

Preliminary comments on Serbia's Draft Action plan on Chapter 24

I. Introductory remarks

1. The Commission would like to thank the Serbian authorities for having sent us the first draft of the AP for CH 24. Several Commission services have thoroughly analysed it and provided a number of comments either of a horizontal nature as well as specific through track changes in the text.
2. We all appreciate the huge effort that has been conducted by all experts involved. We believe that overall, this is a good first draft which nevertheless requires some further work.
3. Additional technical comments (track changes) are enclosed in the annotated draft Action plan attached. Please note that these comments are only preliminary. We cannot discard additional comments on a second version including on activities, which so far were not subject to any remark.

II. General comments

1. Overall, the **presentation of the action plan** – with a result and the impact indicator at the level of the overall recommendation – is fine. There is also a good attempt to address the "hidden" recommendations in the text. Especially the section on judicial co-operation and police co-operation did well in this respect. There is also a first good effort to calculate the requested budget and sources of funding including with multi-annual budgeting broken down by year as well as by possible budgetary sources (national, IPA, TAIEX, donors...). This also means that commitments in terms of recruiting staff have been spelled out. It is positive to see that Twinning is regularly envisaged. There is a good effort to make cross references to other acquis areas such as CH 23 or CH 4 (free movement of capital/money laundering).
2. The Commission would nevertheless strongly encourage Serbia to ensure that **all particular concerns raised by the Member States in the Presidency letter(s)** are effectively reflected and addressed in the Actions plan(s). Indeed, in spite of being primarily a technical document, the Action plan should clearly reflect, both in content and presentation, the long term political vision of Serbia in the rule of law area and demonstrate the government's awareness and receptiveness to the peculiar sensitivities of Member States.
3. In particular, Serbia should be aware that even without an explicit requirement in the screening report, Serbia has to ensure that in all areas it is making efforts to align with the acquis. This also includes acquis approved (published in the OJ) but not yet in force (transposition period). Given the technical nature of this chapter, the wealth of hard acquis

and the need to carefully plan activities and investments in line with it, Serbia should make a good effort to reflect its understanding of the acquis and thus ensure a timely preparation for implementing it upon accession. **We therefore still recommend Serbia makes good use of the availability of TAIEX experts, which could also contribute to finding better results/impact indicators.**

4. We have not been able to assess any measures implementing the acquis in CH 24 in relation to **Kosovo*** (judicial co-operation, borders, readmission, police co-operation...). We would appreciate a convincing effort here, if need be in co-operation with the EEAS. The recommendations are all related to the implementation of the CH 24 acquis and will have to be reflected, be it as a pm, in the screening report under CH 24, independently of the type of monitoring to be exercised under CH 35.

III. Horizontal issues

Introduction

1. It would be very useful, if Serbia could provide a short introduction **to the AP** with particularly focus on (1) the methodology used to write this AP and on how Serbia will monitor its implementation (a Working Group ? Who will be member ? How frequent will they meet ?), (2) info on co-operation with and co-ordination among stakeholders (including with CSOs/NGOs) is essential to reassure EU MS. (3) Also the method for determining the budgetary resources would be interesting. (4) The setting up of **robust monitoring and supervision mechanism**, will allow for timely intervention if sudden problems appear, avoiding them to become structural or affecting progress in the negotiation process. Also this could be mentioned in the introduction.
2. Equally, for **each of the subheadings**, it would be good if there were a short introduction that explains in a coherent way **Serbia's vision for the future in the specific policy area** (which are the main problems to be addressed, update recent development, reference to strategic documents that will help to address problems, why have certain measures be proposed, etc...). This section can subsequently be "recycled" *used* into your negotiation position.

Timelines

1. There are no actions initiated later than 2018. However, it is important to note that this AP **is meant to also cover the implementation of actions initiated in e.g. 2017 and 2018** (some actions with potentially a very important impact are scheduled quite late). Serbia will need to roll out and monitor these measures. A good example is measure 4.2.2 the Schengen Action Plan (foreseen adoption is mid 2018), a tool to help candidate countries

* 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.

to prepare for accession to the EU as far as the first phase of Schengen is concerned. The implementation of this SAP – based on previous experiences is likely to last several years before accession (given the infrastructure, equipment and training needs, it would be realistic to plan 5 years of implementation before EU accession). In that case, we would need to see reflected in this AP CH 24 the roll out of this SAP over a certain amount of years. Another good example is measure 6.2.2.5, which covers only the initial phase of an extremely important measure : Define and prepare technical preconditions to enable automated data exchange between law enforcement authorities in charge of the fight against organised crime. Given its importance, the effective monitoring of the exchange of data (meaning that the infrastructure has to be in place) should be part of this AP. These two measures (and various others) would require this AP to cover also **several years** beyond 2018.

2. Although it is not always clear whether actions are initiated or finalised at the indicated deadline (some clarification is occasionally needed), there is a fairly good spread of activities, bearing in mind that mostly the Ministry of Interior is leading or associated. However, a final view on this can only be established in conjunction with an as complete as possible overview of the annual costs and the annual budget available.

37 actions with deadline 2014 (although a substantial number of them run over several years)

124 actions with deadline 2015

68 activities with deadline 2016

33 activities in 2017

29 activities in 2018

3. Having as deadlines trimesters instead of months is fine, but for the short term (2014 and 2015) our preference remains with months as far as possible. Please ensure in this respect a similar approach in both APs.

Budget and financial resources

1. For the credibility of these APs, it is absolutely necessary to proof that year by year of implementing this AP, Serbia has a fair idea on the amount of money needed and the amount of money at Serbia's disposal as well as the amount of money missing and through which means Serbia will obtain it. A number of important and (costly !) actions for which needs assessments are planned remain without indication of future actions, their costs and the available budget. Also the source of funding is not always clearly identified and some budgets are very small (probably for printing and translation – a couple of hundreds of €. These are not really necessary to mention). Some amounts are a bit surprising and need to be checked e.g. Action 6.2.6.25 : 600€ a year for training various supervision authorities and 6.2.8.2 33M€ in the period 2015 – 2018, which is in no way comparable to the amounts spent on any other area under the heading police co-operation/fight against organised crime.
2. From an IPA point of view : There are 26 references to IPA. It is important to

- Ensure in all cases (e.g. external borders) that current and recent IPA assistance are taken into account when asking for further IPA assistance;
 - Consider **the timing of the action plan and to make it compatible with IPA Programming timing.**
 - Mention instead of IPA 2015 (e.g. p.48, p. 59), cost estimations and implementation modality (TW, TA...). The tentative IPA year can be added into brackets for info. Where references are made to IPA 2015 the deadline for implementation are consistent with programming cycle.
3. Sustainability in financing is of key importance and sometimes lacking, e.g. the establishment of the Asylum Office or the Commissariat for refugees. Sustainability cannot be ensured by project financing.

Horizontal issues of substance

1. All areas in CH 24 would benefit from better **data collection/gathering statistics** for policy development. This would also improve the capacity to measure the impact of reforms. Across the board an effort would be welcomed to invest in better statistics and data collection.
2. The AP would also benefit from a more concrete/detailed formulation of actions and results, expressing thus clearer **the commitments Serbia is ready to take, including as regards budgetary engagements.** Serbia should avoid copying recommendations in the activity section and again in the result section. Given the technical nature of this area and the importance of the acquis, we believe that technical assistance through TAIEX would be beneficial for assisting you in further improving sections.
3. Where needs assessments/impact assessments are foreseen, it would be good if there is an explicit statement that **detailed commitments will be reflected in the action plan, once the results of the study are available.** However, in all cases we would like to invite Serbia to make a maximum effort to (1) define the expected results as clearly as possible, (2) to detail the expected timeline as much as possible and (3) to indicate the available budget, so that there is a minimum of elements available to assess the commitment taken.
4. **Acquis** – compared to Chapter 23, Chapter 24 is much more technical. However, Serbia is invited to refer more frequently to the relevant acquis that still needs to be transposed and which is indicated as a minimum (as there will be further acquis developments in the years to come) in the screening report.
5. There was a fairly good (in some instances a very good) effort to pay due attention to the so-called "**hidden**" **recommendations** in the body of the text, ie the recommendations include in the text of Part III of the screening report. Some further efforts are needed to ensure adequate reflection of all hidden recommendations, also with appropriate deadlines.
6. Where relevant, please also explain the links between CH 24 AP and **domestic strategies and the APs** (THB and Money Laundering, although this one is more relevant for CH 4). Please note that the recommendation on implementing the FATF

recommendations will be jointly monitored under CH 24 and 4, so absolute coherence between both chapters will need to be ensured.

7. The current status of implementation should be added, in particular for activities on-going or planned in the very short term, but also for other activities where possible with reference to preparatory activities on-going or done.

Co-ordination

1. The parliament is in most cases not mentioned as responsible actor for actions that entail the adoption of legal amendments or new laws. Serbia should make sure that the parliament is mentioned systematically as responsible authority and make sure they are consulted on the legislative agenda/actions in this AP.
2. There is a need for a much more forceful **quality check by the responsible co-ordinator for CH 24**. There are considerable differences in presentation/approach of the respective sub-action plans. Please ensure a **common** approach throughout the AP.
3. There has in most cases been a good effort to identify the various institutions responsible for each of the actions. It would be good that in case of multiple bodies, the leading body is put in italics.

Results and impact indicators

1. There is often a **mixing up of result and impact indicator** (in fact the wording is often copy/paste). **Where possible, impact indicators must measure impact on the target group/area directly** (otherwise they are structural or process indicators).
2. We would thus appreciate – where possible - a better effort to make **impact indicators** more quantifiable. Expert assistance could be helpful here. The proposed **impact indicators** are mostly "tools" to assess the impact, not a quantifiable target. Indicators should be improved to be as SMART as possible. Sources of verification should be added, this should also help identifying better and more precise indicators.
3. **Results** should in any case not be the same as activities (which are often the same as the recommendation!). Results should be quantified as much as possible (% targets set, or scope defined). This is necessary for the credibility of the proposed action. As a matter of example, see rights of the child section

Quality check

Please ensure a similar approach for both AP and a horizontal quality check for each of the APs and for both together.