PROGOVORI O PREGOVORIMA

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OPENING OF CHAPTERS 23 AND 24: HAVE WE DONE "ABSOLUTELY EVERYTHING" IN OUR POWER?

TOPIC OF THE MONTH PP. 3–6

Photo: europeanwesternbalkans.com

HIGHLIGHTS

2nd June — **Serbia submitted Negotiating Positions for chapters 23, 24 and 5**

Tanja Miščević, Head of the Negotiating Team for Accession of the Republic of Serbia to the European Union, stated that the Government of the Republic of Serbia submitted Negotiating Positions for chapters on the rule of law (23 and 24) and for Chapter 5 (Public procurement). According to Ms Miščević, on 3 June, the EU Member States should discuss the content of the negotiating positions within the Committee for Enlargement (COELA), after which the Common Position of Serbia and the EU should be presented. Read more...

14th June — **EULEX Kosovo*: mandate extended, budget approved**

The European Council extended the mandate of the EU Mission in Kosovo (EULEX) until June 2018. EULEX Mission in Kosovo was initiated in 2008, with central headquarters in Pristina, Kosovo, with the aim of providing assistance and support to Kosovo authorities in the field of the rule of law, specifically to law enforcement, judiciary and customs authorities. Read more...

21st June — **Conference on the future of the youth in the Western Balkans held in the European Parliament**

Conference "Better Future for the youth in the Western Balkans" was held in the European Parliament on 21 June 2016. The aim of the conference was to provide additional promotion of youth policy, before the next summit of the Berlin process which will be held in July in Paris, as well as to emphasise the importance of youth perspective in the region by indicating the significance of European perspective. Read more...

* 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.

24th June — **Panel discussion: What awaits us after the opening of Chapter 24?**

What awaits Serbia and its citizens after the opening of Chapter 24 within the European Union accession negotiations was the main topic of the panel discussion organised by the Belgrade Centre for Security Policy and OSCE Mission in Serbia. At the panel discussion, it was noted that the reform of the police is essential for the progress of Serbia within Chapter 24 of the European Union accession negotiations. The conclusion of the panel is that Britain's withdrawal from the European Union may slow down the process of enlargement, but it certainly will not stop it. Read more...

29th June — **Meeting between the members of the European Integration Committee and the European Commission representatives**

Ms Catherine Wendt, Head of the European Commission Directorate-General for European Neighbourhood Policy and Enlargement Negotiations, spoke with the members of the European Integration Committee. She said that the EU enlargement and negotiation process will continue, despite the results of the recent referendum in Great Britain, and stated the importance of the role of the European Integration Committee in the forthcoming period, particularly with regard to the cooperation with the European Parliament. Read more...

IMPRESUM

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PROGOVORI O PREGOVORIMA

OPENING OF CHAPTERS 23 AND 24: HAVE WE DONE "ABSOLUTELY EVERYTHING" IN OUR POWER?

The opening of chapters 23 (Judiciary and fundamental rights) and 24 (Justice, freedom and security) within the negotiations with the EU has been pending for several months now. It was last postponed in late June, right after the British referendum on the withdrawal from the Union. In addition to Europe's preoccupation with the British issue, what also postponed the opening was Croatia setting out special conditions to Serbia before giving its consent to the opening of these two important chapters. These conditions referred to Serbia's full cooperation with the Hague Tribunal, full application of national and international obligations of Serbia in the protection of minority rights (primarily the rights of Croatian minority), and remarks on the conflict of jurisdiction between Serbia and Croatia in processing war crimes. According to the latest information, Croatia has toned down its position, but it still expects guarantees that these issues will be solved. At the moment, the adoption of the Negotiating Position which would include Croatia's conditions, as well as the opening of chapters, is announced for 18 July 2016.

This is generally the only information on chapters 23 and 24 we can see in the media. They very often refer to the technical and formal process which mostly does not tell us anything about the real benefits for the citizens during the process of accession to the EU. There is no complete information on what the main EU remarks on the state in Serbia are, and on whether Serbia has done something to change the situation before the formal opening of the chapter as well – which should be in its interest.

Photo: Belgrade Centre for Security Policy (BCSP)

Sofija Mandić, Attorney at Law/Researcher at BCSP

"We have done everything"

Most often, it is only heard that Serbia "has done everything" to make the opening of the chapters possible. Seldom do we hear what our officials really mean when they say we have done everything in our power, and even more seldom do the experts question whether this statement is true.

In this context, we have several times heard the participants in the negotiations, and also the President of Serbia, saying that "it is unacceptable that one country (Croatia, author's comment) can stop another country from entering the EU, where the latter has met all requirements". These statements confuse the citizens even further, because they equate the process of alignment with the EU law (i.e. the process of negotiations on specific chapters) with the fulfilment of requirements for entering the EU. According to the statement made by Nikolić, Serbia is not only prepared for negotiations, but also for the EU membership. A similar thing was said by Nikola Selaković, Minister of justice in the Government of the Republic of Serbia, while presenting the first report on the implementation of the Action Plan for Chapter 23 in early July. On this occasion, he stated that the chapters had not been opened by the Union's own will, but that Serbia had done everything in its power – that it had achieved "the best results and met the highest benchmarks in the EU accession process so far". He even stated that if the Union does not recognise these efforts made by Serbia "someone else certainly will".

What is expected from Serbia on the path to the European Union?

Although national officials keep sending messages saying that Serbia has done its work in aligning with the European practice and law – with maybe some of the remaining technical work to be done– we are actually only at the beginning of a long and arduous journey. The EU has offered clear recommendations on what must be changed in the national law and practice before the chapters are closed one day. These recommendations refer to: the prevention of political influence on proposing and electing prosecutors and judges, the need to establish independent judiciary and prevent conflict of interest, illegal acquisition of wealth and corruption in public services (such as education, health care and customs). These recommendations clearly imply the real state of play – Serbia is a country in which politics has its hands deep in the judiciary and where a job in the public sector is the source of acquiring wealth. It may not be easy for the officials to put it that way, but that is the EU's conclusion on the state of our society.

Furthermore, the EU requires efficient prosecution of war criminals, even when the suspects are state officials. This also sufficiently speaks about the current state and how much we have been committed to at least removing war criminals from the public

service, if nothing else. In addition, there is the requirement of control over financing of political parties and sanctions for breaking the rules in this field. One of the requirements is also a comprehensive reform of the Ministry of Interior, which may contribute to removing political pressure in the operational work of the police, the change in staff management practice and the prevention of corruption within the police.

This is only a fraction of very serious tasks that await Serbia and it can hardly say that "it has done absolutely everything" to regulate these areas. At this moment, Serbia has in fact met technical requirements to set off on the road of change, and this must openly be told to the citizens. Technical requirements have been met with the adoption of the Action Plan and the Negotiating Position for both chapters which list the steps to be made in order to resolve the recognised problems.

If we know that Serbia has been in the process of European integration ever since 2008, we can rightfully ask the following questions – How come we do not see any significant results? How is it possible that in 2015 96% of the citizens believe that the police is corrupt? How is it possible that in 2016, in the centre of Belgrade, citizens are being detained by unknown persons, and the police refuse to protect them? How come the representatives of the executive power, contrary to all rules, announce arrests and outcomes of trials in the media? How is it possible that the procedural rights of minors in legal proceedings have been reduced? Why does the new Law on Police directly put the power of operational decision making in the hands of the minister of interior, instead of professionalising the police? These are all the questions the officials should have to give answer to since they say they "have done absolutely everything" on the path of European integration.

Photo: Chapter 23

What has been achieved – the case of the report by the Ministry of Justice

In the process of EU accession, different reports on the implementation of planned tasks are envisaged. The first such report was published by the Ministry of Justice, for the implementation of the Action Plan for Chapter 23 no less. The report refers to the planned changes in the first half of 2016. Impressive data were provided at the presentation of the report – that 80% of the activities have been completed, that 15% of them are ongoing, while only a small percentage of tasks (5%) has not been achieved. If we look back on the previously posed questions on the state of judiciary, police and society, further questions arise – How are these, almost ideal, results possible? Who in fact lacks the complete picture of state of play – functionaries and officials or the citizens who live their everyday lives?

The answer to this question is also the most detailed answer to the question of which approach our country has chosen in the EU accession process. A very superficial methodology was used in reporting, with the aim of partially or completely hiding the real state of play. More specifically, it is an approach which implies that, when a change in the law or any activities related to that change are necessary, that task is considered fulfilled if the working group for drafting of a new regulation is formed or if that regulation is, strictly formally, adopted. Whether the content of a certain regulation has essentially led to the change required by European recommendations, is not the subject for the Ministry of Justice. Therefore, reading such, allegedly transparent, report, we cannot have a true picture of the state of play.

A good illustration of such approach may be the Union's recommendation to public prosecutor's offices to efficiently process the cases of breach of the presumption of innocence by state officials and the media. This activity was assessed as "successfully being realised" despite the fact that the report states that, in 2015, only four such proceedings were initiated and none of them were completed by the first half of this year. When we add how our media look and what our functionaries say, it is clear that the EU recommendation is miles away from really being fulfilled. The situation is similar with a number of other activities, one of them being the publishing of the guide to judicial conduct and code of ethics which was supposed to be published at the presentation of the High Judicial Council. This activity was assessed as "almost completely realised", although the report states that such guide has not yet been published. Also similar is the case with the analysis of constitutional provisions on judiciary and proposals for their amendments, where the activity is allegedly realised, but it has not been made publically available or discussed. The report by the Ministry of Justice is full of similar assessments and information, which is completely unacceptable.

Simulation of the rule of law

When, to all the aforementioned, we add the fact that last month the Government adopted its Regulation, in contravention to the Law on Data Secrecy, allowing it to designate certain parts of the negotiation process as secret ("limite"), we get the full picture on the state of play in the European integration process of our country. Serbia is a difficult student, who tries everything to hide their ignorance, bad traits and deviousness. For now, Serbia only declaratively wants the rule of law, access to justice and the guarantee of fundamental rights for its citizens.

As this process continues, there will be less and less space for already developed systems of simulation. They will be possible, but also entirely obvious. This is exactly why the opening of chapters 23 and 24 in the negotiations with the European Union would be good news. Then there would be little space for manoeuvring in order to decorate the truth, and Serbia would have to decide on the directions of further development. If that direction still included the EU (and not "someone else", as our Minister of justice said), our country would, as a bad student, have to earn at least a passing grade in the field of the rule of law.

Author: Sofija Mandić, Belgrade Centre for Security Policy (BCSP) and "prEUgovor" Coalition

SLOVAKIA TOOK OVER THE EU PRESIDENCY

On 1 July 2016, Slovakia took over the six-month Presidency of the EU from the Netherlands. This is the first presidency of Slovakia, and 116th rotating presidency of the EU. Slovakia joined the EU 12 years ago along with nine mostly former communist countries from Central and Eastern Europe. This country has been the member of the Eurozone since 2009.

In the next six months, as the presiding country, Slovakia will chair the meetings at all levels of the Council of the EU and ensure the establishment of European legislature from the expert to the ministerial level. One of the first tasks of Slovakia as EU Presidency will be to organise the EU summit on 16 September in Bratislava, where the leaders of 27 Member States will discuss the future of the Union after the withdrawal of Great Britain.

The programme of the Slovak Presidency is created according to the EU's long-term priorities set out in Strategic Agenda for the Union in Times of Change of 2014. Bratislava defined the programme of EU Presidency around four thematic blocks – economy, internal market, creation of sustainable migrant and asylum policy and development of a globally engaged Europe.

The first block of Slovak priorities refers to financial and economic issues – EU budget for 2017, mid-term review of the 2013 – 2020 budget, long-term budget after 2020, capital market union, unfinished business related to Economic and Monetary Union.

The second block comprises significant projects at the internal EU market, including single digital market and energy union.

ROTATING PRESIDENCY OF THE EU

The presidency rotates among the EU Member States every six months. During that six-month period, the Presidency chairs meetings at all levels in the Council, helping to ensure the continuity of EU's work in the Council.
During the presidency of the Council, the Member States work together closely in groups of three, known as 'trios'. This system was introduced by the Lisbon Treaty in 2009. The trio sets long-term goals and prepares a common agenda determining the topics and major issues that will be addressed by the Council over an 18-month period. On the basis of this programme, each of the three countries prepares its own more detailed 6-month programme. The current trio is made up of the presidencies of the Netherlands, Slovakia and Malta.

Learn more:

Official internet presentation of Slovakia's presidency of the Council of the EU
Overview of facts by the European Movement in Serbia
Research Forum: "Slovak Presidency of the EU"
CEP Insight: "Slovak Presidency of the EU – No shortage of challenges?"

Migration falls under the third block of Slovak priorities. There is a chance of reaching an important agreement on "smart" borders which will ensure smooth travel of EU citizens, but will keep controls for those who do not have visas for the Schengen area.

The fourth block refers to the EU external affairs, including trade, i.e. TTIP and CETA agreements, as well as the issue of the market economy status for China. Globally engaged Europe will also deal with the future of the accession process and overcoming of the fragmentation of Europe.

Source: Serbian European Integration Office

BALKAN BAROMETER: THE REGION'S GREATEST CONCERN IS UNEMPLOYMENT

In this year's issue of Balkan Barometer, the Regional Cooperation Council (RCC) presented the annual research on attitudes, experiences and opinions in economies included in the Council strategy called "South East Europe 2020" (SEE 2020). A panel discussion on development and dynamics of reforms in the Western Balkans, as well as on the main priorities, as seen by the citizens and economic entities from the region, was part of the convention held in Sarajevo on 21 June, where Balkan Barometer was presented. The participants of the panel included representatives of governments, private sector, civil society, as well as international and academic community.

Photo: Regional Cooperation Council (RCC)

Balkan Barometer 2016 was published in two parts, "Public Opinion Survey", which deals with opinions of citizens, and "Business Opinion Survey", which summarises the opinions of companies.

The survey has shown that the respondents' greatest cause for concern is unemployment, and that they do not believe the state will change for the better. These results are similar to the ones from last year, with 7,000 people from Bosnia and Herzegovina, Albania, Croatia, Kosovo, Montenegro, Serbia and Macedonia having been surveyed.

Corruption is the issue which has become very important in that part of Europe, and therefore, at the regional level, 27% of respondents included in the survey said that corruption was one of the main problems, which represents a great change compared to 15% of those having had the same opinion in the previous survey.

In this year's report, special attention was given to the most vulnerable groups of people, particularly migrants. The survey has shown that 47% of respondents have a negative attitude towards migrants, 37% are neutral, while 11% have a positive attitude.

Business community survey has shown that the greatest problems in business operations are tax rates, financing costs and borrowing, as well as anti-market practice.

This year's survey also included selected data on Moldova and Slovenia as well, thus giving a broader overview of the region of South East Europe.

Source: Regional Cooperation Council (RCC)

Balkan Barometer, which was first published in 2015, is an annual survey of attitudes, experiences and opinions in economies included in the Council strategy called "South East Europe 2020" (SEE 2020), a strategy for jobs and prosperity in a European perspective. Balkan Barometer is one of the tools used for monitoring progress in the realisation of RCC SEE 2020 Strategy. It provides various statistical data on economies in South East Europe, which enables direct comparison with the previous year's survey, and also gives insight which can help analyse the major macroeconomic trends in the region with a view to identifying main issues and form future policies.

EMPLOYMENT AND SOCIAL REFORM PROGRAMME ADOPTED

Based on 2013 – 2014 EU Enlargement Strategy, the European Commission launched a new process which determines and monitors priorities in employment and social policy for the countries in the process of accession – Employment and Social Reform Programme (ESRP)

The implementation of ESRP will be a strategic process, structured according to Europe 2020 Strategy model, applied by the Member States, which will monitor the process of European integration as the main mechanism for dialogue on the priorities of the Republic of Serbia in the field of social policy and employment within the EU accession process.

The process of developing ESRP in the Republic of Serbia was officially initiated in September 2013, and the programme was adopted by the Serbian Government in May 2016. The whole process of development was open, and all national partners were consulted on multiple occasions and invited to actively engage in drafting of the document, in order to ensure its quality, as well as the support of all social actors and social partners. The European Commission monitors the process of programme implementation at the annual level, both through the annual progress reports and through thematic meetings and conferences.

Employment and Social Reform Programme primarily covers labour market and employment, human capital and skills, social inclusion and social protection, as well as challenges within the pension and healthcare system.

Source: Ministry of Labour, Employment, Veteran and Social Affairs

Photo: vikki.madmarx.biz

WE RECOMMEND

Results of "Serbia and Europe in the Eyes of the Youth" Survey, conducted by the European Movement in Serbia in cooperation with the Faculty of Political Sciences, University of Belgrade;

Humanitarian Law Center report "Transitional Justice in Serbia in the period from 2013 to 2015" which aims to inform the domestic and international public on the progress of the process of establishing transitional justice in Serbia;

"Guide through cooperation in internal affairs within the EU", published by the Belgrade Centre for Security Policy (BCSP) with the support of OSCE Mission in Serbia. The guide provides a comprehensive overview of cooperation in internal affairs within the EU as one of the key policies in the field of justice, freedom and security.

HOW HAVE THE NEGOTIATIONS OF THE REPUBLIC OF SERBIA WITH THE EU BECOME ADMINISTRATIVE SECRET?

Civil society organisations will have a special role in the accession negotiations. In this way, the process will get full legitimacy and become the ownership of all citizens of the Republic of Serbia. (*Government of the Republic of Serbia, Opening Statement at the Intergovernmental Conference on the accession of the Republic of Serbia to the European Union, Brussels, 21 January 2014*)

In order to strengthen public confidence in the enlargement process, decisions will be taken as openly as possible so as to ensure greater transparency. Internal consultations and deliberations will be protected to the extent necessary in order to safeguard the decision-making process, in accordance with EU legislation on public access to documents in all areas of Union activities. (*The EU Common Position on Accession Negotiations with the Republic of Serbia, Brussels, 21 January 2014*)

In June 2016, the Government of the Republic of Serbia designated negotiating positions and minutes from bilateral screening as documents classified as "LIMITE" which, due to their sensitive nature, should not be available to the public. In this way, the trend of closing the negotiation process to the public was continued, as well as the trend of limiting access to documents created in the EU negotiation process. The Law on Data Secrecy does not provide for the designation "LIMITE" in terms of marking the level of data secrecy, and the term "administrative secret" does not exist in the legal system of the Republic of Serbia any more.
With the following analysis, we want to draw attention to the concerning trend of narrowing the space for dialogue on the European integration process and undermining the principle of the rule of law as a fundamental principle on which the legal order of the Republic of Serbia is founded.

Chronology of closing the negotiation process to the public

Documents which direct and align the work of public administration authorities in the process of screening and drafting of negotiating positions were adopted in 2013 and amended in 2014, 2015 and 2016. On two of these occasions, the amendments referred to limiting public access to documents created in the negotiation process. Having regard to the nature of amendments during these three years, the closing of the negotiation process to the public started with the amendments made in 2015 and continued in 2016.

The Government Conclusion which directs and aligns the work of public administration authorities in the process of analytical review and assessment of the alignment of Serbian legislation with the EU acquis and their implementation (hereinafter referred to as "screening") was amended in 2015 by the addition of point 13a. This point lays down that minutes from the meetings held in the process of bilateral screening for each individual chapter shall bear the "LIMITE" level of secrecy, in accordance with the regulations on data secrecy. The amended Conclusion further states that the aforementioned materials shall bear the "LIMITE" level of secrecy until the opening of a given chapter. There were no limitations with regard to access to minutes from bilateral screening in the original version of the document.

Apart from the addition of point 13a, no other amendments were made. We can but conclude that an exceptional need to make minutes from bilateral screenings, and the data they contain, unavailable to the public arose.

The Government Conclusion which directs and aligns the work of public administration authorities in the procedure of drafting negotiating positions in the EU accession process of Serbia was amended by the addition of point 5a. This point lays down that the negotiating positions adopted by the Republic of Serbia during the accession negotiations for each individual chapter shall be marked with the "INTERNAL" level of secrecy, in accordance with the regulations on data secrecy. In exceptional cases, the amendments to the Conclusion emphasise that parts of a negotiating position may be marked with the "CONFIDENTIAL" level of secrecy. The amendments envisaged that negotiating positions shall be marked with "INTERNAL" and "CONFIDENTIAL" levels of secrecy until the opening of a given chapter, exceptionally, until the end of the accession negotiations. There were no limitations with regard to access to negotiating positions in the original version of the document.

Apart from the addition of point 5a, no other amendments were made. Again, we can but conclude that an exceptional need to make negotiating positions unavailable to the public arose.

In both Conclusions, published in June 2016, the Government of the Republic of Serbia went a step further and declared both minutes from bilateral screenings and negotiating positions secret, i.e. unavailable to the public, using the mark "LIMITE", in accordance with office management rules. The Law on Data Secrecy does not recognise the mark "LIMITE".

In order to create grounds for this limitation of access to documents in office management rules, it was first necessary to amend the Regulation on Office Management of Public Administration Authorities, which was done. The Regulation amending the Regulation on Office Management of Public Administration Authorities was published in the Official Gazette No. 45/2016.

Article 10 of the Regulation was entirely amended and we quote it in its entirety:

Acts and cases which contain secret data and shall be classified in accordance with the Law on Data Secrecy ("Official Gazette of RS", No. 104/09) according to the following levels of secrecy: "State secret" – DT, "Highly confidential" – SP, "Confidential" – P and "Internal" – I, shall be recorded in separate records.
A functionary who heads a public administration authority, in accordance with the Law on Data Secrecy and other regulations governing the work with secret data, shall determine which acts and cases are to be considered secret, the level of secrecy and the way of handling those acts and cases, as well as define measures for their protection.
Acts and cases containing data which are not defined as secret data, but are of sensitive nature and require limited distribution, shall be classified as "LIMITE". Handling of acts classified as "LIMITE" shall be further governed by the Instruction on Office Management and by the Regulation on Electronic Office Management.

The amendments to the Regulation undermine, on multiple bases, the basic principles on which the legal system of the Republic of Serbia is founded. Above all, a bylaw has acquired a higher legal power compared to a law. In this case, it is the Law on Data Secrecy which defines the categories of data secrecy. In Article 14, the Law on Data Secrecy recognises four categories of data secrecy: "State Secret", "Highly Confidential", "Confidential" and "Internal". The category of "LIMITE" does not exist in the law and it is impossible to introduce it into the legal system thorough a lower legal act. Before the amendments to the Regulation on Office Management, the term "LIMITE" existed, although illegally, in the Instruction on Office Management (Instruction) from 1993. However, the Instruction has not been amended and aligned with the Law on Data Secrecy from 2009. Nonetheless, the Regulation makes reference to the Instruction when governing the handling of acts classified as administrative secret. By referring to the provisions of the Instruction, the Regulation takes the legal basis from an act which is not aligned with the new legal framework, which makes Article 10 of the Regulation void in itself.

A bylaw cannot govern areas which have previously not been governed by a law, for which in this case there is a clear intention, as clearly stated in Article 10(3): Acts and cases containing data which are not defined as secret data, but are of sensitive nature and require limited distribution, shall bear the mark "LIMITE". Therefore, the Regulation exceeds the framework of the law, governing the nature of acts which are not defined as secret data. Moreover, decision making on the nature of these acts and limiting their use by classifying them as "LIMITE" is the exclusive competence of a functionary who heads a public administration authority. Regardless of the legal grounds for this competence, discretionary right in the decision making process, which bypasses procedures prescribed by the law, is another troubling indicator of undermining the principles of lawfulness and rule of law, which spills over to the EU accession process of Serbia.

It is also important to mention that data sensitivity, which the Regulation introduces as the main criterion for making the decision on assigning the "LIMITE" mark, is only defined in the Law on Personal Data Protection. Based on the definition, sensitive data are personal data which refer to: nationality, race, gender, language, religion, political party affiliation, trade union membership, receiving social assistance, victim of violence, crime conviction and sex life. Acts created in the EU negotiation process of Serbia, do not contain such particularly sensitive personal data.

Denying access to document created in the process of negotiations

Amendments to the Conclusions made in 2015 state that the level of secrecy shall be determined in accordance with the regulations on data secrecy. Law on Data Secrecy (Article 8) sets out that data may be designated as secret if the interest of the Republic of Serbia prevails over the interest for the free access to information of public importance. Given the content and the form of documents subject to the Conclusion, we can infer that these documents contain information of public importance. The right of the public to know the content of these documents is laid down in the Law on Free Access to Information of Public Importance. In this case, the Government of the Republic of Serbia had to prove that there was no justifiable interest of the public to know, and only after that to classify the documents according to the appropriate level of secrecy. In this regard, one should bear in mind that the minutes from bilateral screenings had already been drawn up and, therefore, in accordance with the Law on Data Secrecy, could have been subsequently declared secret only in exceptional circumstances.

The content of the documents, particularly of the minutes from bilateral screenings, does not speak in favour of the need to deny access to the public, as well. Minutes from bilateral screenings contain conclusions on the assessment of the alignment of Serbian legislation with the EU acquis and do not contain data not already contained in the legal acts subject to the analysis. The Republic of Serbia does not negotiate whether it will adopt and apply an EU legal act in its legal system, but only when it will do so. Negotiating positions are also documents which hardly contain information whose disclosure would jeopardise the interest of the Republic of Serbia, because, again, Serbia does not negotiate the content of the EU acquis. However,

Photo: http://mirrorspectrum.com

deadlines which are being mentioned could significantly affect the everyday life of Serbian citizens. For example, let's take the deadlines for alignment with directives on limiting the emission of pollutants. Long transitional deadlines may significantly affect the state of the environment and public health, as well as the competitiveness of Serbian economy. It is precisely for these reasons that we think the citizens have the right to know what the documents subject to this analysis contain. Furthermore, we believe that the process of screening and drafting of negotiating positions, as a rule, does not involve data which could jeopardise the territorial integrity and sovereignty of the country, constitutional order, protection of fundamental rights, security, internal and external affairs. If some specific data could impede the interest of the Republic of Serbia, we believe that only documents containing such data should be classified according to the levels of secrecy. Instead, all materials created within the Negotiating Group for other issues (Chapter 35), in accordance with the Conclusions, will be classified as "CONFIDENTIAL". It is interesting to mention that the EU Common Position for Chapter 35 is publically available.

The argument repeatedly given by the representatives of the Government and the Negotiating Team in their statements, that the European Commission requires the documents to be secret, does not hold. In case of the need to protect good international relations and foreign policy interests, the documents would be marked with a higher level of secrecy than "INTERNAL", as laid down in the Conclusions from 2015. The "INTERNAL" mark is used in order to prevent damage to work, i.e. performance of tasks and affairs of a given public authority, and not in order to protect the interests of the other party in negotiations or preserve good international relations. In addition, it should be emphasised that, on multiple occasions, the documents for which the Serbian authorities claimed the European Commission insisted they be secret have been made available to the citizens of the Republic of Serbia by the European Commission itself.

Administrative secret does not exist in the legal system of the Republic of Serbia, which was also pointed out by the Commissioner for information of public importance in the case of documents created in communication between the Ministry of Interior and the European Commission within the EU negotiation process.

Conclusion on Conclusions

After the amendments to the Conclusions which direct and align the work of public administration authorities in the process of screening and drafting of negotiating positions, whose unequivocal purpose was to limit the access to documents created in the negotiation process, we can once again pose the question regarding the sincere intention of the Government of the Republic of Serbia to make the negotiations the ownership of all citizens, as stated in the Opening Statement at the Intergovernmental Conference on the accession of the Republic of Serbia to the European Union, in Brussels, in 2014.

Without the possibility to access the minutes from bilateral screenings, the public concerned is not only limited in their intention to contribute to the quality of the negotiation process, but also discouraged to participate in it. It is indicative that neither the Serbian Government nor the Negotiating Team has shown the intention to explain the reasons for amendments to the Conclusions and gradual limitation of public access to the negotiations process. If, of course, we disregard the repeatedly mentioned European Commission's requests, the truthfulness of which has not yet been confirmed in practice, it should be emphasised that the Commission's requests for secrecy in the negotiation process, even if there have been any, cannot affect the respect of the laws and rights of the citizens of the Republic of Serbia protected by those laws. Finally, the values that we advocate here are exactly the values on which the European Union is founded.

Every limitation of the public's right to know must have its grounds in the Constitution or the law. Trust between institutions and citizens is founded on the respect of the principles of good governance, and the trust in decision makers cannot rest on a non-critical conviction that public authorities do the right things just because they serve in the public administration. The idea that the efficiency of the public administration is being protected by normative limitations on the right to access information does not lead to building stable and democratic institutions which the citizens trust. The very idea that certain documents created in the work of public authorities, which, formally and legally, are not classified according to the levels of secrecy, should be classified as "LIMITE" speaks about the nature of the relation between the negotiating structure of the Republic of Serbia and its citizens. We cannot but ask ourselves: Is there any other kind of documents except official documents, which are created in the work of the Government and public authorities? The privacy of the public officer stops the moment they step into the public service and their actions within the public service have a sole purpose of serving the public, not the private, interest.

Finally, how is it possible that the Serbian Government expects the citizens to support the European integration process and trust the work of institutions if the Government itself clearly demonstrates that it does not trust its citizens?

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BREXIT OR NOT? WHAT ARE THE CONSEQUENCES FOR THE ENLARGEMENT POLICY?

Year 2016. Great Britain has held a referendum at which the voters had to decide whether Great Britain should remain a member of the EU. The voters had the opportunity to answer the question: "Should the United Kingdom remain a member of the European Union or leave the European Union?", with possible answers: "Remain a member of the European Union" and "Leave the European Union". The withdrawal from the EU was voted by simple majority.

The result of the referendum on leaving the EU opens a number of questions on the future of European integration and relations on the European continent. In their text "Brexit or not? What are the consequences for the enlargement policy?", experts from the European Policy Centre develop three possible outcomes of the current situation, based on which they discuss the possible consequences of Britain's exit for the EU enlargement policy. For the purposes of "Let's Speak about Negotiations" newsletter, we have chosen to present a summary overview of possible scenarios, while you may find a complete text of this CEP overview with the consequences for the EU enlargement policy available here.

Photo: European Policy Centre

THE PROCEDURE OF WITHDRAWAL FROM THE EUROPEAN UNION

Prior to 1 December 2009, when the Lisbon Treaty entered into force, the Treaties of the European Union had had no mention of the possibility of Member State to voluntarily withdraw from the Union. The Lisbon Treaty introduces an exit clause for members that wish to withdraw from the European Union. According to Article 50: Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the same requirements as any other country which submits such request (in accordance with Article 49).
No State has withdrawn so far, even though colonies, dependent territories and semi-autonomous territories have left the EU. Out of these, only Greenland specifically voted for leaving the EU, then the European Economic Community, in 1985. The only Member State which has ever held a national referendum on the withdrawal was Great Britain in 1975, when 67.2% of the voters decided to remain in the Community.

CHAPTER 6 – COMPANY LAW

This chapter deals with the matters of establishment and pursuit of activities of companies in the EU Member States. This chapter includes two parts: company law in a more narrow sense and accounting and audit. Company law in a more narrow sense refers to the following: rules on establishment, registration, pursuit of activities, domestic and cross-border merger and division of companies. Accounting and audit include establishment of the rules on establishing the quality control system for the work of auditors, efficient system of public oversight, as well as the system of publishing annual financial reports.

In the field of financial reporting, the EU acquis sets out rules on the presentation of annual and consolidated financial reports, including simplified rules for small and medium enterprises. Specific accounting rules are applied in banking and insurance. The application of International Accounting Standards (IAS) is mandatory for certain bodies of public importance. Furthermore, the EU acquis establishes rules for approval, professional integrity and independence of auditors appointed under the law.

Learn more:
The Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA)

WHAT ARE THE BENEFITS FOR SERBIA?

- Better conditions for business operations
- Equal treatment on the EU market
- Simplified procedures
- New forms of economic entities

Alignment of legislation with the EU acquis in the field of company law provides, inter alia, business conditions which will enable domestic economic entities to become competitive and have equal treatment on the EU market. At the same time, legal security, as a necessary precondition for successful business activities and investment, is further confirmed. Alignment of legislation in the field of company law will lead to the adoption of new regulations, which will enable companies faster entry to and exist from the market, and create a legal framework in accounting and audit for the establishment of the audit public oversight system. On the day of Serbia's accession to the EU, two new forms of companies will be introduced – European joint-stock company and European economic interest grouping, which already exist in the EU Member States. The introduction of new forms of companies will enable all economic entities to have advantages these two supranational forms of companies provide in cross-border economic action.

(The brochure "Negotiation Chapters – 35 Steps towards the European Union", jointly published by the EU Info Centre and the Negotiating Team for Accession of the Republic of Serbia to the EU)

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