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|  | EXECUTIVE SUMMARY OF THE WRITTEN CONTRIBUTIONS TO THE EUROPEAN COMMISSION 2013 PROGRESS REPORT ON SERBIA  Belgrade, September 2013 |
| **prEUnap**  <https://www.facebook.com/prEUgovor> |

# ABOUT “prEUnap”

“prEUnap” (ser. *prEUgovor*) is the first coalition of civil society organizations formed in order to monitor implementation of policies related to the Accession Negotiations between Serbia and EU, with an emphasis on Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security). “prEUnap” is formed on the initiative of Belgrade Centre for Security Policy (BCSP) with the mission to propose measures to improve the condition in the fields relevant for the negotiation process. In doing so, the coalition aims to use the process of EU integration to help accomplish substantial progress in further democratization of Serbian society.

**The “prEUnap” gathers:**

Anti-trafficking Action (ASTRA)

[www.astra.rs](http://www.astra.rs)

Belgrade Centre for Security Policy (BCSP)

[www.bezbednost.org](http://www.bezbednost.org)

Centre for Applied European Studies (CPES)

[www.cpes.org.rs](http://www.cpes.org.rs)

Centre for Investigative Reporting (CINS)

[www.cins.org.rs/](http://www.cins.org.rs/)

Group 484

[www.grupa484.org.rs](http://www.grupa484.org.rs)

Transparency Serbia (TS)

[www.transparentnost.org.rs](http://www.transparentnost.org.rs)

# Three main messages

1. **It is very important that the process of accession is transparent.** Main demand from the Government of Serbia in this phase is to secure that negotiations are public, by providing following information: (1) who is who in negotiations; (2) who are the members of the structures formed for the purpose of negotiations (within the Government, within the National Assembly); (3) In what way will the independent experts be selected (proven expertise, integrity, who will propose them); (4) When and what is being negotiated (making the agenda public). Moreover, key documents should be available to the public: (1) screening of Serbia’s legislation; (2) opening, mid-term and closing benchmarks; (3) road maps (action plans) for meeting the benchmarks; (4) Proposals of new legislation necessary to meet the benchmarks. Finally, sessions of the Assembly Committee for European Integration (as well as other relevant committees) to remain open for public every time progress is being discussed.
2. **The fight against corruption should be provided with anti-corruption system based on the separation of powers and the rule of law.** Serbia has finally received a comprehensive framework to tackle corruption in the next 5 years after the adoption of the Strategy and Action Plan in June and August 2013. However, the Strategy does not provide responses to some significant corruption-related problems. Despite the fact that the fight against corruption is high among the Government’s priorities, there are still many cases where the authorities do not apply the adopted anti-corruption legislation. Mechanisms of political influence on the police and the prosecution are not yet removed, which hinders criminal prosecution. It is necessary to determine the liability of the greatest scandals, particularly those associated with the police and the judiciary.
3. **It is necessary to ensure human rights protection, especially of the vulnerable groups** because their access to rights are still significantly hindered. Greater attention must be paid to the application of laws and international obligations in this area.

# EXECUTIVE SUMMARY

The platform “prEUnap” (ser. *prEUgovor*) gathering six expert organizations has been monitoring areas related to obligations contained in political criteria and chapters 23 and 24. Findings in these reports are a result of scrupulous monitoring of the progress made in these areas, both in terms of legislative changes and the implementation of adopted legislation. Political dynamics and reforms in Serbia in 2013 have been overshadowed by two major developments. The first one is negotiations with Kosovo and the Brussels Agreement. A significant progress that has been made will remain to be implemented in practice which will be important in the future process of European integrations of Serbia. The second one has been the reconstruction of the Government which has been in the focus of both the political parties and of the public. Even though a number of important strategies and laws have been adopted in this period, a number of issues have not been prioritized and remain insufficiently addressed in this period.

Overall, the progress Serbia has made in areas the “prEUnap” report covers is uneven and erratic. In some areas significant steps have been made both in terms of legislative improvements and better implementation, while others have been almost a blind spot of the current government. It seems that progress is more driven by specific agendas of political actors than by regular functioning of the institutional arrangements in place. Main general recommendations which are base on carried out monitoring are as follows:

* **New strategies and policies still need to be developed and adopted** in a number of areas, main priorities being: reform of public administration, migration policy, the asylum system particularly related to effective social inclusion of vulnerable groups and a renewed strategy for fight against human trafficking.
* **Institutional arrangements still need significant strengthening**, particularly of the Parliament, independent bodies and the judiciary. Particular attention should be paid to mechanisms ensuring accountability of the government. Institutions that deserve special attention. National Assembly and its committees Anti-Corruption Agency, Agency for Protection of Competition, Ombudsperson and other independent bodies are crucial for increase accountability of the Executive
* Finally, and most importantly, **implementation of adopted laws and strategies** in these areas still needs to be significantly improved. Particular attention should be paid to constitutional and legal guarantees for human rights (the right to assembly and privacy protection). Fight against corruption depends on respect for both the letter and the spirit of a series of laws regulating key areas – public procurement, conflict of Interest, financing of political activities, to mention only but a few. Also, significantly more effort needs to be put into effective curbing of politicization and misuse of public powers across the sectors, particularly public enterprises.

The monitoring report which follows covers developments from September 2012 to September 2013 and its main aim is to draw attention to major concerns related to targeted areas. These are summary findings of the report:

**Political Criteria**

Long-standing issues such as deficiencies related to The **Constitution**, namely the position of independent bodies, independence of judiciary, status of National Security Council etc. remained unaddressed. Apart from the initiatives coming from the public, none of the political parties have launched an initiative for revision of the Constitution. There have been some improvements in functioning of the **Parliament**, most notably continuous increase in transparency of this institution and adoption of the Resolution on legislative policy, but overall it remains overly dominated by the ruling coalition agenda. Control function of the Parliament, through work of the Committees, use of parliamentary questions and scrutiny of reports by the independent bodies and the Government still need significant improvement, particularly in terms of follow up activities (i.e. reports of independent bodies have been read but no further action has been taken nor proposed by the Parliament). Improvements are needed in the practice of parliamentary oversight over the National Security Council. **Government** has not, apart from the political re-composition and changes in a number of ministries, undergone any structural reforms. Talks of rationalization and review of the number of government bodies has not been addressed nor sufficiently planned. A major development has been the adoption of new National Program for Adopting the *AcquiCommunautaire* for the 2013-2016 period which will be the basis for evaluation of progress made in the years to come. **Public administration** reform still remains an area of major concern. While some partial improvements have been made, a comprehensive strategy for reform is still missing (it is still being drafted), while mechanisms for curbing politicization at all levels are weak or non-existent. Our findings demonstrate that the problem of politicization (appointment of state officials exclusively through political party channels) is persistent in a number of areas – transfers to local municipalities, management of public enterprises, etc. New laws which are being adopted (i.e. Law on Public Enterprises, Law on Public-Private Partnership) are only the first step and need to be closely monitored. **Independent bodies,** whose competencies are crucial in a number of areas still need further strengthening in terms of capacities but they themselves need to increase their efficiency. **Civilian Oversight over security Sector** is another area where significant improvements of the legislation are needed. Law on Detectives and Low on Private Security Companies are still in parliamentary procedure. Amendments on the Law on Police were adopted without public consultations which negatively reflect on the status of police reform and have some problematic provisions. Special attention needs to be paid to harmonization of a set of laws so as to provide for better control over implementation of special investigative measures and procedures. The Code of Criminal Procedures should be changed to oblige the Police prior to using special investigative measures request court order for access to retained data of telecommunication and internet providers.

**Anti-corruption policy and public procurement**

Fight against corruption, a “banner” policy of the current Government picked up pace, but it seems to be mainly driven by political will to initiate criminal investigations for selected outstanding cases. It still remains to be seen what the effects of invigorated attention to corruption will be as it does not fully rely on existing institutions but on selective political will. The new Law on Public Procurement is a significant improvement and provided it is implemented it will contribute to curbing the misuse of public funds which is currently still widespread. Specific cases which we presented in the report illustrate mechanisms for misuse of public offices, circumvention and sometimes blatant breaches of the existing legislation. Unfortunately, the new Strategy for curbing corruption adopted in June insufficiently takes into account the lessons learned in the previous period; it does not provide appropriate responses to some significant corruption-related problems and it lacks ambition in terms of set goals, particularly related to prosecution of corruption cases (a goal is set to increase the number of prosecuted cases by 30 % by 2017 compared to 2012). Independent state bodies continued to contribute to the fight against corruption. Anti-Corruption Agency is still working on the report on political party financing from the previous elections. Logistical obstacles for work of independent bodies are not yet completely removed, nor are their recommendations fully respected. Particular attention should also be paid to the public procurement system in the security sector as the corruption risks are high due to deficiencies in internal and external control and oversight of the police, absence of control of implementation of confidential procurements in the Ministry of Interior (which make up 55% of total procurements in this institution). The Whistle-blower Protection Act which could substantially improve the fight against corruption is still in early stages of deliberations.

**Human Rights**

The main structures and legal guarantees of human rights are in place and generally speaking human rights are respected. However, the **right to assembly** is infringed in case of LGBTIQ population, as the pride march has been cancelled once again in 2012. Major concern is indication of increase in **ill treatment in prisons** the main cause being lack of knowledge on principles of use of force and lack of several bylaws. Another concern is deficient legal regulation concerning the use of special investigative measures which in effect result in frequent overthrow of first instance court verdicts and misuse of powers by officials. An action plan hasn’t been adopted yet and there is no indication that it will be passed soon. **Little progress has been made in regard to the protection of personal data.** The specific legal act which regulates the matter of the protection of data being processed, the protection and keeping of biometric data and data collected through video surveillance is still missing. Bylaw that more closely defines highest levels of secrecy – Top Secret and Secret – was passed in May, but other levels of secrecy are still not regulated meaning that old criteria for classification for these two levels of secrecy is being used. Let us remind that Office of the National Security Council and Classified Information Protection had the obligation to adopt bylaws necessary for full implementation of the Law on Data Secrecy by the end of 2011. **Private security sector and video surveillance is still unregulated**. A new Law on the Security Intelligence Agency or amendments to the existing one are also needed in order to regulate and precisely define the competences, tasks and powers of the Security Intelligence Agency members for the use of special investigative measures and procedures.

**Migration, Asylum and Visa Policy**

Serbia is still lacking a comprehensive **migration policy** related to migration management, effective reintegration and asylum system. **Regarding asylum, no progress has been made.** The number of persons who expressed intention to seek asylum is constantly high while the claims are still processed by the Border Police Asylum Unit, as the Asylum Office, intended to operate as the first-instance body has not yet been formally established. Policy changes in this area should include (at least): additional reception facilities for asylum seekers; establishment of the Asylum Office; more administrative officers need to be employed to deal with the asylum claim and their capacities should be strengthened; amendments to the Law on Asylum concerning the determination of the safe third country; specific legislative regulations on integration of recognized refugees and beneficiaries of subsidiary protection and development of functional integration mechanisms; opportunities for cultural and social programs to facilitate communication between asylum seekers and local residents. Serbia has no comprehensive policy related to social inclusion of those who seek asylum in EU. The relevant national institutions responsible for social inclusion of vulnerable groups reported no progress in performing their duties related to this issue. Furthermore, only MoI explained their impact regarding reduction in the number of Serbian citizens who seek asylum in the EU. There was no progress in promotion of regular migration flows towards EU. Some progress has been achieved in the implementation of the **reintegration policy for readmitted persons** who had international protection.

**Fight against Human Trafficking**

Serbia has a generally adequate anti-trafficking legislation but its implementation in practice is still problematic. The reform of the national referral mechanism, the former Agency for Coordination of Protection of Trafficking Victims has undergone a major transformation and a new agency has been established named the Centre for the Protection of Victims of Trafficking. Areas of concern remain **victim assistance** (which is not provided following any written procedures), reduction of **accommodation** facilities for victims (only one shelter is available for victims), **criminal proceedings** (prolonged proceedings and lack of proactive investigations which cause victims to testify several times) and **compensation and damages (no trafficked person in Serbia got compensation of damages).** Another concern are deficiencies in the implementation of **non-detention, non-prosecution and non-punishment clauses** as there are still cases of detention, prosecution and punishment of victims of trafficking due to the unsatisfactory identification by state officials and lack of knowledge.As far asthe regional police cooperation is concerned no progress has been made and it seems that countries in the region favour bilateral cooperation. Finally, new Anti-trafficking strategy and action plan are not adopted yet even though the previous Action plan expired in 2011.

## Contact information:

**ASTRA – Anti trafficking Action** is Belgrade-based local grass-root anti-trafficking organization established in 2000 as the first actor to raise the issue of human trafficking in Serbia. As a leader in the counter-trafficking effort in Serbia, since it was founded, ASTRA has applied holistic approach to the human trafficking problem, i.e. it has been dealing with all forms of human trafficking and all categories of survivors – women, children and men, focusing its activities concurrently on prevention, education, public awareness raising, direct victim assistance and reintegration, research and networking.

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**Belgrade Centre for Security Policy (BCSP)** is an independent research centre dedicated to advancing security of the citizens and society they live in on the basis of democratic principles and respect for human rights. In the midst of the Centre's interest are all policies aimed at the improvement of human, national, regional, European, and global security.

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**Centre for Applied European Studies (CPES)** is an independent not for profit research think-tank based in Belgrade. CPES is committed to policy research in areas related to processes of democratization, institution building, Europeanization and development. It gathers a group of policy researchers of various backgrounds (economists, political scientists, sociologists, lawyers, etc.). Apart from the core staff in manages a network of researchers who are engaged on various programs and projects.

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**Centre for Investigative Reporting (CINS)**is a local NGO dedicated to investigative journalism by latest means and up to internationally recognized professional standards. Our goal is to keep giving the people of Serbia otherwise hidden or unavailable information they need to act and make decisions.

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**Group 484** is a non-governmental organisation with expertise in the field of migration and 17 years long experience in assisting forced migrants. Organisation supported over 100,000 beneficiaries, working in more than 70 towns in Serbia. Since 2002, Group 484 has been building its capacities for advocacy and policy work; hence, in 2010, Centre for Migration emerged as in-house think-tank unit specialised for the migration issues.

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**Transparency Serbia (TS)** is non- partisan, non-governmental and non-for profit voluntary organization established with the aim of curbing corruption in Serbia. TI will promote transparency and accountability of the public officials as well as curbing corruption defined as abusing of power for the private interest. Transparency Serbia is national chapter and representative of Transparency International in Republic of Serbia.

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