen independent internal and external control mechanisms over the police in line with agreed standards and best practice.

Fight against organised crime

The EU takes note of the information on the laws in place and in particular regarding the Criminal Code, the Criminal Procedure Code, the Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and other particularly serious crimes, the Law on the basic structure of security services of the Republic of Serbia, the Law on Police, the Law on the Security Information Agency, the Law on Military Security and Military Intelligence Agency, the Law on the Protection of Participants in Criminal Procedure, the Law on Seizure and Confiscation of the Proceeds from Crime and the Law on Classified Information. The EU notes that Serbia's legislation is partially aligned and invites Serbia to continue its legal alignment with the *acquis* in this area.

The EU notes that Serbia ratified the United Nations Convention against Transnational Crime and its Protocols and incorporated them in its legal framework. It will nevertheless pay particular attention to the effective implementation of this Convention and its Protocols. It also notes that Serbia's legislation still needs to be aligned with the Framework Decision 2008/841/JHA on combating organised crime.

The EU also notes that Serbia is implementing strategies and action plans on financial investigations, on anti-money laundering and anti-terrorism and on the prevention and suppression of human trafficking in close consultation with relevant stakeholders. The EU encourages Serbia to pro-actively assess the effects of the implementation of these Strategies and Action Plans and to propose corrective measures where needed.

The EU notes that organised crime remains an important challenge for Serbia. The EU underlines that one of the keys to tackle organised crime is that it is - and that it is seen to be - systematically and successfully investigated and prosecuted and that these crimes are always followed up with financial investigations. The EU notes in this respect that Serbia introduced a prosecution-led investigation system but also notes that it has not yet been properly matched with human and financial resources and urges Serbia to address staffing needs. The EU also notes that Serbia adopted the first national serious and organised crime threat assessment (SOCTA) and plans to further develop and implement the concept of intelligence-led policing. The EU invites Serbia to actively use the SOCTA when defining its security priorities. It invites Serbia to further roll out the concept of intelligence led policing, based on a well-developed risk and threat assessment capacity.

The EU notes that Serbia plans to prepare for the electronic exchange of data between law enforcement authorities and judicial authorities in charge of the fight against organised crime. The EU recalls the importance for Serbia to have a centralised criminal intelligence system and a safe platform for communicating between law enforcement bodies and invites Serbia to invest in ensuring a smooth connection of relevant databases and to improve the collection of unified crime statistics. The United Nations Office on Drugs and Crime (UNODC) International Classification of Crime for Statistical Purposes (ICCS) provides a good and comprehensive framework on which such an exercise may be based.

The EU notes Serbia's participation in several law enforcement operations under the umbrella of Joint Action Days 2015 organised within the framework of the EU Policy cycle to tackle organised and serious international crime. The EU underlines the importance of strengthening of operational law enforcement cooperation and invites Serbia to continue its active involvement in these actions.

The EU encourages Serbia to expand the use of special investigation techniques for law enforcement purposes, while ensuring that all necessary safeguards are in place to avoid abuse. The EU notes in this respect Serbia's commitment to analyse the roles and practices of security services in the criminal investigation phase. The EU recalls that these practices are not in line with good practices within the EU and stresses the need to ensure in all cases a clear separation of the mandates and regulations concerning interception of communications for criminal investigation, on the one hand, and for security purposes on the other and to assure a robust external oversight mechanism so as to avoid any abuses.

The EU underlines the importance of smooth cooperation between law enforcement agencies in the criminal procedure and notes Serbia's plan to conduct an analysis of the organisation, capacity and powers of state bodies in the fight against organised crime and corruption in view of subsequent legal steps in order to boost efficiency, professionalism and independence.

The EU notes that Serbia faces important threats and vulnerabilities as regards money laundering (See also *Chapter 4 – Free movement of capital*). It further notes that Serbia so far has not been very effective in investigating, prosecuting and convicting perpetrators of financial crimes, in particular money laundering and urges Serbia to become more pro-active in this respect. The EU also encourages Serbia to move beyond a purely criminal law approach to fighting organised crime and corruption, and calls on Serbia to strengthen its capacity to conduct complex financial investigations, in line with its dedicated strategy/action plan. The EU notes the commitment of Serbia to implement the 40 Financial Action Task Force (FATF) recommendations and to strengthen the Financial Intelligence Unit. The EU underlines the importance of all law enforcement bodies (including the entire chain responsible for the prevention and fight against money laundering) to have clearly defined responsibilities, to be well connected with relevant databases and in particular to be able to work in a result-oriented, independent and pro-active manner. The EU encourages Serbia to also pay particular attention to the human and financial resources as well as to equipment and training needs.

The EU takes note of Serbia's commitment to adopt new legislation on asset seizure and to establish and develop an Asset Recovery Office (ARO) in 2017 that will also be in charge of managing confiscated assets. The EU underlines the importance of these measures in the context of the effectiveness of dismantling organised crime groups and stresses the need for ambitious legislation, allocating sufficient financial and human resources and providing the necessary specialised training and equipment to the ARO.

The EU takes note of the measures Serbia has put in place to fight against human trafficking. It underlines the importance it attaches for Serbia to adopt in 2016 a Strategy and Action Plan in line with the EU Strategy Against Trafficking in Human Beings, to closely monitor the effects of its implementation, to continue its legal alignment with the *acquis*, to strengthen its operational capacity and to foster a more pro-active attitude of investigative authorities, to pay special attention to vulnerable groups such as children and Roma, to provide training on the early identification of victims and to step up preventive measures.

The EU notes that the Serbian Criminal code transposed the EU legislative framework on facilitation of unauthorised entry, transit and stay (Directive 2002/90/EC and Framework Decision 2002/946/JHA). The EU encourages Serbia to utilise that legislative framework in a proactive way to target organised crime groups responsible for facilitating migrant smuggling. The EU invites Serbia to implement the recommendations issued by the Group of Experts of the Council of Europe against Trafficking in Human beings (GRETA) in its 2014 report.

The EU notes that cyber criminality becomes an increasing problem in Serbia and that Serbia has so far not developed a strategic vision on how to address this. It also notes the actions Serbia plans to enhance the capacity as well as the level of specialisation of bodies in charge of fighting cyber criminality, including in the Ministry of the Interior, the Special Prosecutor's Office as well as in the courts. It also notes Serbia's intention to strengthen co-operation with civil society actors. The EU notes that Serbia ratified the Convention on Cybercrime (Budapest Convention) in 2009 and invites Serbia to further align its legislation with Directive 2013/40/EU on attacks against information systems. It encourages Serbia to develop a coherent strategic and long-term vision on how it intends to address cyber-criminality, including on-line child sexual abuse, in line with the EU strategic and operational approach against cybercrime.

The EU notes that Serbia adopted a new Law on Weapons and Ammunition and plans a number of measures to step up control over small arms and light weapons (SALW) and to prevent and address their trafficking. The EU also takes note of Serbia's plans to adopt a new Strategy and Action Plan on Small Arms and Light Weapons at the end of 2016. It invites Serbia to bring its legal framework in this field further in line with the relevant *acquis* and to ensure secure storage and destruction of confiscated weapons.

The EU takes note of Serbia's plan to conduct an impact assessment of the Witness Protection Unit in the Ministry of the Interior in view of improving its capacity through extra staff, training and new equipment. It also notes Serbia's intention to develop a Victim and Witness Support Service at the Organized Crime Prosecutors Office. The EU underlines the importance of a well-functioning witness protection system, the allocation of sufficient and well-trained staff to the witness protection unit and the ability to offer a high degree of protection needed.

7. Fight against terrorism

The EU takes note of the information on the laws in place and in particular regarding the Law on the Prevention of Money Laundering and the Financing of Terrorism, the Law on the Freezing of Assets with the Aim of Preventing Terrorism, the Criminal Code, the Criminal Procedure Code, the Law on the Basis Regulating Security Services of the Republic of Serbia, the Law on Police and the Law on the Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Corruption and Other Severe Criminal Offenses. The EU takes note of the fact that Serbia's legislation is to a good extent aligned with the EU *acquis* on terrorism. It notes that Council Framework Decision 2008/919/JHA on combating terrorism has been fully transposed. It also notes the adoption of a new Law on Freezing of Assets for the Purpose of Preventing Terrorism and of amendments to the Criminal Code transposing UNSC Resolution 2178(2014) criminalising foreign terrorist fighters.

The EU invites Serbia to further align its legislation with the relevant EU *acquis*, including with Regulation 98/2013 on the marketing and use of explosives, Directive 2008/114/EC on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection and with the EU Chemical, Biological, Radiological and Nuclear materials (CBRN) Action Plan. The EU also stresses the importance for Serbia to step up its preparedness and response capacity towards chemical, biological, radiological and nuclear threats.

The EU notes that Serbia is preparing to adopt a National Strategy and Action Plan to Prevent and Fight against Terrorism (2016 – 2020) in line with the EU Counter-Terrorism Strategy. It further notes that Serbia conducted a national terrorism financing risk assessment which formed the basis for the subsequent adoption of the Anti- Money laundering and Countering Financing of Terrorism Strategy and Action Plan. The EU stresses the importance for Serbia to develop the necessary capacity to detect and call a halt to financial flows nourishing terrorism.

The EU notes that Serbia intends to further upgrade its operational capacity and infrastructure, inter alia through the establishment of a single national database and exchange of terrorism-related information, new IT and telecommunication tools and various training courses. The EU invites Serbia to adopt all remaining legal instruments, strengthening inter-agency coordination and to step up information exchange and co-operation with specialised bodies in the EU and its Member States.

8. Fight against drugs

The EU takes note of the information regarding the legal framework in place and in particular the Criminal Code, the Criminal Procedure Code, the Law on the Health Registry the Law on psychoactive controlled substances, the Law on the substances used in the illegal production of narcotics and psychotropic substances as well as implementing legislation. The EU notes Serbia's participation in international Conventions with regard to the fight against drugs. The EU notes that Serbia's legislation is partially aligned and invites Serbia to proceed with the remaining legal adjustments in order to achieve full compliance with the EU *acquis* in this field at the date of accession at the latest.

The EU takes note of the information regarding Serbia's Strategy for Drug Abuse Suppression (2014–2021) and its accompanying Action plan (2014–2017) which are in line with EU Strategy and Action Plan and reflect the main objectives of the renewed (2013) EU-Western Balkan Action Plan on Drugs. It invites Serbia to duly monitor its implementation and notes the foreseen annual reports on the implementation.

The EU underlines that the regulatory framework alone will not suffice to efficiently fight against drugs. The EU therefore emphasise the importance of Serbia's commitment to strengthen the competence and operational capacity of law enforcement and judicial authorities in the fight against drugs trafficking and abuse in particular when it comes to psychoactive substances and drug precursors. The EU notes in particular the actions aiming at strengthening the Service for Drug Addiction Prevention and Drugs Trafficking Suppression in the Ministry of the Interior, training for various units in the Ministry of the Interior including joint investigation teams and the financial investigation unit and it also notes Serbia's intention to look into providing a better legal framework allowing for improving operational performances. The EU highlights the importance of good inter-agency co-operation in this area, both on prevention of drug abuse and on the repressive side, including fighting drugs trafficking at the borders.

The EU also notes Serbia's proposed actions to ensure that the safe storage of seized drugs and precursors is at all moments guaranteed and that destruction takes place in line with EU rules. It notes the planned legal amendments and Serbia's intention to develop and implement a program for systematic destruction of drugs/ psychoactive controlled substances (PACS) and precursors.

The EU notes Serbia's commitment to keep its list of drugs and precursors regularly updated in line with relevant EU developments. It also notes that Serbia has developed extensive cooperation with international bodies and agencies (e.g. Interpol, Europol, EULEX, UNODC). The EU takes note of Serbia's participation in cooperation programmes with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). It notes in this respect that Serbia plans to establish a National Focal Point that will make the best use of previous EU assistance and EMCDDA training provided. The EU takes note of Serbia's plan to establish a National Drugs Information System. The EU underlines the importance for Serbia to cooperate with the EMCDDA including in the collection, processing and reporting of data.

The EU encourages Serbia to continue its efforts to strengthen the administrative and operational capacity, including by further strengthening drug abuse prevention policies and to pay due attention to coordination and co-operation between various bodies. The EU stresses the importance of pro-actively targeting organised crime groups who are active on the territory of Serbia and in the region and to ensure that asset confiscation is at all times used to effectively dismantle them.

9. Customs cooperation

The EU takes note of the information regarding the legal framework in place and in particular the Law on the Customs Service and the fact that Serbia is implementing an IT Strategy 2011 – 2020 within the Customs administration. The EU notes that Serbia's legislation is partially aligned with the Decision 2009/917/JHA on the use of information technology for customs purposes and that Serbia is committed to amending its Customs Administration's IT strategy in 2017 so as to prepare for implementing Decision 2009/917/JHA upon accession.

The EU underlines that customs officials in Serbia face considerable challenges given the pressure of organised crime at the borders, for example as regards weapon and drugs smuggling. It notes in this respect that Serbia will amend the Criminal Procedure Code and Law on the Customs Service granting wider investigative powers to the customs authorities. It also notes that the Integrated Border Management Strategy will be amended in a way that it allows customs officers to access relevant databases and a smoother information exchange at the borders.

The EU notes that training will be provided on the implementation of the Naples II Convention, in particular on hot pursuit, cross-border surveillance and controlled delivery.

The EU invites Serbia to ensure the necessary administrative and institutional capacity to implement the Convention on Mutual Assistance and Cooperation between Customs Administrations (Naples II) and the Convention on the Use of Information Technology for Customs Purposes (CIS) and its Protocols upon accession. In this context, the EU underlines the need to ensure awareness and possible involvement of judicial and police authorities with regard to Articles 3 and 4, par. 7 of the Naples II Convention.

10. Counterfeiting of the euro

The EU takes note of the information regarding the legal framework in place and in particular the Criminal Code, the Criminal Procedure Code, the Law on responsibility of legal entities for criminal offences, the Law on the Organization and Competence of Government Authorities in Combating Organized Crime, Corruption and Serious Criminal Offences Including Counterfeiting Money and the Law on the National Bank of Serbia. The EU further notes Serbia's intention to participate in the International Convention for the Suppression of Counterfeiting Currency and to align the national legislation with the *acquis*, including Directive 2014/62/EU and Decision 2001/887/JHA.

The EU takes note of the administrative and operational measures against counterfeiting by the Ministry of the Interior, the Ministry of Finance and the National Bank of Serbia. It also notes that within the National Bank of Serbia, there is a specialised Counterfeits and Currency Analysis Division, which operates largely in line with Decision 2001/887/JHA. The EU notes the various workshops and trainings planned to get acquainted with good practices within the EU and Serbia's intention to step up co-operation with Europol. The EU invites Serbia to fully align the legal and institutional framework for the fight against counterfeiting with the EU *acquis*. The EU in particular invites Serbia to formally establish a National Central Office for the fight against Euro counterfeiting.

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In view of the present state of Serbia's preparations, the EU notes that, on the understanding that Serbia has to continue, through inclusive consultation with civil society and major stakeholders as well as appropriate parliamentary scrutiny using procedures that ensure this adequately, to make progress in the alignment with and implementation of the *acquis* covered by the chapter Justice, freedom and security, the following *interim benchmarks* would need to be met before the next steps in the negotiation process of the chapter Justice, freedom and security can be taken:

- Serbia ensures an effective, close and permanent monitoring of the implementation of its Action Plan in the field of Justice, Freedom and Security through a robust and multi-disciplinary mechanism, paying particular attention to the adequacy of human and financial resources, institutional capacity, training requirements, the respect of set deadlines, a real dialogue with civil society and adequate consideration of their proposals and which can trigger corrective measures as required.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of legal and irregular migration. In particular,

- Serbia conducts a comprehensive gap analysis of its legal, institutional, technical and training needs in the field of legal and irregular migration. Based on this, Serbia clearly identifies steps for implementing an EU compliant migration policy, including:
 - An investment plan for meeting the needs for equipment, IT, consequent apprehension, identification and registration of irregular migrants, as well as accommodation and detention of irregular migrants for the purpose of return.
 - A human resources strategy and training plan.
 - Serbia allocates sufficient financial resources to start and complete implementation of the above.

- Serbia amends the Criminal Code, the Law on Employment of Foreigners and the Law on Foreigners and brings its legislation in line with the EU *acquis* in the field of legal and irregular migration. Serbia effectively monitors and reports on the implementation of this legislation and takes corrective measures where needed.
- Serbia ensures proper accommodation for intercepted irregular migrants in accordance with the needs and pays particular attention to vulnerable groups. Serbia ensures adequate detention capacity and procedural timeframes for the return of irregular migrants in accordance with their needs and in compliance with the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Serbia constantly monitors the adequacy of accommodation and detention capacity and is ready to provide, if necessary, at short notice additional capacity in case of sudden influxes.
- Serbia negotiates and takes steps to conclude readmission agreements, including with more countries of origin and transit. Serbia promotes and provides effective support for voluntary return of irregular migrants to their country of origin and develops the institutional capacity for implementing a robust re-documentation and return mechanism in line with the EU return policy and *acquis*. Serbia provides an initial track record of effective re-documentation and returns of irregular migrants.
- Serbia implements measures leading to a notable decrease in the numbers of its nationals submitting unfounded asylum applications in the EU. Serbia develops and implements awareness-raising and information campaigns, particularly among the main concerned local communities of origin and develops a parallel track of better social inclusion of these communities in Serbian society.
- Serbia takes all necessary steps to ensure that further measures are put in place to enable law enforcement agencies to effectively target and dismantle organised crime groups responsible for migrant smuggling through its territory. Serbia demonstrates an initial track record of successful investigations, prosecutions and final convictions of people smugglers, including successful confiscation of their criminal assets.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of asylum.

In particular,

- Serbia develops a robust mechanism for early warning, preparedness and crisis management and correctly implements it in crisis situations. Serbia establishes an adequate capacity to register and determine whether displaced persons are in need of international protection or not.
- Serbia adopts and implements a new Law on Asylum which is to the maximum extent aligned with the relevant EU *acquis* and which provides the basis for establishing an initial track record on implementing an EU compliant asylum procedure ensuring:
 - unhindered access to the procedure;
 - a reasonable length of handling asylum requests;
 - an improved quality of the decisions taken;
 - recognition rates comparable to the EU average;
 - sufficient accommodation for, assistance to and integration of asylum seekers (including vulnerable categories) into society;
 - effective measures to prevent possible misuse of rights by migrants, including swift appeal procedures;
 - effective and rapid return of rejected applicants to the country of origin or third-country of transit;
 - Appropriate legal and immigration provisions for failed asylum applicants or irregular migrants that cannot be quickly removed from Serbia.

- Serbia substantially strengthens its institutional capacity to effectively handle asylum claims and ensures the financial sustainability of institutions concerned, including relevant administrative and judicial authorities at local and national level. In particular:
 - The capacity of the Asylum Office to adequately and timely handle asylum requests is strengthened through hiring extra staff and ensuring their comprehensive training, development and regular assessment.
 - The capacity of the Commissariat for Refugees is further upgraded in line with identified requirements, including through regular training.
 - Judicial authorities in charge of handling asylum and immigration appeals receive relevant training.
 - Serbia develops the ability to further increase its accommodation capacity based on a continued monitoring of migration trends and the needs of irregular migrants on its territory.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of visa policy. In particular,

- Serbia conducts a comprehensive needs assessment as a basis for the relevant parts of the required Schengen Action Plan.
- Serbia ceases issuing visas at the borders and brings its visa policy in line with EU requirements in this respect.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of Schengen and external borders. In particular,

- Serbia adopts a Schengen Action Plan (SAP) which will allow it to effectively prepare the steps needed (including as regards investment in infrastructure and equipment, staffing and training needs, institution building needs and legal steps) to implement the relevant parts of the Schengen *acquis* upon accession or where relevant upon accession to the Schengen area. Serbia secures upon adoption of the SAP the necessary funds for its implementation.

- Serbia adopts and implements an amended Integrated Border Management (IBM) Strategy in line with the EU IBM concept. Serbia pays particular attention to improving information exchange, coordination among border agencies and further develops its risk analysis capacity within the border police.
- Serbia makes good progress with the modernisation of infrastructure and equipment at border crossing points as well as in between them, in particular those borders most affected by smuggling of goods and persons.
- Serbia steps up operational cooperation with all its neighbours for effectively preventing illegal crossings and, in particular, takes steps to clarify the status of all alternative roads with its neighbours either by preventing passage or by formalising these border crossing points through the conclusion of local border crossing agreements.
- Serbia addresses the twin-threats of corruption and organised crime at its borders through the implementation of a dedicated anti-corruption plan at the borders and provides an initial track record of an adequate follow up of detected cases.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of judicial co-operation in civil, commercial and criminal matters

- Serbia conducts a comprehensive impact assessments covering judicial co-operation in civil, commercial and criminal matters and on that basis amends its action plan providing:
 - a clear sequencing of steps needed to align with the *acquis* in this area;
 - an overview of staffing and training needs;
 - details on the costs and sources for financing these reforms.
- Serbia recruits and trains an adequate number of experts, both in the Ministry of Justice as well as in courts and prosecutorial offices in line with the set objectives of ensuring quality and a timely handling of requests for judicial cooperation in civil, commercial and criminal matters.

- Serbia adopts the necessary amendments to the relevant laws herewith aligning its legislation to the maximum extent to the EU *acquis* in the area of judicial co-operation in criminal, civil and commercial matters and ensures that the material conditions are in place to ensure a proper implementation.
- Serbia concludes a co-operation agreement with Eurojust for which a data protection law in line with the EU *acquis* needs to be adopted and implemented.
- Serbia provides an initial track record of efficiently handling judicial co-operation requests in civil and criminal matters and applying multilateral conventions and bilateral agreements in this area.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of police co-operation and the fight against organised crime

- Serbia conducts a comprehensive analysis and on that basis amends its action plan providing:
 - a clear sequencing of steps needed to align with the EU police co-operation instruments;
 - an overview of staffing and training needs, including, where relevant, steps to address critical gaps;
 - clarifying procedures for operational co-operation between various departments in the Ministry of the Interior and with Intelligence Services;
 - ensuring the material conditions for smooth and secure exchange of relevant data;
 - cost details and sustainable financial sources required for effectively implementing these reforms;
 - detailed steps for establishing robust safeguards to ensure that the police integrity is strengthened and that police services are operationally independent from political interests and shielded from criminal influence.

- Serbia implements its operational agreement with Europol in a satisfactory manner and applies effectively the EU Serious and Organised Crime Threat Assessment (SOCTA) methodology to develop a strategic picture of risks and threats related to the organised crime situation on its territory. Serbia is using the SOCTA to define and act on priorities in its security policy.

- Based on the outcome of a planned analysis of relevant bodies, Serbia amends the Law on the Organisation and Jurisdiction of State Authorities in the fight against organised crime, corruption and other particularly serious offences and strengthens its institutional capacity through:
 - ensuring effective co-ordination and productive cooperation between the police and the prosecutors in line with Criminal Procedure Code which clearly defines their respective roles, duties and responsibilities;
 - filling the remaining vacancies in the Prosecutor's Office for Organised crime (POOC) and the Department for Combating Organized Crime (DCOC) in the Ministry of the Interior;
 - ensuring that training needs of staff of the POOC and the DCOC are clearly defined and addressed;
 - improving the material conditions for the POOC, in particular through a modern case management system, new analytical software and making IT systems interoperable with data bases of other relevant institutions;
 - ensuring a more coherent approach within the Police for collecting and sharing intelligence, including through modernising IT tools,
 - ensuring in practice a smooth co-operation and a safe platform for information exchange between POOC and DCOC as well as with other relevant agencies.

- Serbia establishes a system of regular collection of unified crime statistics with reference to the UNODC International Classification of Crime for Statistical Purposes.
- Serbia redefines the role of the intelligence service in the criminal investigation procedure to ensure a clear separation of the mandates and regulations concerning interception of communications for criminal investigation, on the one hand, and for security purposes on the other and put in place a robust oversight mechanism so as to avoid any abuses.
- Serbia brings its legislation in line with the 40 FATF recommendations, implements its financial investigation strategy, including providing the necessary training on the concept of financial investigation and systematically conducts financial investigations in parallel with criminal investigations into corruption and organised crimes.
- Serbia adopts new legislation on asset recovery in line with – but preferably going beyond - the EU *acquis*, establishes an Asset Recovery Office (ARO), which should also be in a position to properly manage these assets and is adequately resourced in terms of staff, equipment and budget. Serbia provides an initial track record of an increased number of cases and higher amounts of criminal assets confiscated, in particular in cases of organised crime and money laundering.
- Serbia steps up the fight against money laundering, in line with the recent recommendations of MONEYVAL in its evaluation report on Serbia and provides an initial track record of an increasing number of suspicious transactions reported to the Financial Intelligence Unit (FIU) and ensures these are pro-actively used in criminal investigations.

- Serbia adopts and implements a strategy and action plan in line with the EU Strategy Against Trafficking in Human Beings and respecting a human rights based approach. Serbia brings its legislation in line with the relevant EU *acquis*, strengthening its operational capacity, ensuring a more pro-active attitude of investigative authorities, focusing prevention efforts also on vulnerable groups such as children and Roma, preventing re-victimisation during investigation, prosecution or trial and provides training on the above to all relevant organisations and services, including to services that can help on the early identification of victims and/or potential victims.
- Serbia prepares, adopts and implements a strategy and action plan to effectively address cyber criminality in line with the EU strategic and operational approach against cybercrime. Serbia strengthens its operational capacity (in terms of staffing and equipping the High Tech Crime Unit) to deal with cyber criminality and aligns its legislation with the relevant EU *acquis*, including as regards on-line child sexual abuse, provides specialised training and raises the awareness among civil servants and the public on cyber criminality.
- Serbia steps up the fight against the storage, sale and ownership of illegal firearms (in particular linked to terrorist activities), implements the new Law on Weapons and Ammunition and adopts and implements its future Strategy and Action Plan on Small Arms and Light Weapons for the period 2016 – 2021. Serbia steps up its operational capacity (including intelligence collection, analysis and exchange of information), further aligns its legislation with the relevant EU *acquis*, establishes a centralised system to register seized arms and exchanges information on it and ensures secure storage and destruction of confiscated weapons.
- Based on the results of an impact assessment, Serbia provides extra staff, training and equipment to the Witness Protection Unit in the Ministry of the Interior.
- Serbia establishes an initial track record of efficient and effective investigation, prosecution and convictions in organised crime cases, including the confiscation of criminal assets.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of anti-terrorism

- Serbia adopts and implements a new Strategy to prevent and fight terrorism in line with the EU Counter-Terrorism Strategy, aligns its legislation to the maximum extent with the relevant EU *acquis*, continues to develop its operational capacity, deploys effective efforts to prevent radicalisation and extremism and steps up practical co-operation and information exchange with specialised services in the EU and its Member States.

Serbia enhances its efforts to ensure compliance with EU requirements in the field of co-operation in the field of drugs

- Serbia continues to implement the Strategy for Drug Abuse (2014 – 2021) and the Action Plan (2014 – 2017) and monitors the quality and effects of their implementation.
- Serbia takes measures aimed at increasing the operational capacity of bodies involved in the fight against drugs trafficking, in particular the Service for Drug Addiction Prevention and Drugs Trafficking Suppression in the Ministry of the Interior which should be fully staffed and trained, allowing it to systematically conduct pro-active investigations.
- Serbia ensures that there is a smooth cooperation between the various bodies responsible for prevention of drug abuse and the overall coordination of the national policy against drugs. It ensures that there are no overlapping mandates.
- Serbia ensures smooth cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) through the National Monitoring Centre for Drugs within the Ministry of Health and reports to EMCDDA on a regular basis.
- Serbia provides an initial track record of an increase of drugs seizures and ensures secure storage and effective destruction of confiscated drugs and precursors in line with EU standards. Serbia ensures that final convictions for drugs trafficking are systematically accompanied by decisions to confiscate unlawfully gained assets of convicted criminals.

Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above – including through peer-review missions - with a view to ensuring Serbia's administrative capacity. In line with the provisions of the negotiating framework, the Commission indicates its intention to propose updated interim benchmarks, whenever it is duly justified. In this respect, any measures to adjust pre-accession assistance may only be taken in accordance with applicable rules and procedures. Particular consideration needs to be given to the links between the present chapter and other negotiation chapters. A final assessment of the conformity of Serbia's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Serbia to provide regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*.

In view of all the above considerations, the Conference will have to return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* between the opening and the conclusion of the negotiations.