

Non-paper on the state of play regarding chapters 23 and 24 for Serbia

November 2018

1. Introduction and summary

This non-paper focus on developments related to the Chapters 23 and 24 on the accessions negotiations of Serbia. Its purpose is to provide for an overview of progress and remaining challenges in the area of rule of law, further to the European Commission's 2018 report on Serbia.

The non-paper is based on information provided by Serbia, complemented by the information provided at the subcommittee on Justice, Freedom and Security held in October 2018. In addition, a range of other sources were used including peer review missions, expert reports and monitoring reports from international organisations and civil society.

Overall, Serbia made some progress on its legislative and institutional reform agenda across a range of areas, including on national minorities or anti-money laundering and asylum. At the same time it is also facing long delays whereas tangible results are still difficult to demonstrate on areas such as judicial reform including war crimes or media freedom and the fight against corruption.

As regards Chapter 23, the constitutional reform process to strengthen the independence and accountability of the judiciary is still ongoing. The Venice Commission assessed that the October 2018 draft follows the recommendations of its June 2018 Opinion. It is important for this process to be effectively consolidated through a swift parliamentary adoption of the constitutional reform, but, also, at the level of implementing legislation. We take note of Serbia's intention, and encourage it to consult the Venice Commission on this legislation. The latter includes legislation on the jurisdiction and organisation of courts and prosecution offices, as well as on the Councils and the Judicial Academy. The Commission will monitor closely this process to ensure that the independence of the judiciary and the autonomy of the prosecution are guaranteed in law and in practice.

The reduction of pending cases in courts and measures carried out to prepare the rollout of a comprehensive IT-based case management system are concrete results in the area of the efficiency of the judiciary. In the area of war crimes, a prosecutorial strategy was adopted, and some institutional strengthening and procedural measures were carried out. At the same time, Serbia has yet to demonstrate a track record of indictments based on its own investigations, and of final convictions.

With the entry into force of the law on jurisdiction of state authorities in March 2018 organisational steps were taken to help repress corruption. A revision of the legislation on the anti-corruption agency, and on political activities financing faces serious delays. Overall, Serbia's anti-corruption policy continues to lack effective coordination and monitoring, and constructive engagement with stakeholders.

The drafting of a new media strategy was re-launched in an inclusive manner. Amendments to laws related to national minorities were adopted, and textbooks were printed in most minority languages. More Roma students were enrolled in schools. Laws on personal data protection and free legal aid were adopted, while the adoption of legislation on the ombudsman, anti-discrimination, gender equality, and juvenile offenders is further delayed. Cases of threats, intimidation and violence against journalists remain a concern and the overall environment is

still not conducive to the exercise of freedom of expression and media freedom. The annual reports of the Ombudsman, Equality Commissioner and Access to Information and Personal Data Protection Commissioner were again not discussed in the plenary session of Parliament.

As regards Chapter 24, a substantial legislative agenda was implemented including legislation on the prevention of money laundering, terrorist financing, asylum, and state borders. Structural and human resource management reforms in the Ministry of the Interior and the police were finalised. Serbia is continuing its efforts in the areas of migration, asylum, border management and judicial cooperation, and has started to step up its efforts in the areas of financial investigations, anti-money laundering and assets' seizure and confiscation. These yet need to result in a better track record in the fight against organised crime. Serbia is encouraged to effectively address the remaining issues in the FATF action plan ahead of January 2019.

Serbia is encouraged to consider the recommendations of peer-review missions, TAIEX experts, and assessments of specialised international organisations thoroughly when revising its action plans towards the end of 2018. It is of utmost importance that Serbia equips itself with revised realistic and qualitative action plans that can guide it on its EU accession path; also, that these are drawn up in an inclusive and constructive dialogue with all stakeholders and civil society organisations (CSOs).

2. Detailed assessment

2.1. Chapter 23 - Judiciary and Fundamental Rights

Judiciary

Together with the Chapter 23 Action Plan (AP), the National Judicial Reform Strategy 2013 - 2018 guides Serbia's reforms in this area. It is planned to be renewed in a form which remains to be decided, following an ongoing assessment of its implementation carried out by USAID, and the finalisation of a new - second and broader - functional analysis of the court system. The adoption of a comprehensive mid-term human resource strategy (seriously delayed) was postponed due to the constitutional reform process. The results of these processes are planned to also underpin the revision of the Chapter 23 AP, scheduled to start towards the end of 2018.

Independence and impartiality

With the adoption of the Chapter 23 AP, Serbia committed itself to reviewing its Constitution in the light of European standards on the independence and accountability of the judiciary, and to start this process during the second half of 2016 and to finalise it by end 2017. According to the EUCP on Chapter 23, Serbia needs to adopt “new Constitutional provisions bearing in mind the Venice Commission recommendations, in line with European standards and based on a wide and inclusive consultation process”.

The process started in spring 2017 with a number of thematic roundtables and without a government-sponsored text. It continued with further roundtables following the publication of a draft text by the Ministry of Justice (MoJ) in January 2018. In April 2018, the MoJ submitted a revised version to the Council of Europe's Venice Commission (VC) following a public presentation.

The VC adopted its Opinion in June 2018. It “*was concerned to learn [...] that the important process of amending the Constitution [...] began with a public consultation process marred by an acrimonious environment. Nevertheless these consultations led to substantial - and positive - amendments to the draft [...].* It therefore encourages the Serbian authorities to *spare no efforts in creating a constructive and positive environment around the public consultations to be held*

when the National Assembly will examine the draft amendments, in the interests of the country's entire process of judicial reform - a process that also involves the important alignment of secondary legislation on the judiciary with amendments, all of which is to be achieved within a very short period of time."¹ The VC provided recommendations on 29 amendments including on the key provisions on the election of judges and prosecutors and the composition and the dissolution of the High Judicial Council (HJC) and the State Prosecutorial Council (SPC). On a number of draft amendments including on key provisions, the Opinion presented several options. In this light, relevant stakeholders, in particular professional associations, requested to be closely involved in the further amendment process.

In early September 2018, the MoJ published a revised version of the draft constitutional amendments with the aim of taking into account all VC recommendations. On 18 September 2018, a public consultation took place with broad participation of the relevant associations and civil society and the VC Opinion as a reference document. Subsequently, the MoJ submitted a further revised version to the VC on 12 October 2018, also published on its website. The VC Secretariat issued a Memorandum on this revised version, concluding that "the recommendations formulated by the Venice Commission in its [earlier] opinion were followed". The VC plenary took note of this memorandum at its 19 October session, which was published on 22 October 2018.

The transfer of the residual **competences for the judicial network** from the MoJ to the HJC, including on the judicial **budget**, was further postponed to early 2019 (previously scheduled for early 2018). In order to allow for the same transfer of competences from the MoJ to the SPC, a revision of the Law on Public Prosecution is further delayed. The delay is partially due to the pending (since July 2017) decision of the Constitutional Court to rule on the constitutionality of extending the Councils' competences^{1 2}. In June 2018, the SPC also adopted a rulebook on IT and financial matters. These transfers would provide additional safeguards for the independence of the judiciary and the autonomy of the prosecution.

During the first half of 2018, 18 judges were elected for permanent positions, 2 for the Supreme Court of Cassation (SCC), and 51 deputy prosecutors.

Commenting on ongoing investigations, indictments or judicial proceedings may constitute a form of undue **political pressure or influence on the prosecution and the judiciary**. Both the HJC and the SPC, the latter through its "Commissioner for the protection of autonomy," continued to monitor complaints by the judiciary and the prosecution in this regard. During the first half of 2018, the HJC reacted publicly to a number of public statements concerning ongoing court cases. In the same period, there were also several cases, where the SPC's commissioner investigated complaints by the deputy prosecutors over political influence. A basic training in communication and public relations for judges and prosecutors was organised in January 2018, and public relations guidelines prepared.

Serbia does not provide information on the application of the 2016 Code of Conduct for Members of the Government on **restrictions of commenting judicial decisions and procedures**, nor on the 2017 Code for Members of Parliament with a similar scope.

Accountability

In September 2018, the HJC adopted Rules of Procedure for its Ethics Committee, set up in 2016. This will allow it to conduct the analysis (further delayed) as to whether the **Code of**

¹ Opinion No. 921/2018 Serbia on the draft amendments to the constitutional provisions on the judiciary, adopted by the Venice Commission at its 115th Plenary Session, para. 8.

² The present constitutional provision on the Councils' competences provides the extension of the scope to "other affairs as necessary for the work of the judiciary".

Ethics for judges needs to be amended in order to comply with European standards, taking into account also the Law on Judges on disciplinary responsibility. In May 2018, the SPC established the Ethics Committee, and adopted the relevant internal regulation in July 2018. It established a working group with a view to amending the Code of Ethics.

An analysis of the legal framework and practice on **disciplinary responsibility** for judges and prosecutors with a view to its possible amendment is further delayed. As a first step, the SPC established a working group to this end. The disciplinary prosecutors of both Councils continued to process cases, and disciplinary procedures were initiated. Finalised procedures led to one dismissal of a deputy public prosecutor (no dismissals of judges), public warnings and salary reductions. 3 court presidents were suspended.

Efficiency and professionalism

A **comprehensive electronic case (and document) management system**, ideally **inter-operable** between the judiciary and the prosecution networks, and with proper technological support, is indispensable for an efficient and professional justice system, and an essential tool to ensure an objective and transparent case allocation system. A random case allocation is in place in all registry offices in all basic and higher courts in Serbia. A new methodology whereby also the complexity of individual cases is taken into account in this allocation started to be applied in 2018 in 16 pilot basic and 4 appellate courts, for a total number of 119 272 cases. For the prosecution, the situation remains unchanged since 2015, when the working group on case weighing in public prosecution offices submitted its draft to the SPC President.

More generally, information and communication technology (ICT) possibilities have yet to be fully exploited. While Serbia is in a position to produce some data about the efficiency of the judiciary, it needs to further develop its statistical data management in order to produce such national data in a comprehensive manner in line with European standards. During 2018, the efficiency and speed of data exchanges between government institutions and the judiciary was further increased through the further expansion of previously developed interoperability platforms ("PIS Judiciary Information System). In addition, data cleaning based on universal data cleaning instructions and the methodology developed in 2017 continued to be applied in basic courts. An overall enhanced strategic vision on ICT solutions for the judiciary and the prosecution is still to be developed, and a comprehensive **country-wide system to process and manage cases across the judicial and prosecutorial networks**, including in order to provide comprehensive and reliable statistical data in line with European standards, still to be put in place.

The Law on Enforcement and Security (in force since July 2016, as reported) considerably improved the reduction of so-called "utility bill" cases, accounting for a large part of cases in the basic courts. The data for the first half of 2018 demonstrate that there is a trend of further reduction of the overall **number of backlog cases**, i.e. cases older than 2 years. In the first half of 2018, 176 202 "old" cases were resolved (out of which 87 754 were enforcement cases), compared to 163 613 "old" cases resolved during the same period in 2017 in (out of which 64 808 were enforcement cases). The enforcement agents solved 116 120 out of 214 979. Still, a large number of old cases remain in the Serbia court system (804 525 "old" cases out of which 667 323 are enforcement cases).

In addition, the SCC (WG for monitoring the amended **Uniform Backlog Reduction Programme**) in May 2018 decided to carry out an analysis of the workload at higher courts to potentially redistribute cases with the aim of ensuring a more equal workload (concerning mainly redistribution from the Belgrade Higher Court to other higher courts).

During the first half of 2018, the courts received more cases (1 040 438) than during the same period in 2017 (937 017). In first half of 2018 Serbian courts resolved a total of 1 145 770 cases, which is more than in the first half of 2017 (1 095 602 cases). In first half of 2018, Serbian courts thus resolved more cases than they received, which represents a **positive "case resolution ratio" of around 10%**, leading to a reduction of cases in courts.

The trend of court cases being referred to mediation continued at a slow pace. New provisions on the Law on Peaceful Labor Dispute Resolution adopted in June 2018 apply, *inter alia*, to specialized mediation in collective labor disputes. In order for alternative dispute resolution mechanisms to become effective to replace court proceedings, a more efficient system for transferring court cases to mediation, better access to mediation sessions and efficient promotion among all stakeholders are needed.

The **notary system**, established in 2015, alleviates the civil courts of a part of their workload. For instance, in the period from 24 March until 30 June 2018, the basic courts referred a total of 37 545 succession cases to notaries. The system continues to be improved through, for instance, the adoption of by-laws to better regulate document management on cadastre registration and filing property tax applications. Complaints on the work of the notaries were processed (in 48 cases), including at second instance by the Administrative Court (17).

Further steps were taken to improve **consistency in national-wide jurisprudence**: 4 appellate courts adopted instructions for the selection and archiving of decisions. The case-law database of the Supreme Court of Cassation was fed in with 8 800 decisions (over the past year), and a research possibility based on key words introduced. All judges have access to the database, with the possibility to introduce comments.

As regards enhancing the efficiency of judicial proceedings, there is a serious delay in **amending the Civil Procedure Code** in several areas including the service of documents and recording of hearings, aligning the provisions with European and international standards and best practices. Serbia plans to revise the Criminal Procedure Code to the same end.

The Judicial Academy (JA- established 2010) is the centre for **initial and continuous training** for judges, prosecutors, and judicial and prosecutorial staff in particular. Serbia's current legislative framework foresees a two-track system of access to the judicial professions, which creates tensions between the two eligible groups. Following the adoption of the new Constitutional provisions, Serbia considers to amend this framework and put in place a one-track system through the JA. The VC Opinion stated that the Law on Judicial Academy shall be aligned with the Constitution “in a manner that the forms of training shall depend on the length of the working experience and the jobs within the legal profession performed by the trainee”. It also underlined that “the Academy's role as a sole gatekeeper to the judiciary seems well founded [...] but it would be advisable to protect the Academy from possible undue influence by providing it with a firm status within the Constitution”³. Manuals and guidelines for the evaluation of mentors and rules for the evaluation of the continuous training were prepared in spring 2018. Overall, the JA needs to focus more on the deontological aspects of the judiciary and judicial skills.

Domestic handling of war crimes

The implementation of the 2016 National Strategy for Investigation and Prosecution of War Crimes continued at a very slow pace, together with a periodical reporting on the implementation. A monitoring mechanism for overseeing the implementing of the strategy is in place and issued 2 reports.

A **Prosecutorial Strategy 2018 - 2023** was adopted in April 2018. In order to support its implementation, changes in the systematisation of the war crimes prosecution staffing were undertaken in May 2018. Additional posts are now foreseen, including additional deputy prosecutors and a psychologist to deal with victims and witnesses. Most of these recruitments are delayed. In April 2018, 2 deputy prosecutors were appointed in order to replace those retired. There is a further delay in the publication of a report on the Office of the War Crimes Prosecutor (OWCP)'s work. The prosecutorial strategy did not incorporate all principles set out in the Chapter 23 AP, notably as to clear criteria for prioritising cases. Comments provided during the consultation process by the stakeholders and CSOs who are actively involved in the monitoring of war crimes cases were not meaningfully considered.³

Since January 2018, 5 indictments were filed by the OWCP and one has been confirmed, compared to one new indictment during the first half of 2017. Out of the 5 new indictments, 4 were transferred by the OWCP's Bosnian counterpart. Currently, there are 12 **ongoing cases** before the Higher Court. Most cases have seen significant delays on various (including medical and procedural) grounds. Court hearing delays experienced in 2017 continue, for instance for the “Srebrenica” case.

Some administrative steps were taken to improve investigations through the adoption in early 2018 of joint internal operating rules between the OWCP and the **War Crimes Investigation Service (WCIS)**, and regular meetings were held. The WCIS moved to premises more appropriate for keeping records of war crimes with a view to preparing a database to investigate those crimes. This should help prioritising investigations and prosecutions.

Serbia still lacks a policy on the **proportionality of sentences** for war crimes cases. There is a

³ Opinion No. 921/2018 Serbia on the draft amendments to the constitutional provisions on the judiciary, adopted by the Venice Commission at its 115th Plenary Session, paras. 41 and 42.

serious delay in this context in the adoption of conclusions to the 2015 expert round-table.

With respect to the **support to and protection of witnesses**, the Witness Protection Unit (WPU) was given the status of a specialised unit within the Ministry of the Interior (Mol), together with new premises, equipment and vehicles. There is a delay in the adoption of amendments related to the implementation of urgent measures for protection. Steps already taken to improve the WPU's capacity along with the new rules and procedure for selecting staff should improve their work and ensure results. There is a further delay in implementing most of the recommendations of the analysis of the WPU carried out in 2016. Overall, Serbia still lacks a comprehensive victims and witnesses support system.

Regional co-operation continues through exchanges of requests for information. According to the Serbian authorities, the OWCP (all data since the beginning of 2018) responded to 33 (out of 44 received) from its Bosnian counterpart. Serbia's requests to Bosnia (19) were granted in 11 cases while eight remain without response. From the Croatian State Prosecutor, the OWCP received 25 requests out of which eight were answered and 17 are still being processed. The OWCP submitted 14 requests to Croatia, out of which five were answered until mid-October 2018. Nearly all requests to EULEX are still pending (15 out of 17). Under the auspices of UNDP meetings of regional prosecutors continue; the most recent took place in Zagreb. There have been no regional meetings in the context of the Brijuni-Palic process.

Co-operation on **missing persons** continued within the scope of the various bilateral arrangements, and a new inter-institutional Expert Group established in spring 2018 to improve exchange of data relevant for investigating the fate of the missing persons. In June 2018, a Memorandum of Cooperation was signed between the OWCP and the Commission on Missing Persons. The latter also held a meeting with its Croatian counterpart in May 2018.

In November 2017, Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia, reported that “[...] *in this contempt case* [ie. Jovic and Radeta case] *arrest warrants have been pending execution in Serbia since 19 January 2015 — now almost three years ago — and yet Serbia has taken no action.* ” In view of the imminent closure of the Tribunal, the case was transferred to the Mechanism for International Criminal Tribunals (MITC). The MITC judge referred the case to Serbia for trial, in parallel to issuing arrest warrants. The amicus prosecutor appealed this decision, which is thus pending with the Appeals Chamber. Serbia needs to fully cooperate with the MITC and implement all rulings issued by it. In practice, this will require either conducting the trial in Serbia or arresting the accused so that they can be tried by the MITC.

Anti-corruption

Serbia's main policy documents in this area are the Chapter 23 AP and the National Anti-Corruption Strategy (2013 - 2018), which has a larger scope and runs out at the end of the year. Serbia is still considering whether to adopt a new one or have it absorbed by the future revised Chapter 23 AP. In any case, Serbia is seriously delayed in ensuring effective monitoring of its anti-corruption policy and in improving coordination between all relevant institutions in this regard. Serbia envisages establishing an effective coordination system in the context of the revision of the Chapter 23 AP.

According to a GRECO report published in March 2018 Serbia had not implemented satisfactorily or dealt with in a satisfactory manner any of the thirteen recommendations from the 2015 Fourth Round Evaluation Report. The recommendations concern the prevention of corruption in respect of members of Parliament, judges and prosecutors. The Government set up a Coordination Team in May 2018, consisting of the Prime Minister, the Ministers of Justice and Foreign Affairs, representatives of ACA, the HJC, the SPC and Parliament to coordinate the effective implementation of the GRECO recommendations. It met twice. There still have been no campaigns conducted with the aim to encourage and increase the participation of citizens in the fight against corruption.

Serbia is facing some serious delays in this area, and there is a lack of visible results. An empowered civil society and enhanced coordination and monitoring, accompanied by a firm political will at all levels, remain necessary to make a much-needed change and to achieve tangible results in the fight against corruption.

Prevention of corruption

The **Anti-Corruption Council**, a governmental advisory body, is composed of 13 members; however, currently only seven are nominated. It issued five reports in 2018, on the conversion and use of construction land, on the privatisation and use of agricultural land, on the contracting of domestic arbitrage, on the constitutional amendments and on state aid. The Council is still not systematically consulted on draft legislation. The Serbian government has so far taken no steps to establish a more constructive relationship with the Council and an amendment of the Government's rules of procedure to mandatorily consider its reports is seriously delayed.

The adoption of the Law on the Prevention of Corruption (amending the Law on the **Anti-corruption Agency (ACA)**), continues to be seriously delayed. A draft was prepared in July 2018. According to a GRECO-affiliated expert requested by Serbia, the draft Law still needs to be amended to implement the GRECO recommendations and the Chapter 23 AP requirements. The ACA does not have all the necessary tools to act as a fully independent body and is thus unable to effectively play its role in the prevention of corruption in Serbia.

In June 2018, Parliament appointed 2 new members of the **ACA Board**, upon the nominations by the independent institutions and the media organisation. Thereby, eight out of nine positions are filled. The position that remains to be filled relates to the candidate to be nominated by the bar association. After the ACA Director resigned in November 2017, after only 2 months in this position, the Board selected a new Director in January 2018.

In the first half of 2018, the ACA performed 107 checks of assets of public officials, and filed 3 misdemeanour procedures. A total of 11 criminal cases were reported. In relation to checks of assets of members of the judiciary professions, ACA performed 35 checks. In relation to **conflicts of interests**, ACA determined 64 conflicts of interest and submitted 17 initiatives to the competent public authorities for the dismissal of public officials. In four cases the initiative was complied with, in 3 cases the public authority refused to dismiss the public official and ten proceedings are still ongoing. The issue of conflicts of interest should be addressed in the amendments to the Law on Civil Servants, which after delays are being finalised by the Ministry of Public Administration and Local Self-Government.

There is a further delay in amending the Law on **Political Activities Financing** in order to clarify the duties of different state authorities in the process of controls and to improve the mechanisms for transparency of financing of political activities.

The adoption of amendments to the Law on **Free Access to Information of Public Importance** is further delayed. SIGMA experts prepared an analysis of the draft law and proposed recommendations. A public consultation on the draft law was held in spring 2018. The Commissioner for Free Access to Information of Public Importance and Personal Data Protection is involved in the preparation of the draft law which regulates the competences of both his functions, access to information and personal data protection.

With respect to **transparency and integrity within the public administration**, the Law on Civil Servants has yet to be amended with a view to improving the recruitment and management of the career of civil servants on the basis of clear and transparent criteria, focusing on merits and proven skills. The Code of Conduct for civil servants was amended in June 2018. Implementation of internal control in the public sector continues to be generally weak. While legal requirements are in place, internal audit practice in the public sector varies.

In the area of **public procurement**, there is a delay in adopting amendments to the Public Procurement Law, and in strengthening the Administration for Public Procurement. In the area of **public health**, a Law on Medical Devices was adopted in December 2017. The Ministry of Health prepared amendments to the Law on Healthcare, the Law on Health Insurance and the Law on Medicines, based on an analysis of the legislative framework in terms of corruption risks, as well as a separate analysis of conflicts of interest issues. A Law on Inspections in **Education** was adopted in April 2018. A rulebook determining the required number of educational inspectors was also adopted. A final exam at the end of primary education was introduced with the aim of improving transparency of registration, exams, and assessment of knowledge in educational institutions. Changes in line with ACA's recommendations to the Law on Customs Service and the Criminal Procedure Code, with a view to reducing the corruption risks in the **customs administration**, are delayed.

Repression of corruption

The Law on Organisation and Jurisdiction of State Authorities in the Fight against Organised Crime, Terrorism and Corruption, adopted with the aim of providing a more effective framework for dealing with *inter alia* high-level corruption, entered into force in March 2018. Special departments were set up in the Higher Public Prosecutors' Offices in Belgrade (17 deputy prosecutors), Novi Sad (10), Nis (9) and Kraljevo (8), accompanied by additional prosecutorial assistants and administrative staff. Related rulebooks on internal organisation and job classification were adopted. All special departments, as well as the Prosecutor's Office for Organised Crime (POOC) planned positions for one forensic expert per office, but only 2 were employed until end September. An Anti-corruption Department was also established within the Criminal Police Directorate, with specific sections set up in 8 cities. Coordination of the work between criminal police and the special departments started. Since March 2018, based on the work of the special departments, courts rendered convictions against a total of 142 persons. Of this, plea agreements were accepted with 140 defendants, and 56 persons were sentenced to imprisonment. In the same period, based on the work of the POOC, courts rendered convictions against 9 persons, in all cases based on plea agreements. Overall, the track record on effective investigation, prosecution and conviction of high-level corruption cases, in particular involving politically exposed persons, remains limited.

Serbia is further delayed with establishing a comprehensive methodology for **statistical data** collection and reporting on criminal offenses related to corruption, as well as with setting up an electronic register to this end. There have been no developments concerning legislative changes to ensure uniform and redefined procedures for lifting immunities.

Overall, there is a lack of progress both as regards the adoption of key legislation and the implementation in practice of envisaged anti-corruption reforms.

Fundamental rights

As regards cooperation with the Department for Execution of Judgements of the **European Court of Human Rights (ECtHR)**, there were 1 840 applications in respect of Serbia pending before the ECtHR as of 1 July 2018. Serbia has continued to prepare action plans and reports informing the Committee of Ministers of the Council of Europe on measures undertaken for the execution of the Court's judgments and decisions.

Concerning **promotion and enforcement of human rights**, the 2017 annual reports of the Ombudsman, Equality Commissioner, and Access to Information and Personal Data Protection Commissioner were issued in March 2018 and transmitted to Parliament. The latter failed to discuss them in the plenary for the fourth consecutive year and, therefore, no conclusions for the authorities' review were made. There is a serious delay in adopting a Law amending the Law on the Ombudsman. Following Serbia's request and the completion of the procedures, Serbia became observer in the EU Agency for Fundamental Rights in October 2018.

In the area of **prevention of torture and ill-treatment**, a working group for the preparation of legal safeguards to prevent torture and abuse in social institutions has been established and started its work. Training on conducting investigation of cases of ill treatment by the police have been organised for prosecutors and police officers. As recommendations had remained pending, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued in June 2018 a report on police ill treatment following its ad hoc visit to Serbia in 2017. Adoption of secondary legislation regulating the treatment of persons detained in police custody, to ensure full implementation of the Law on the Police, is delayed.

Regarding the **prison system**, the renovation and modernisation of prisons continued in line with the strategy for reducing overcrowding in penal institutions. A decision on reorganisation of the Service for treatment and alternative sanction was adopted in May 2018 and has yet to be implemented. 2 specialised programmes were prepared to improve the individual treatment of detainees; they have yet to be implemented in practice. Adoption of amendments to the criminal legislation to introduce new forms of alternative sanctions is delayed.

A Law on **data protection** was adopted; the Commission will review it in terms of its compliance with the *acquis*. The Commissioner for Access to Information and Personal Data Protection issued a critical opinion on the draft law in August 2018. Regarding the human and financial resources of the Office of the Commissioner, the current budget is not sufficient to cover the salaries of all 95 employees but only 75.

Regarding **freedom of expression and media**, the overall environment is still not conducive to the exercise of these rights. Cases of threats, intimidation and violence against journalists remain a concern; convictions are still rare. In December 2017, the Public Prosecutor issued an instruction stipulating that prosecutors' offices maintain separate records in respect of offenses committed against the media and designate these cases as priority. The Commission for investigating the killings of journalists made progress, albeit at a slow pace, in completing an investigation of one of the 3 unresolved cases, for which the indictment is still pending, while the trial for the murder of one media publisher is still ongoing, and the third case is still being looked into by the Commission. Hate speech and discriminatory terminology is often tolerated in the media and is rarely tackled by regulatory authorities or prosecutors. The Regulatory Body for Electronic Media (REM) participated in the creation of the publication "Media Regulatory Bodies and Hate Speech". The Press Council recorded an increase of breaches of the Journalistic Code of Professional Conduct in print media (approximately 7% rise in 2017).

The independence of REM needs to be strengthened to allow it to safeguard media pluralism. The Commission for the Protection of Competition and REM signed an Agreement on Cooperation which foresees continuous exchange of information and joint activities of the 2 institutions. There have been repeated claims that fiscal inspections have been used disproportionately to exert economic pressure on media outlets. In June 2018, the Ministry of Culture and Media adopted decisions on the allocation of funds for the eight announced open calls for co-financing of projects for the realisation of public interest in the field of public information; there have been frequent complaints about irregularities in the calls.

Adoption of a new Strategy for the Development of a Public Information System is seriously delayed. Following criticism expressed by stakeholders, the President and the Prime Minister withdrew in April 2018 the previous draft of the strategy and established a working group with the aim to redraft it in a transparent and inclusive manner. The work on the strategy and its accompanying action plan started in July 2018 and is progressing with the aim of completion and adoption by the Government in March 2019.

On **non-discrimination**, the strategy on prevention of discrimination expired in January 2018 and a new one has yet to be adopted. A comprehensive assessment of the results achieved in the overall implementation of the expired strategy has yet to be completed. Alignment of the Law on anti-discrimination with the *acquis* is further delayed. The Office for Human and Minority Rights recruited one new member of staff in 2018. The staffing capacity of the Commissioner for the Protection of Equality also increased by one. In the first half of 2018, the Commissioner received 390 cases (compared to 440 cases in the first half of 2017); the majority of citizens' complaints referred to discrimination on grounds of disability, age, gender and health. The Office of the Commissioner has continued to provide training to local self-government units to raise their capacity to identify and respond to discrimination.

Concerning **equality between women and men**, the adoption of a new Law on Gender Equality is seriously delayed. Adoption of the National Strategy and Action Plan for Combating Violence against Women in Family and Partner Relationships is also seriously delayed. The Coordination Body for Gender Equality submitted in July 2018 to the Council of Europe/GREVI its first national report⁴ on the implementation of the Istanbul Convention on violence against women.

A working group for the creation of a National Plan of Action for **Children** was established, while the previous Plan had expired in 2015. A draft Strategy (2018-2022) for Prevention and Protection of Children from Violence has yet to be adopted. Statistical data on vulnerable groups are still not disaggregated, particularly on Roma children and children with disabilities. The Juvenile Justice Council was re-established in April 2018. Adoption of the amendments to the Law on Juvenile Offenders and Protection of Minors in Criminal Proceedings is further delayed and it is not yet clear if the relevant procedural right *acquis* will be transposed.

As regards the situation of **persons with disabilities**, adoption of a Law aiming at protecting persons with mental disabilities in institutions of social welfare is delayed.

As regards **LGBTI persons**, six textbooks for high school were withdrawn from use due to discriminatory content. In September 2018 and for the fourth consecutive year, the holding of the Pride Parade in Belgrade took place without incidents. However, investigation, prosecution and penalties for hate speech, threats and attacks against members of the LGBTI community are often inadequate. Centralised official data on hate crimes are still lacking.

With respect to **procedural rights** and **victims' rights**, the Ministry of Justice appointed in May 2018 members of the multi-sectoral working group tasked to draft the National Strategy on Crime Victims' Rights and its Action Plan, including plans for setting up a comprehensive national victim and witness support system. It is not yet clear when the procedural right *acquis* will be transposed. The Supreme Court of Cassation established in May 2018 a working group to draft guidelines for public prosecutors and judges in order to enhance the case law of courts related to compensation claims of victims in criminal and civil proceedings. A Law on **Free Legal Aid** was adopted; the Commission will review it in terms of its compliance with the *acquis*.

Regarding the rights of persons belonging to **minorities**, the implementation of the "Action Plan for the Realisation of the Rights of National Minorities" has continued. The Office for Human and Minority Rights regularly reports on its implementation with the most recent report from June 2018. Amendments to the Law on Protection of Rights and Freedoms of National Minorities and the Law on National Councils of National Minorities were adopted in June 2018. Elections of the National Minority Councils took place on 4 November 2018; the Commission will review the election process closely in cooperation with the authorities and the stakeholders. Local councils for interethnic relations have not yet been established in all the

⁴ <https://www.coe.int/en/web/istanbul-convention/serbia>

municipalities where such obligation is stipulated by the law. Their role and mandate should be clarified.

In April 2018, a new Law on textbooks, simplifying the procedure for import and approval of textbooks in national minority languages, was adopted. Preparation and printing of elementary school textbooks for national minorities has continued, giving positive results, with the Albanian language textbooks lagging behind. The share of minority languages on the second programme of Radio Television Vojvodina is 70%. Public broadcasting in minority languages has still not been sufficiently extended outside of Vojvodina. The resources of the Fund for the National Minorities have been increased (to around EUR 185 000 for 2018, compared to a limited allocation of EUR 15 000 for the first year of operation in 2017) and allocated to 77 eligible applicants for projects in the area of information in languages of national minorities.

As regards **Roma** integration, the Coordination Body for monitoring the implementation of the Strategy for Social Inclusion of Roma (2016-2025), chaired by a Deputy Prime Minister, met only once in the first half of 2018. The report on the implementation of the Action Plan related to the Strategy was presented in June 2018, including indicators and budget estimates. Entering of data in the database on Roma inclusion has slightly increased compared to previous years, with 117 local government units having entered data. While coordination between the national and local authorities and budgeting at local level still need to be reinforced, a guide for local coordinators for Roma issues and local government officers who monitor the inclusion of Roma at the local level was prepared and published.

Most Roma in Serbia have civil documentation (birth certificates and ID cards). The solution foreseen by MoI to allow the registration of persons lacking official address by registering at the competent Centres for Social Work enabled the registration of additional 211 persons during the first half of 2018. MoI also implemented electronic procedures for keeping registries of births. Following the Rulebook on the implementation of affirmative measures, a total of 1 969 students from the Roma national minority were enrolled at the secondary level in the school year 2017/2018, which is an increase compared to 1 632 students in 2016/2017. There is a further delay in establishing the legal basis for Roma coordinators and pedagogical assistants. While dropouts remain high, especially for Roma girls, the Ministry of Education, Science and Technological Development developed a “model of a multi-sectoral early warning system in the community” for preventing students from dropping out. A Rulebook on discrimination at school and addressing matters of segregation in educational establishments was adopted in August 2018.

There is still no viable solution for the systematisation of Roma health mediators as health care assistants. The number of registered unemployed Roma has increased, since local mobile teams have been outreaching to Roma, informing and encouraging the unemployed Roma to register and participate in the active employment measure. However, the low level of education has remained a key barrier. In order to improve the living and housing conditions of Roma living in informal settlements, construction works continued in seven municipalities and tenders for additional works were published in 13 municipalities.

Regarding **refugees and IDPs**, a regional housing programme continued providing housing solutions for refugees. Serbia has remained engaged in the regional dialogue on durable solutions for displaced persons from Kosovo*⁵ (the ‘Skopje process’).

⁵ * This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

2.2. Chapter 24 - Justice, Freedom and Security

Migration

As a transit country, Serbia continued to significantly contribute to the management of the mixed migration flows to the EU by playing an active and constructive role and cooperating effectively with neighbouring countries and EU member states.

A **Law on Foreigners** was adopted in March with a view to alignment with the *acquis*, and entered into force in October 2018. Implementing legislation is being prepared. An inter-institutional working group prepared the multi-annual **Strategy for Combatting irregular migration**. It has yet to be adopted. The draft aims at covering gaps in the strategic framework and at complementing, *inter alia*, the Integrated Border Management (IBM) Strategy, and is expected to further improve inter-institutional coordination and monitoring.

The third migration “response plan” is being prepared (the previous one covered the period until end 2017). In view of establishing an early warning, preparedness and crisis management mechanism in alignment with the *acquis*, the MoI and the Commissariat for Refugees and Migration signed and started to implement a protocol on the collection and exchange of information. The relevant institutions meet regularly on an operational and technical level for an improved coordination of day-to-day migration management.

The number of irregular migrants hosted by Serbia decreased in the first half of 2018 to about 3 000. More than 80% are hosted in a total of 18 state accommodation centres, with a total capacity of around 6 500, out of which 6 000 can be considered adequate to support long-term stay. They provide for basic needs including accommodation and health services, and children are enrolled in schools. About 200 are estimated to be unaccompanied minors. Out of those, about two thirds are accommodated in reception centres with a small number (3-5 %) in specialised centres for unaccompanied minors. Staff working in asylum and reception centres received trainings in areas such as protection, working with vulnerable categories of migrants, identification of potential victims of trafficking and of gender based violence.

The 2008 **EU-Serbia readmission** agreement is facilitated by implementing protocols concluded with 21 EU Member States. The procedure to conclude a protocol with Croatia will be relaunched, while a bilateral readmission agreement between Serbia and Croatia is in force. Cooperation on readmission between the EU and Serbia is very satisfactory as far as Serbian nationals are concerned with a return rate close to 100% for more than 8 000 decisions. Serbia’s implementation of the third country national provision remains an issue of concern, especially with Romania (and to a lesser extent with Bulgaria). So far in 2018, Serbia rejected 75% of the readmission applications presented by Romania, despite clear *prima facie* evidence of direct border crossing from or transit through Serbia. Croatia and Hungary praised the good cooperation with Serbia.

The lack of enforceable bilateral readmission agreements with third countries is weakening Serbia’s capacity to manage returns effectively. Serbia has bi-lateral agreements with 10 countries, including Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro. On that basis, and according to data from Serbia, during the first half of 2018, Montenegro responded to all 29 requests submitted by Serbia (granting 24). Vice-versa, Serbia responded positively to all 3 requests submitted by Montenegro. The former Republic of Macedonia only responded positively to 2 out of 213 requests by Serbia (all concerning third country nationals). Vice-versa, Serbia sent 118 requests concerning third country nationals, out of which 99 were rejected and 19 remained unanswered. In addition to Morocco, Algeria, Arab

Emirates, Belarus and Georgia, Serbia sent proposals to conclude readmission agreements to the top countries of origin, namely Afghanistan, Pakistan, Iran, and Iraq, but received little to no feedback. Negotiations with Turkey and Ukraine are ongoing. Serbia continued to benefit from a programme for Assisted Voluntary Returns run by the International Organisation for Migration, which assisted 201 persons to return until 30 September 2018.

According to Serbia's statistics, between January and July 2018, a total number of 5 308 migrants were apprehended. 3 059 were prevented from illegally crossing the state border (out of which 1 520 were caught in the attempt). 55 criminal charges were filed for illegal border crossing and people smuggling against 97 perpetrators for attempting to smuggle 486 persons.

Asylum

A new **Law on Asylum** was adopted in March 2018 aligning it further to EU asylum *acquis*. Harmonisation needs however to continue in order to achieve a functional, efficient, holistic and fair asylum system in line with EU standards. Implementation started in June. It needs to be ensured that the asylum appeal system (second instance) is further amended or applied in line with the EU *acquis*, as appropriate. Bylaws linked to asylum application forms, documents issued to asylum seekers and persons granted asylum or international protection, as well as on the method and procedure for registration of foreigners, who expressed intention to apply for asylum, were adopted. A rulebook on travel documents is being prepared.

Serbia cooperates well with the European Asylum Support Office (EASO). Serbia and EASO agreed upon a national roadmap towards an asylum system in line with the *acquis*, to be implemented through a regional project. Serbia joined the EASO Network of Reception Authorities and the European Integrated Return Management Initiative (EURINT) as observer, and it participates in the meetings of the European Reintegration Network (ERIN).

Serbia has planned to increase the staff of the **Asylum Office** in the Border Police Directorate to a total of 29 since 2016 (currently 23). In 2018, a number of staff, based on internal competitions in 2017 and 2018, took their positions, including the 6 employees to decide upon asylum applications. The procedure for hiring translators had to be repeated due to lack of candidates.

Resources were allocated to the Commissariat for Refugees and Migration in the 2018 budget to, *inter alia*, facilitate access to various rights for persons under international protection. The Commissariat continued to re-allocate funds to CSOs and local self-governments dedicated to awareness-raising and reintegration activities, and capacity-building for local structures.

According to Serbia's national data, 3 298 persons expressed an intention to seek asylum (until mid-June 2018, compared to 3 251 in the first half of 2017). In the first half of 2018, and in line with the new asylum registration (applicable as of June 2018), a confirmation of registration was issued to 451 persons. 94 persons lodged an asylum request (compared to 151 in the first half of 2017). Seven persons received refugee status and nine subsidiary protection (compared to 0 respectively during the first half of 2017). Nine persons were concerned by an inadmissible file (compared to 24 during the first half of 2017). There were 41 negative decisions (compared to four during the first half of 2017). However, most common was the closing of procedures after the applicant had absconded (in around 80 cases).

Visa policy

Training on VIS for consular staff continued. During the first half of 2018, 49 visas were issued at the borders, compared to 41 during the first half of 2017. There is a further delay in carrying out an analysis of financial, legal and administrative measures as well as of the infrastructure

necessary for the implementation of Serbia's visa information system for alignment with the EU Visa Information System (VIS).

Serbia continued its efforts in addressing the phenomenon of unfounded asylum applications lodged by Serbian nationals in Schengen and associated countries, and intensively cooperated with EU Member States at an operational level in this regard. According to the Serbian authorities, 2 criminal charges were brought against 3 persons for facilitating the abuse of the right to asylum in a foreign country during the first half of 2018 (compared to five charges against seven persons during the second half of 2017). The total figure for those from Serbia seeking asylum in the EU was 6 526 for the first half of 2018, compared to 4 045 for the first half of 2017, and 7 000 for the second half of 2016⁶.

For the purpose of harmonising bilateral visa waiver agreements, Serbia issued decisions to introduce a visa-free regime with, *inter alia*, the Bahamas, Barbados, Saint Vincent and the Grenadines, Paraguay and Colombia. However, as of September 2017, Serbia started to divert from the EU *acquis* by introducing a visa-free regime to a number of countries whose citizens do not enjoy visa-free access to the Schengen area: Azerbaijan (June 2018), India (September 2017), Indonesia (October 2017), Iran (September 2017, in the meantime revoked-see below), Guinea-Bissau (December 2017), Suriname (2018), and Burundi (June 2018). The list of visa-free countries whose citizens do not enjoy visa-free access to the Schengen area also includes Bahrain, Belarus, Bolivia, China, Cuba, Kazakhstan, Kuwait, Mongolia, Oman, Qatar, Turkey, Tunisia, and Russia.

With respect to Iranian citizens, a trend of abuse of visa free travel could be observed over the past year (September to September): With 44 364 entries and 32 911 exits registered, 900 persons for whom the location is known in Serbia, the discrepancy stood at more than 10 500. Out of these, 1,667 Iranian citizens raised an intention to claim asylum, while only 39 filed an asylum claim. On 8 October, when Iran signalled unwillingness to conclude a bilateral readmission agreement, Serbia took the decision to revoke the visa free regime for Iran.⁷ This is in effect as of 17 October 2018.

⁶ Eurostat, *Asylum and first time asylum applicants by citizenship, age and sex Monthly data (rounded)*.

⁷ Decision was published in Official Gazette RS, No 75/2018, on October 9.

External borders and Schengen

The finalised text of the so-called “status agreement” on cooperation with the European Border and Coast Guard Agency (EBCGA) was initialled on 20 September 2018, and will be ratified shortly on both sides. On the basis of this agreement, the EBCGA will be enabled to deploy guest officers with executive power and carry out operations on the territory of Serbia.

The implementation of the revised 2017 integrated border management (IBM) strategy and its dedicated action plan started. A training plan for all IBM agencies and a joint risk analysis were adopted. Preparations for the development of the Schengen Action Plan continue to be at an early stage, while the assessment of the necessary requirements (for instance technical but not yet legal or in terms of human resources) was carried out. During the first half of 2018, Serbia received donations for border control and surveillance activities. A cooperation agreement between the Public Prosecutor’s Office, the Mol, the Ministry of Finance and the Ministry of Agriculture and Environmental Protection was signed.

There is good bilateral and regional **cooperation on border management with Serbia's neighbours**. Common Contact Centres with Bulgaria, the former Yugoslav Republic of Macedonia, Croatia, Hungary, Romania and a trilateral one with Bosnia and Herzegovina (BiH) and Montenegro are functioning, while not staffed 24/7. Joint patrols continue to be organised with all neighbouring countries, except for with Croatia. A protocol on performing joint patrols with Croatia was signed, and trainings were held in February 2018. In January 2018, operational procedures for joint patrols with Hungary, Bulgaria and Romania as well as Standard operating procedures (SOPs) for the ‘identification, registration, screening, profiling and referral of migrants and risk analysis’ (including screening for terrorist and foreign fighters, trafficking in human beings and smuggling) and a training plan for the implementation of these SOPs were adopted by the Mol. The Working Arrangement with the EBCGA is implemented smoothly. For instance, Joint operations were held on a monthly basis at the borders with Hungary and the former Yugoslav Republic of Macedonia. There is additional operational cooperation at some border crossing points at land (Focal Points at BCPs with neighbouring EU Member States and Coordination Points at BCPs with other Western Balkans countries) and air borders (Belgrade airport). The Border Police participated in the elaboration of the risk analysis report within the framework of the EGCGA-led Western Balkans *Risk Analysis Network in the Western Balkans*. Together with other border agencies, the Border Police participated in the international joint action *Sava* aimed at prevention of irregular migration and smuggling.

A national strategy for green border surveillance has yet to be put in place. A new Law on State Border Control entered into force in March 2018. Implementing legislation, including on categorisation of border crossing points, is being prepared. Discussions on blocking unauthorised crossing places at the border with Montenegro have not progressed further, while 9 local border agreements with Montenegro were signed in August 2018.

Judicial cooperation in civil, commercial and criminal matters

Assessments of Serbia's national legislation in view of an alignment with the *acquis* were finalised for judicial co-operation in criminal and civil matters. For criminal matters it is being revised and updated. Furthermore, there is a further delay in carrying out an analysis of administrative, budgetary and training needs to ensure this alignment. 3 bilateral agreements on judicial cooperation in criminal matters with Kazakhstan were ratified in September 2018.

There is a further delay in the start of negotiations on an operational agreement with Eurojust, as a new Data Protection Law has yet to be adopted.⁸

Judicial cooperation takes place mainly with EU Member States and within the region, both via the Ministry of Justice and directly to and from the Serbian courts and prosecution offices. During the first half of 2018, Serbia (at the level of the Ministry of Justice) had 3 201 new incoming requests (both civil and criminal), and sent out a total of 1 812 requests. By comparison, during the first half of 2017, Serbia had a total of 3 142 new incoming requests, and sent a total of 1 628 requests.

According to the Serbian authorities, Serbia handled⁹ 12 729 incoming judicial cooperation requests (both civil and criminal), compared to 3 563 requests during the first half of 2017. Among those that Serbia dealt with, it replied to 10 331 positively, and refused 2 398. At the end of June 2018 the pending cases remained at 6 607 (compared to 11 105 at the end of June 2017). Serbia thus improved its handling of incoming judicial cooperation requests, and started to address the backlog.

Police cooperation and the fight against organised crime

The 2016 Law on Police was amended (entry into force in April 2018) with a view to, *inter alia*, improving the competences of the Internal Affairs Sector, based on previously conducted assessments related to corruption risks. Rulebooks on the method of conducting internal controls and on integrity tests were adopted in May 2018. In line with the law, the Rulebook on Internal Organisation and Systematisation of the Mol (**Systematisation Rulebook**) was adopted in June 2018. Thereby, the reform of the human resource management system for the Mol and the Police was finalised. The rulebook provides, *inter alia*, for the necessary adjustment of the organisational structure to the requirements of the “**Police Intelligence Model**”. Furthermore, 2 bylaws that define new preventive concepts in the fight against corruption, a rulebook on integrity testing and another on asset declarations were adopted in May and June 2018, respectively.

A law on the National DNA Register, adopted with a view to alignment with the *acquis*, entered into force in April 2018. A bylaw is being prepared to regulate the management of the register. The establishment of a **single centralised criminal intelligence system** (a National Criminal Intelligence System (NCIS)) as a safe platform for communications between law enforcement bodies is delayed, but well advanced. Preparatory activities were carried out with regard to the establishment of the technical conditions and the signing of relevant protocols on data exchange between the law enforcement and the judicial authorities. Serbia is further delayed in carrying out an analysis of the roles and practices of security services and the police in implementing special investigative measures (SIMs) in the criminal investigation phase in order to bring them in line with best practices and the fact that the new law on organisation foresees a decentralised system for corruption.

Serbia is further delayed in adopting a new **Financial Investigation Strategy** and corresponding action plan, after the previous strategy expired in 2016. A draft strategy had already been prepared and an implementation coordination body, consisting of the MoJ, the Mol, the SCC and the Republic Public Prosecution Office, envisaged in 2017. To some extent, the content of the previous strategy has been incorporated into the Law on Organisation and

⁸ See under **Fundamental Rights** in Chapter 23.

⁹ Serbia also sent out 1812 requests for judicial cooperation (both civil and criminal), received 7 633 positive replies and had refusals in 3 000 cases. The pending outgoing requests remained at 6 690 at the end of June 2018 (compared to 12 126 at the end of June 2017).

Jurisdiction of Government Authorities in Suppression of Organised Crime, Terrorism and Corruption¹⁰.

The MoI's Financial Investigation Unit has 65 staff after further reinforcement in 2018. It is still being set up to perform the functions of the **Asset Recovery Office** related to the exchange of police data in line with the *acquis* (for mutual legal assistance, responsibility will be with the MoJ). The unit is enabled to perform its functions, and a secure connection (the so-called SIENA channel) between Serbia and the EU Member States/Europol and the necessary IT equipment was provided. There is a delay in the adoption of bylaws to the 2016 Law on Amendments for the Law on Seizure and Confiscation of the Proceeds from Crime regarding record keeping, management of seized assets and value assessment. The quantity and quality of seizure and confiscation of assets (esp. permanent confiscations) remains low due to the lack of a pro-active approach in carrying out financial investigations and a lack of consolidated jurisprudence in this field.

The new Law on the Prevention on **Money Laundering** and the Financing of Terrorism, adopted in December 2017 with a view to alignment with European and International standards and with the EU *acquis*, entered into force in January 2018. Serbia started to strengthen its administrative capacity. For instance, in June 2018, a new Coordination Body for the Prevention of Money Laundering and the Financing of Terrorism was established, and the Administration for the Prevention of Money Laundering started hiring new staff.

In February 2018, the Financial Action Task Force (FATF) included Serbia on its grey list. Subsequently, Serbia intensively worked on addressing the MONEYVAL recommendations (report from 2016) and remedying the deficiencies identified by the FATF. It partially implemented the action plan agreed with the FATF in February 2018 and aims at completing all the activities planned in this plan by January 2019 which is the FATF-set deadline. Several important laws were amended or adopted, such as the Law on Beneficial Ownership registry or the Law on International Restrictive Measures, in addition to laws mentioned elsewhere in this report. A new national risk assessment was adopted in June 2018. Serbia made progress as regards the supervision of notaries and casinos, but remains to take all the necessary steps regarding the lawyers. Additional steps remain to be taken regarding access to beneficial ownership and targeted financial sanctions. Serbia informed the FATF about a number of financial investigations and convictions demonstrating a more pro-active approach in regard to the investigation and the prosecution of money laundering and associated offences.

As regards **Trafficking in Human Beings**, Serbia started to be more pro-active in terms of identification and protection of victims, in line with the EU's human rights based approach. In line with its national strategy (adopted in August 2017 as reported), a new Action Plan for 2019 - 2020 with a focus on Women and Children as well as the protection of victims is under preparation. Specialised investigation teams were established in 27 police units all over Serbia. Serbia is encouraged to finalise the shelter for urgent reception of victims within the Centre for protection of human trafficking victims. There is a delay in carrying out an analysis of the existing legislative and institutional framework for the establishment of Joint Investigation teams in accordance with the *acquis*. 28 victims were identified in the first half of 2018, while all potential victims in the identification process receive assistance. The new legal framework provides for possible compensation for victims. Serbia is encouraged to establish a fund or scheme for compensation, and to start using this possibility. A revision of the standard operating procedures (national referral mechanism) is already under way. Further capacity building of Serbian authorities in detecting, preventing and identifying trafficking victims for the purpose of labour exploitation is being implemented, with special focus on "non-traditional

¹⁰ For details on the implementation of the law, please see under Chapter 23, anti-corruption.

actors” such as labour and market inspectors, including private sector, trade unions and employment agencies. During the first half of 2018, there were 11 convictions for trafficking in human beings, compared to 8 in the same period in 2017.

In September 2018, Serbia adopted its **cybercrime** strategy, the “Strategy on High-tech Crime”. The Systematisation Rulebook foresees the strengthening of the operational capacity within the police to effectively address cybercrime, including through the establishment of specialised sections for investigations of abuse of credit cards, e - commerce and e-banking and suppressing illegal and harmful content on the internet.

A new Strategy for the Control of Small **Arms** and Light Weapons (SALW) for the period 2018 - 2023 was drafted. It is yet to be adopted. According to the Serbian authorities, it is being harmonised with the “Roadmap for sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024”, endorsed at the London Western Balkans Summit.

Serbia also continues to participate in implementing the Western Balkan Counter Terrorism initiative (WBCTi) and the Action Plan on the illicit trafficking of firearms between the EU and the South East Europe Region (2015-2019). For the latter, a permanent team is active in the Western Balkans Firearms Expert Group and its joint operations. In both fields, Serbia continuously cooperates with Europol. During the first half of 2018, 815 different types of firearms and 33964 pieces of ammunition were seized.¹¹ During the same period, no firearms were destroyed. This compares to a total of 632 firearms and 21034 pieces of ammunition during the first half of 2017, when also around 18000 weapons were destroyed. Serbia still has to set up a National Arms Focal Point. Since 2015, there has only been one conviction for firearms trafficking.

Amendments to the operational agreement with **Europol**, necessary due to the extension of Europol’s mandate to include, *inter alia*, criminal offenses against EU financial interests, and financial market manipulations, are under preparation. Guidelines on International Operational Police Cooperation were adopted. Serbia is a member of 15 Europol analytical projects. The Europol National Contact Point is still not fully staffed, with only 3 out of 9 positions, including the head of the office, being filled. There is a further delay in strengthening the capacities of the 24/7 duty service for the needs of international operational police cooperation. The working arrangement between the MoI and the European Police College (CEPOL) was ratified in March 2018, and entered into force in April 2018. It provides for a basis for mutual support in training activities for law enforcement officials and the exchange of best practices in cooperation mechanisms, and should thus help enhancing the effectiveness of fighting cross-border crime in particular.

Fight against terrorism and violent extremism

Since 2009, Serbia’s National Security Strategy recognises terrorism and violent extremism as one of the greatest threats to its security. In December 2017, as mentioned, Serbia adopted a new Law on the Freezing of Assets for the Purpose of Terrorism Prevention. It is implementing its National Strategy 2017 - 2021 and Action Plan for Preventing and Fighting Terrorism.

Serbia’s Taskforce on Combatting Terrorism continues to meet regularly. It comprises the Service for Combatting Terrorism and Extremism (specialised criminal police) and the Security-Intelligence Agency (BIA). They cooperate and exchange information with Europol,

¹¹ In the context of investigations for the criminal offense of Unlawful Manufacture, Possession, Carrying, and Sale of Firearms and Explosives" (Article 348 of the Criminal Code of the Republic of Serbia.

Interpol and its regional counterparts. There is a further delay in setting up a single national database on terrorism-related information. A proposal for a legislative framework was drafted. So far, the prosecution filed indictments against eight persons for terrorism-related offenses (including radicalisation and recruitment). Seven persons were prosecuted, out of which four were accused of financing of terrorism.

Co-operation in the field of drugs

A Law on the Psychoactive Controlled Substances (PACS) was adopted in July 2018. The law, *inter alia*, incorporated the definition of psychoactive substance according to the *acquis*. The law was assessed by a TAIEX expert as being in line with the *acquis* related to the cooperation in the field of drugs. The National Monitoring Centre for Drugs located at the Ministry of Health (the Centre) is stipulated by the law to manage the National Early Warning System (NEWS) on new psychoactive substances, and to collect, manage and share information. Serbia already has a relatively well-established NEWS, the associated risk assessment procedure and the subsequent control mechanism for adding new psychoactive substances to its drug control legislation. It is undertaking the necessary steps (updating and formally adopting the legal and administrative basis for the NEWS, clarifying and strengthening the procedures, and increasing the monitoring and reporting capacity) in order for this system to be connected to the European EWS. In this context, also the normative framework on the procedures for the storage and destruction of drugs is being amended, and destruction programmes prepared with a view to compliance with European best practices. The adoption of the Law on Precursors is delayed. A draft was prepared.

The Office for Combatting Drugs, an inter-ministerial coordination office for drugs, set up in May 2016, was strengthened (staff increase). Its overall institutional position remains to be strengthened by a clarification of responsibilities between this office, the Centre and a Government Commission for the Control of Destruction of Psychoactive Controlled Substances. In July 2018, a joint investigation team (Criminal Police Directorate) was established with the Austrian, Czech and Slovakian counterparts.

Serbia's cooperation with the EMCDDA is smooth, and runs through its national focal point, the Centre (see above). Serbia is in the process of aligning its drug seizure data collection, analysis and reporting with EMCDDA requirements and methodologies. The Ministry of Health signed memoranda of cooperation with the MoI in March 2018, and the Institute for Public Health of Serbia in April 2018.

The scope of data exchange increased significantly. A special mailbox for the Narcotic Prevention and Narcotics Control Service was opened in Siena in July 2018. 110 analytical files were opened related to drug cooperation with Interpol. During the first half of 2018, a total of over 1,3 tons of various substances (including around 18 kg of heroin) were confiscated compared to, during the first half of 2017, 2,1 tons, including 9 kg of heroin.