

Opening benchmark assessment

Report

Serbia

Chapter 24 – Justice, Freedom and Security

I. OPENING BENCHMARK – CHAPTER 24 (JUSTICE, FREEDOM AND SECURITY)

On 16 May 2014, the Commission presented the screening report on Chapter 24 (Justice, Freedom and Security) to the Council. On 25 July 2014, the Presidency communicated, on behalf of the Member States, to Serbia that the opening of negotiations on this chapter could be envisaged once the following benchmark is met:

Serbia adopts and provides the Commission with one or more detailed action plan(s), comprising related timetables and setting out clear objectives and timeframes and the necessary institutional set-up, in the areas of migration, asylum, visa policy, external borders and Schengen, judicial cooperation in civil and criminal matters, police cooperation and the fight against organised crime, fight against terrorism, cooperation in the field of drugs, customs cooperation and counterfeiting of the Euro (criminal aspects).

These action plan(s) should take into consideration recommendations stemming from the screening process and endorsed by the Council. Beyond these recommendations, also other identified shortcomings in the country should be addressed. The action plan(s) should aim at full alignment of Serbia with the requirements of this chapter. They will constitute guidance documents for the subsequent negotiations and the Commission may propose that Serbia submits new or amended action plan(s) where problems arise in the course of negotiations under this chapter.

To assist Serbia in drafting this Action Plan, the Commission – with the help of Member States' experts - organised technical assistance missions to Serbia in the second half of 2014 and in 2015. Also for calculating the costs of the various actions, technical assistance was provided. Where relevant, recommendations from the expert reports following peer-review missions in 2014 and 2015 have been included in the Action Plan.

II. ASSESSMENT OF THE FULFILMENT OF THE OPENING BENCHMARKS

This report gives a factual overview of the measures Serbia intends to put in place in response to the screening report and its recommendations. It does not prejudge in any way the Commission's assessment of their implementation, nor of the effects that they might generate.

The Government endorsed on 6 October 2015 an Action Plan in response to the opening benchmark set by the Council under this chapter. This Plan covers the following policy fields under Chapter 24: migration, asylum, visa policy, external borders and Schengen, judicial co-operation in civil and criminal matters, police co-operation and the fight against organised crime, the fight against terrorism, co-operation in the field of drugs, customs co-operation and counterfeiting of the Euro.

Overall, the Plan is comprehensive and detailed. It builds on results achieved through EU and other donor's assistance as well as on the implementation (ongoing or past) of Serbian strategic documents (such as the Strategy for Combating Organised Crime, the Strategy against Trafficking in People, the Anti-Terrorism Strategy, the Integrated Border Management Strategy, the Migration Management Strategy, the Illegal Migration Suppression Strategy, the Strategy on the Reintegration of Returnees on the basis of the Readmission Agreement etc.). It addresses remaining weaknesses as identified through recommendations stemming from the screening process and endorsed by the Council. Where relevant, additional measures to address other shortcomings have been included in the Plan. Following its adoption and where needed, Serbia

will amend and align existing national sectorial strategic documents and action plans to ensure consistency and complementarity.

In the introductory section, Serbia explains the methodology for developing the Plan, including deadlines, names of the bodies responsible for the implementation, the financial costs and corresponding budget as well as result and where needed impact indicators.

As regards the timelines in which the different actions have to be fulfilled, Serbia states that by 2018 the transposition of the vast majority of the *acquis* in national legislation will be finalised and institutions will be established so that it can focus on the effective implementation from then onwards. While relatively detailed information is available regarding actions in the short and medium term, further details on long-term actions are expected to be added in the course of implementation. To ensure evidence-based policy making, Serbia plans a number of needs assessments on the basis of which actions will be defined later on. Costs have been estimated and financial resources were identified, except for those actions that will result from planned needs assessments.

In all cases the institutions in charge of implementing actions have been mentioned. Where various institutions are involved, the leading/co-ordinating institution is put in bold. Result indicators have been described and a good effort was made to develop impact indicators where relevant. The results will feed into the track record necessary to progress and later on to close the negotiations in this chapter.

Serbia has established a two layers structure to draft and monitor the action plan: the Negotiating Group is formally chaired by a State Secretary in the Ministry of the Interior and consists of the Head of the Bureau for Strategic Planning in the Ministry of the Interior and the ten sub-chapter co-ordinators (for each of the ten areas covered by this action plan). The role of the Negotiating Group is to coordinate and monitor the activities in the framework of the action plan for Chapter 24. It oversees the work of the second layer: the ten working teams each headed by one of the sub-chapter co-ordinators. These teams have received assistance through TAIEX from Member States' experts at various stages of the drafting process. Monitoring and reporting on the implementation of the Plan will be done in close co-ordination with the Serbian European Integration Office (SEIO). Serbia is aware that this Plan will require regular updates (and additional actions in case of need) in the course of its implementation.

Members of civil society organisations were indirectly involved in preparing the Plan through a consultation process allowing them to provide comments. They are not formally part of working groups that have drafted or that will be monitoring the implementation of the Plan. Serbia is nevertheless committed to a regular dialogue with civil society organisations on the implementation of the Plan.

The nature of the *acquis* in Chapter 24 requires that Serbia further develops co-operation with all of its neighbours, including Kosovo^{*}. Serbia states in the Plan that it remains fully committed to the continued normalisation of its relations with Kosovo and the implementation of all agreements reached in the context of the dialogue (*see Chapter 35 – Other issues*).

Overall, the Plan demonstrates recognition of the main challenges and key issues to be tackled. All issues identified in the opening benchmark have been adequately addressed. Therefore, it is the Commission's assessment that, on the basis of the above, Serbia fulfils the opening benchmark set under this chapter.

^{*} 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.

II 1. MIGRATION

Serbia's planned actions in the field of migration deal with legal migration, readmission of irregular migrants as well as irregular migration. They are meant to complement Serbia's Strategy for Integrated Migration Management (2011 – 2016) and its accompanying action plan (2013 – 2014) adopted in April 2013. The following key measures are foreseen:

- Serbia will amend its Criminal Code (end of 2015), the Law on Foreigners (2016) and the Law on Employment of Foreigners (2017) so as to bring its **legal framework** in line with the *acquis* in the fields of legal and irregular migration. The Commissariat for Refugees and Migration will head an inter-institutional working group to monitor this legal process and its results.
- With the help of a twinning project, Serbia started to conduct an analysis of the **administrative capacity**, training, equipment and infrastructure required to correctly implement the EU *acquis* on both legal and irregular migration. It will subsequently (2016) adopt a training plan. The necessary equipment will be gradually provided between the end of 2015 and the end of 2018.
- Serbia refurbished parts of the **Centre for irregular migrants** in Padinska Skela so as to create eight places for families (mothers with children). Needs continue to be assessed in view of extending the accommodation capacity by the end of 2016. Special attention is paid to unaccompanied minors (UAMs). With the help of a foreign donor, Serbia will expand its capacity to host UAMs by the end of 2016.
- Serbia has adopted a "Response plan in case of mass influx of migrants" (see hereafter) which contains an evaluation mechanism to continuously assess the **accommodation needs**. By December 2015 the staff at accommodation centres will receive training on how to manage sudden in-flows.
- Serbia has 10 **bilateral readmission agreements** in place, including with all its neighbours (non EU Member States) apart from Kosovo. In early 2015, Serbia enabled the effective transfer to Kosovo of persons returned to Serbia from the EU. Serbia is committed to ensuring that also in the future this arrangement remains in place. Serbia is also planning to conclude readmission agreements with Ukraine and Turkey (2016).
- Serbia is aware of the substantial number of unfounded asylum requests by its citizens in EU Member States. While not covered by the screening report, Serbia has included two additional actions in support of the ongoing implementation of its strategy to **re-integrate returnees**, including EUR 600.000 of financial support to the local level to implement activities fostering re-integration (2015 – 2017). (*See also Chapter 23 – Judiciary and fundamental rights*).

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for progress in this area will be the capacity of Serbia to intercept, accommodate and return irregular migrants in line with EU and international standards (including vulnerable groups of migrants), to effectively address people smuggling, to continue efforts to integrate returnees and to ensure a smooth functioning of the readmission agreements.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II 2. ASYLUM

Serbia's legal and institutional framework in the field of asylum is partially aligned with the relevant EU acquis. In addition, Serbia's asylum system is currently under enormous pressure due to escalating numbers of displaced persons transiting through the region. The following key measures are foreseen:

- Serbia – with the help of international organisations and local NGOs - is providing food and shelter within its current capacity and is addressing acute protection, humanitarian and basic needs arising from the mass influx of displaced persons. Serbia has adopted a "**Response plan in case of mass influx of migrants**" to face this and future potential crises and will on that basis work on an **early warning, preparedness and crisis management strategy**.
- In line with the screening report recommendations, Serbia established in January 2015 the **Asylum Office**, a permanent 'first-instance' body responsible for handling the asylum claims, conducting the interviews and taking a first instance decision. A total budget of EUR 1 044 000 is foreseen in the period 2016-2018. The Commissariat for Refugees which is responsible for the accommodation of asylum-seekers will have an annual budget of EUR 2.16 million, including for salaries. Following the adoption of a new asylum law in 2016 and with the help of a twinning project, the financial needs of the entire asylum system will be reassessed and adapted where needed (2016).
- The Asylum Office will consist of 29 staff (an increase of 23 staff members) of which 19 case handlers and four interpreters and will be fully staffed by early 2016. Further training will be delivered through the twinning project and five trainers will be trained by the end of 2016 to ensure a permanent training capacity for new staff.
- When opening a new asylum centre at the end of 2017, Serbia will increase its current **capacity** of 810 places with 300 permanent additional places. In addition, Serbia's newly adopted response plan is allowing Serbia to expand its current capacity with 50 - 300% in case of mass influxes and depending on the needs.
- Serbia will adopt **a new asylum law** in 2016, following a legal analysis of gaps in its current legislative framework. Implementing legislation will be adopted shortly after (2016). Serbia is committed to ensuring that as a result of the implementation of the new law the Serbian asylum system functions in line with the EU acquis and international standards. Serbia will monitor the implementation of this legislation and in early 2017 a first evaluation on the implementation of the new law will be made available. The evaluation will pay particular attention to the adequate and timely processing of applications and to the effective access to the asylum procedure. Serbia intends to make the best use of existing regional co-operation mechanisms to find a common approach among countries in the region to address challenges related to refugee flows. Serbia is also committed to strengthening co-operation with EU Member States regarding the return of non-Serbian asylum applicants and beneficiaries of international protection recognised by Serbia on a case by case basis and in line with the safe third country principle.
- Serbia will strengthen its legal framework allowing for integrating persons that benefit from asylum or subsidiary protection. **Integration** programmes will be rolled out and a budget of EUR 640.000 has been reserved for the period 2016 – 2018.
- Approximately two years prior to accession, Serbia commits to start putting in place the necessary conditions for meeting the technical requirements to apply the **Eurodac and**

Dublin Regulations² (including co-operation with EU-LISA) and to co-operate with the European Asylum Support Office (EASO). This includes the preparation of a specific analysis of what needs to be further done to meet these technical requirements as well as the establishment of structures necessary to cooperate with the EASO and to benefit from the Asylum, Migration and Integration Fund, if needed, from the day of accession.

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for progress in this area will be the capacity of Serbia to put in place emergency/contingency measures to deal with migratory challenges, in particular the influxes of displaced persons; the adoption of a comprehensive early warning, preparedness and crisis management strategy; the overall adequacy of the capacity and financial sustainability of the Asylum Office and the Commissariat for Refugees and other relevant administrative and judicial authorities; the establishment of an asylum policy in line with the EU *acquis* with special focus on access to the asylum procedure and to reception benefits; the reduction of the processing time of asylum applications; the quality of the decisions taken; the improved circumstances in which beneficiaries of international protection (including vulnerable categories) recognised by Serbia are accommodated, assisted and integrated and Serbia's capacity to help prevent secondary movements of asylum applicants and of beneficiaries of international protection.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II 3. VISA POLICY

Serbia's planned actions related to visa policy cover activities in three distinct sub-areas: visa regime, safety of documents and the visa information system. Some measures will be implemented as part of the future Schengen Action Plan while others will be implemented before. (see section II 4 – External Borders and Schengen). The following key measures are foreseen:

- At the end of 2018 Serbia will adopt a **Visa Regime Harmonisation Plan** that will contain all measures necessary for fully harmonising with the EU visa *acquis*. Six months prior to accession, Serbia will align its visa-regime with the EU Visa Regulation³ and address the shortcomings in administrative and technical capacities to comply with this Regulation.
- Serbia is committed to having in place the necessary capacity to receive a few months ahead of accession **classified information** on the security details of travel documents and visa format, and implement them in practice.
- Legislative steps are planned at the end of 2015 (new Law on Foreign Affairs), 2016 (new law on Foreigners) and 2017 (new by-law on visas) to ensure timely compliance with the **Visa Code**⁴.

² Council Regulation (EC) No [343/2003](#) of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac.

³ Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

⁴ Regulation (EC) No [810/2009](#) of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

- Serbia has a national **Visa Information System** (VIS) in place modelled upon the EU VIS⁵. IT solutions will be rolled out in a timely manner to ensure full compliance with the EU VIS prior to Schengen accession. Training of consular staff according to identified needs is available in the context of a twinning project.
- Serbia has taken measures to limit the **issuing of visas at the borders** to medical emergencies, humanitarian aid and for personal and professional reasons such as for sport teams. It will fully align its legislation with the EU *acquis* in 2016.

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for progress in this area will be the adoption of a Schengen Action Plan adequately reflecting the steps needed to align with and implement the EU *acquis* on visas as well as the further reduction, over time, of the number of visas issued at the borders.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II 4. EXTERNAL BORDERS AND SCHENGEN

The actions proposed by Serbia in this policy area cover external borders, aspects of police co-operation with regard to Schengen and Sirene⁶ and finally, the Schengen *acquis*. Although on the latter point preparations are at an early stage, Serbia already proposes steps to prepare its future accession to Schengen. The following key measures are foreseen:

- With the help of a twinning project Serbia will prepare for adopting a **Schengen Action Plan** in 2018. Prior to its adoption, Serbia will already in 2017 take steps to align its legal framework as much as possible with the Schengen *acquis*. This plan will map the sequencing of required investments in infrastructure based on an assessment made in 2016. Training will be conducted as of 2016 and the training curriculum for the Border Police will be harmonized with the FRONTEX Common Core Curriculum (2015). Serbia is already co-operating with FRONTEX and will further step up co-operation in areas such as risk analysis or joint actions. Serbia established a risk analysis unit in January 2015 and will develop and implement a national risk analysis model (in compliance with CIRCAM 2.0) by the end of 2015. Serbia is aware of the requirements related to the European Border Surveillance System (EUROSUR) and will take steps (2018) to prepare for joining the EUROSUR network upon accession.
- Serbia has been implementing an **Integrated Border Management** (IBM) Strategy which was not in line with the 2006 EU concept on IBM. It will therefore start with assessing the results of the implementation of its IBM strategy by the end of 2015 before adopting a new strategy in line with the 2006 EU concept in 2016.
- **Operational co-operation with neighbouring countries** will be further developed through: a mechanism for joint patrols at the Serbian-Romanian border and a Common Romanian-Serbian Contact Centre (2016), joint patrols with Croatia at the common border (2016) and Serbia and Croatia plan to regulate local border crossing traffic (2016). As of 2016, Serbia will invest in stepping up information exchange with all its neighbours related to various border security risks. With Bosnia and Herzegovina and Montenegro, Serbia will step up

⁵ Regulation (EC) No [767/2008](#) of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)

⁶ Supplementary Information Request at the National Entries

border surveillance activities and implement measures to block alternative routes along the common border so as to better prevent illegal crossings of the border (respectively end 2015 and early 2016). An Integrated Border Management Agreement was concluded in the context of the Belgrade-Pristina dialogue and includes all provisions as required under the *acquis*.

- The Serbian border police is currently implementing measures as foreseen in the national-**anti-corruption** strategy. Serbia is conducting a risk assessment of corruption in border agencies. On the basis of the results of this assessment, new anti-corruption measures will be developed (2016) as part of a dedicated anti-corruption plan for all agencies active at border crossing points. Implementation will start in 2017. Various trainings will start already in 2016 (*see Chapter 23 – Judiciary and Fundamental rights*).

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for progress in this area will be the adoption and correct implementation of the Schengen Action Plan and of the new Integrated Border Management Strategy and Action Plan in line with the EU concept on IBM, the gradual closure of non-official border crossing points with neighbouring countries, stepping up border surveillance activities with all neighbouring countries and a reduction in the number of complaints related to corruption at the borders.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II 5. JUDICIAL CO-OPERATION IN CIVIL AND CRIMINAL MATTERS

The actions proposed by Serbia in this policy area cover judicial co-operation in both civil/commercial and criminal matters. Aspects of mutual legal assistance with Kosovo are part of the IBM Agreement.

- For both areas, Serbia will prepare in 2016, with the help of foreign experts an **assessment** on steps needed to further harmonise its legislation with the relevant EU *acquis* in the area of judicial co-operation and mutual legal assistance in civil matters and international private law as well as judicial co-operation in criminal matters, including regarding the European Arrest Warrant. This assessment will have to include adequate administrative, budgetary, staff and training needs as well as clear recommendations on required legal amendments. It will focus on enhancing the statistical capacity, ensuring adequate training and foster direct contacts between relevant authorities. On that basis, Serbia is committed to rolling out a dedicated training programme (2017), to increasing the number of staff working on judicial co-operation (2017) and to making the required legislative changes (2018). To improve its statistical capacity, the existing programme "LURIS" for collecting data and producing statistical reports will be upgraded at the end of 2015.

Other key measures include:

- The ratification of **The Hague Convention**⁷ is planned in 2015.
- Preparations to conclude a cooperation agreement with **Eurojust** are ongoing. Progress on this matter depends on the adoption of an amended law on data protection (*See Chapter 23 –*

⁷ The Hague Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children (1996)

Judiciary and Fundamental Rights). A training programme for judges and prosecutors on co-operation with Eurojust and on data protection is planned to start in September.

- Serbia is currently an **observer** to the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union, the European Network of Councils for the Judiciary and the European Judicial Training Network. Serbia is applying for being associated to the work of the Network of the General Prosecutors of the Supreme Judicial Courts of the European Union and the Network for Legislative Cooperation between the Ministries of Justice of the European Union.
- As part of the justice reform process, Serbia will assess in 2016 the **material conditions** in courts and prosecution offices and make the necessary investments including allowing for a smooth international judicial co-operation (*see Chapter 23 – Judiciary and Fundamental rights*).

In addition to implementing its justice reform strategy, key indicators for progress in this area will be completing the current Plan with and subsequently implementing concrete legislative steps, institution building measures, strengthening human resources and providing them with adequate training and underpinning all these measures with an adequate budget so as to ensure that Serbia is ready to correctly implement the EU *acquis* in this area.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II 6. POLICE CO-OPERATION AND FIGHT AGAINST ORGANISED CRIME

The measures proposed by Serbia under this policy area cover police co-operation and the fight against various forms of organised crime. As regards the latter, Serbia is implementing a number of domestic strategies (on the fight against organised crime, on control of small arms and light weapons, on preventing and suppressing human trafficking), which also contain relevant actions for preparing Serbia's law enforcement bodies and the judiciary to meet the requirements for EU accession. Their implementation will be assessed in parallel with the actions in this Plan. The following key measures are foreseen:

Police co-operation

- In order to ensure effective implementation of the operational agreement with **Europol**, Serbia will assess how data protection rules are being implemented (end 2015) and ensure that all necessary security standards are met (2017). Serbia will strengthen the capacities of the National Contact Point for cooperation with Europol by the end of 2016 through the recruitment of six extra staff. All nine staff members of this office will be trained in the use of Siena. Serbia will post a liaison officer in The Hague by the end of 2015. In June 2015 Serbia signed association arrangements with Europol allowing Serbia to be associated to the work in analytical work files (AWF) covering a number of organised crime areas. Serbia plans to participate in joint investigation teams in 2016. A working agreement with the European Police College (CEPOL) is currently under preparation.
- Starting at the end of 2015, Serbia will analyse its legislative, institutional and human resources needs in view of preparing for implementing various instruments in the field of

police co-operation (including as regards the so-called "**Swedish initiative**⁸"), and start taking measures to enhance its operational capacity as of 2016, with the exception of the establishment of the **Sirene** bureau (upon accession). As regards the **Prüm Decision**⁹, at the end of 2015, Serbia will assess its legal and institutional framework as well as its equipment needs so as to have the necessary operational capacity in place by the end of 2019. A new DNA register will be established in 2017. A training plan will be established and approximately 120 persons will be trained as of 2016.

- Serbia has started to enhance its operational capacity to deal with **vehicle crime** including through recent trainings and study visits and will continue doing so through synchronising national and Interpol databases (2016) and through amendments to the Criminal Code including the criminalisation of new offences related to motor vehicle crimes (2016). Serbia is implementing an Action Plan for the fight against **violence and misbehaviour at sport events** (2013 -18) and will conduct a mid-term evaluation at the end of 2015. The National Football Information Point as well as the National Contact Point for the protection of **public figures** will receive training in 2015.
- Since the end of 2014, the Ministry of the Interior is undergoing a modernisation process touching upon organizational culture and business practices. The first phase ran from October 2014 till June 2015. The second phase of the reform will start after the new Law on Police has been adopted and will involve inter alia **organisational and functional changes within the Police Directorate** (2016). (*Details of the reform have been described in the introduction of the Plan as changes will impact on various policy domains within this chapter.*)

Fight against organised crime (See also Chapter 23 – Judiciary and fundamental rights).

- By the end of 2015, Serbia will publish the first **Serious and Organised Crime Threat Assessment (SOCTA)** based on Europol's methodology. It will allow Serbia to develop a strategic picture of organised crime on its territory and to assess threats and risks. With the help of an EU Member state, Serbia has developed an **intelligence-led policing (ILP) model**, which will be rolled out at central, regional and local level in 2016. In the course of 2015 police staff will be trained on the ILP concept. The integrated Information Communication Technology (ICT) platform of the Ministry of the Interior - accessible to all users – will be upgraded and become operational in 2017.
- **Data collection, analysis and exchange** are key to feed into the Serbian SOCTA. Hence, Serbia plans an analysis at the end of 2015 of the data collection and exchange between all law enforcement agencies. Based on memoranda of co-operation between law enforcement agencies (to be concluded in 2017), by the end of 2017 the technical conditions should be in place to safely exchange electronic data related to criminal investigations. A training plan will be developed (2017). A new methodology will be adopted to improve the collection of unified crime statistics (2016).
- Serbia will assess and clarify the role and practice of **security services** in the criminal investigation phase by the end of 2015.

⁸ Council Framework decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union

⁹ Council Decision [2008/615/JHA](#) of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime

- With the aim of reinforcing the capacity of all **investigative and judicial bodies** dealing with investigations into organised crime, Serbia will conduct an analysis of the organisational aspects and capacity of these bodies and subsequently amend the Law on Organization and Jurisdiction of State Authorities in the fight against organised and serious crime and corruption (end 2015). The capacity of the Organised Crime Prosecutor's Office will be strengthened through increasing the number of deputy prosecutors, prosecutorial assistants and supporting staff (starting in 2015), adding a team of economic forensic experts and improving the material and technical conditions (2016). The judicial academy has started training staff from authorities involved in investigating economic and financial crime, such as **money laundering**.
- Serbia is committed to implementing all **FATF recommendations** by the second quarter of 2016. Serbia has adopted a **financial investigation strategy** and will adopt the accompanying action plan in October 2015. The Financial Investigation Unit, in the Ministry of the Interior will be expanded from 62 (in 2015) to 105 employees (in 2018). Specialised training on financial investigations will be provided to police and prosecutors (starting in 2015). (*See also Chapter 23 – Judiciary and fundamental rights*).
- Regarding the fight against money laundering, the **Financial Intelligence Unit (FIU)** which in Serbia is hosted by the Administration for the Prevention of Money Laundering, will be reinforced in 2017 in terms of its staff, infrastructure and equipment. By the end of 2015, Serbia foresees to align its legislation with Council Decision 2000/642/JHA¹⁰.
- In 2016 Serbia plans to amend its law on **Seizure and Confiscation of the Proceeds from Crime** so as to bring it in line with Directive 2014/42/EU¹¹. The capacity of the Directorate for the Administration of Seized Assets (Ministry of Justice) will be reinforced through training (2016) and new equipment (2017). In 2017, Serbia will establish an Asset Recovery Office (ARO) in line with EU standards within the Ministry of the Interior (Financial Investigation Unit), the staff of which will start receiving training as of the end of 2015.
- Serbia is in the process of adopting of a new Strategy (2015 – 2020) and Action Plan (2015 – 2016) for the prevention and the **fight against trafficking in human beings**. A budget has been set aside for its implementation. A monitoring mechanism steered by the National Anti-Trafficking Co-ordinator in the Ministry of the Interior will be in charge of overseeing the implementation. Between end 2015 and early 2016, Serbia will conduct a legal analysis in view of harmonizing its legislation with the relevant *acquis* (2016). Serbia will include in its strategy measures to better identify victims of trafficking, protect them, appoint a National Rapporteur for the fight against trafficking of human beings (2019), enhance the capacity of police and prosecution services through training, revising their organisational set up and providing new investigative tools (e.g. JITs). The future SOCTA (end 2015) will allow Serbia to have a strategic picture of the situation as regards trafficking in human beings.
- Between 2015 and the end of 2016, Serbia will enhance its institutional and operational capacity to fight **cyber criminality**. Measures include recruiting seven extra staff for the Special Prosecutor's Office for Cybercrime (2015 - 2018) and dedicated training for this office (starting in 2015). Equally, also the Ministry of the Interior will be reinforced through

¹⁰ Council Decision of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information.

¹¹ Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.

the establishment at the end of 2015 of two specialised sections: one for investigations of abuse of credit cards, e-commerce and e-banking (26 employees by 2018) and one for suppressing harmful content on the internet (21 employees by 2018). Serbia will amend its criminal law legislation and take the necessary administrative provisions to implement Directive 2013/40/EC¹² (2016). Co-operation between civil society and authorities responsible for fighting cyber criminality will be formalised through agreements by the end of 2015.

- Serbia plans a number of measures to improve co-operation and information exchange as well as its law enforcement capacity to address **trafficking of firearms**. TAIEX workshops on optimizing cooperation with the EU and the Western Balkan region have taken place and more are planned in 2015 and 2016. Serbia will also step up co-operation with Europol in this area (2015). Serbia adopted in early 2015 a new law on weapons and ammunition and training for Ministry of the Interior staff is planned in 2016. At the end of 2015, Serbia will adopt a new strategy on small arms and light weapons (SALW) covering the timeframe 2016 – 2021. A dedicated monitoring mechanism will be put in place to oversee the implementation of the strategy.
- The **witness protection** unit in the Ministry of the Interior is benefiting from an EU project at regional level and will receive further training (2016), extra staff (2015 and onwards), infrastructure (2015 and onwards) and equipment (2016). An independent assessment of its functioning is planned to start at the end of 2015, which should result in recommendations for its further improvement (end 2016 and following years). A nationwide network of Victim and Witness Support Services will be established (2016) and similar existing services in prosecution offices will be strengthened (2016). Legislation will be adopted allowing changing of identity (2015). (*See also Chapter 23 – Judiciary and Fundamental rights*).

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for progress in this area will be: the successful implementation of the respective domestic strategies and action plans; the implementation of the operational agreement with Europol; developing and implementing a strategic vision and priority setting as regards tackling organised crime; effective intelligence-led policing and pro-active investigations; successfully implementing the financial investigation strategy; the increase of final court rulings on (various types of) organised crime and money laundering, including imposing deterrent sanctions; establishing a robust framework for asset confiscation and a solid track record of cases and amounts of criminal assets confiscated; the number of suspicious transactions reported to the Financial Intelligence Unit (FIU) and whether they are pro-actively being used in criminal investigation and the effective strengthening of the entire witness protection framework.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II. 7. FIGHT AGAINST TERRORISM

The measures proposed by Serbia under this area include law enforcement activities to fight terrorism, measures to detect and stop financial flows feeding terrorist activities and anti-

¹² Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA.

radicalisation measures. They complement a substantial number of ongoing or planned activities in the region by international donors, including the EU, on anti-terrorism and anti-radicalisation.

The following key measures are foreseen:

- Following the expiration of its current strategy, Serbia will adopt in 2016 a new comprehensive **strategy and action plan to prevent and fight terrorism (2016–2019)**. The new strategy will also provide a strategic framework to prevent and address (violent) radicalisation. Serbia conducted a National Terrorist Financing Risk Assessment in early 2014 which was used to draft the newly adopted National Strategy and Action Plan on the fight against money laundering and the financing of terrorism (2015–2019). Dedicated monitoring mechanisms will be put in place to overlook the implementation of the respective strategies/action plans.
- Serbia adopted in March 2015 the Law on Freezing Assets to Prevent Terrorism. Further legal activities are planned by the end of 2015 to align the **legal framework** with Council Framework Decision 2002/475/JHA¹³ and Council Decision 2005/671/JHA¹⁴. Serbia amended its Criminal Code in October 2014 so as to criminalise the recruitment for and participation in a war or armed conflict in a third country. Alignment with Directive 2008/114/EC¹⁵ on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection is planned in 2017.
- Serbia established in February 2015 a permanent joint taskforce of **law enforcement** and security agencies to better monitor and react to terrorist threats. Currently, Serbia prepares the establishment of a single national terrorism-related database as part of enhancing its capacities for more efficient information exchange (2016). Various types of anti-terrorism training started and will continue in subsequent years.

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for success in this area will be the successful implementation of the strategies and action plans on anti-terrorism (including anti-radicalisation measures) and on the fight against money laundering and the financing of terrorism.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II. 8. CO-OPERATION IN THE FIELD OF DRUGS

Measures proposed by Serbia as regards the co-operation in the field of drugs cover demand reduction, supply reduction as well as international co-operation. The following key measures are foreseen:

- In December 2014, Serbia adopted a **Strategy on Suppression of Drug Abuse in the Republic of Serbia (2014-2020)** and its accompanying Action Plan (2014-2017), in line with the EU Drugs Strategy (2013 – 2020) and with the main objectives of the renewed 2013 EU-Western Balkan Action Plan on Drugs. The newly established Office for Combating Drugs is monitoring its implementation.

¹³ Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism

¹⁴ Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences.

¹⁵ Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection.

- Following an analysis of the normative framework Serbia will amend its legislation (2016) and further monitor changes in the relevant *acquis*. Serbia also plans to substantially enhance the **operational capacity** of the Service for Drug Addiction Prevention and Drugs Trafficking (starting in 2016). Inter-agency co-operation is being improved through the signature of a Memorandum of Understanding between the Ministry of the Interior and Customs Administration. Various training courses on investigation techniques (including some based on CEPOL methodology) are planned (end of 2015).
- Following a needs analysis (end 2015) and legislative improvements (2016), Serbia will implement measures to ensure a safer and more **secure storage** and **destruction** of seized precursors and drugs (2016 and onwards).
- Serbia has well-established **co-operation** arrangements with Europol, Interpol, the European Union Rule of Law Mission in Kosovo (EULEX), the United Nations Office on Drugs and Crime (UNODC) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) on fighting drugs trafficking and is committed to further intensifying this co-operation where relevant. The criminal police is currently undergoing training for participating in joint investigation teams. Serbia will establish in 2017 a national contact point for the transmission and analysis of drug samples.
- Serbia is regularly updating the **list of drugs and drug precursors** and will establish in 2016 an early warning system.
- Serbia is establishing a National Drugs Monitoring Centre which will act as the **National Focal Point** for co-operation with the **EMCDDA**. Serbia is conducting a needs assessment for establishing a National Drugs Information System (2016) which should facilitate its annual reporting to the EMCDDA.

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, key indicators for progress in this area will be the successful implementation of the national drug strategy and a solid track record of drug seizures, including as a result of international police co-operation.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II. 9. CUSTOMS CO-OPERATION

While some activities in this area have started, others (e.g. the implementation of the Naples II Convention) can only take place upon accession. The following key measures are foreseen:

- The IT strategy of the Customs Administration (2011 – 2020) will be amended in 2017 allowing Serbia to implement **Decision 2009/917/JHA¹⁶ upon accession**.
- Amendments to the Criminal Procedure Code and to the Law on Customs Service are being prepared (2015) so as to broaden the **investigative powers** of custom officers and to enhance operational law enforcement co-operation at the border. Training will be conducted in 2016. Other steps for strengthening the inter-agency co-operation between law enforcement bodies

¹⁶ Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for **customs** purposes.

at the borders include smoother access to databases and better exchange of information, including in the context of the IBM Strategy (2016).

- Serbia is committed to ratifying and implementing the **Naples II Convention**¹⁷ upon its accession to the EU. In preparation of implementing the Naples II Convention, Serbia will develop a dedicated training plan (2017).

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, improved operational co-operation between law enforcement agencies at the border will be the key indicators for progress in this area.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

II. 10. EURO-COUNTERFEITING

The measures proposed by Serbia under this policy area will be implemented by the Ministries of Justice and the Interior, as well as by the Central Bank of Serbia. The following key measures are foreseen:

- Serbia plans legal steps at the end of 2015 so as to align its legislation with the Decision 887/2001/JHA¹⁸ and Directive 2014/62/EU¹⁹ and to create the institutional conditions to implement them. The Law Ratifying the **Convention for the Suppression of Counterfeiting Currency** is planned to be adopted at the end of 2015.
- A TAIEX workshop will focus on best practice and cooperation between the National Bank of Serbia and the Criminal Police Directorate in investigations of euro counterfeiting (2015) and Serbia will sign a working arrangement with the Europol SOYA focal point (2016).

In addition to the degree of alignment with the *acquis* and the administrative capacity to correctly implement it, a key indicator for progress in this area will be the ability of Serbia to effectively prevent and fight counterfeiting of the euro.

On the basis of the above, the Commission considers that all aspects of this part of the benchmark have been met.

III. Conclusions and recommendations

In view of the above, in particular the assessment presented in Part II, Serbia can be considered to be sufficiently prepared for negotiations on this chapter. The various commitments taken by Serbia will be closely monitored both through a domestic monitoring mechanism as well as by the European Commission, including through the use of peer-assessment missions.

The Commission therefore recommends the opening of accession negotiations with Serbia on the chapter on Justice, Freedom and Security.

¹⁷ Convention on mutual assistance and cooperation between customs administrations (Naples II).

¹⁸ Council Decision 2001/887/JHA of 6 December 2001 on the protection of the euro against counterfeiting.

¹⁹ Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014.

on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.