

## CHAPTER 31: A STUMBLING BLOCK?

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Following years-long negotiations on the Republic of Serbia's Stabilisation and Association Agreement with the European Union, the European Council passed a decision granting the Republic of Serbia an EU candidate status<sup>1</sup> on March 1, 2012.

Accession negotiations with the European Union were opened in June 2013 and the 1<sup>st</sup> Intergovernmental Conference was held in Brussels on January 21, 2014, signalling the opening of accession negotiations on the political level.<sup>2</sup>

The Republic of Serbia's accession negotiations with the European Union are based on Article 49 of the Treaty on European Union and Conclusions of the European Council adopted in Copenhagen in June 1993. At the 1<sup>st</sup> Intergovernmental Conference, which practically opened the negotiations, it was noted that the Republic of Serbia had achieved a high level of compliance with the membership criteria, notably the political criteria set by the European Council at the 1993 Copenhagen meeting and conditions of the Stabilisation and Association Process established by the Council in 1997. The Republic of Serbia is expected to continue to work towards full compliance with the above criteria and conditions and to ensure full implementation of key reforms and legislation, especially in the areas of judicial reform, fight against corruption and organised crime, public administration reform, independence of key institutions, freedom of the press, protection of minorities and anti-discrimination.

Key to the acceptance of Republic of Serbia's EU membership is fulfilment of the Copenhagen criteria, including:<sup>3</sup>

- Stability of institutions guaranteeing democracy, the rule of law, respect for human rights and protection of minorities;
- The existence of a functioning market economy, the capacity to cope with competitive pressure and market forces within the Union;
- Ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union, and administrative capacity to effectively apply and enforce the EU *acquis*.

The EU *acquis* comprises, *inter alia*, fundamental goals and principles of the Union, as laid down in the Treaty on European Union. The EU accession requires timely and effective implementation of the EU legislation, i.e. the EU *acquis*, as applicable at the time of Republic of Serbia's accession. Having appropriate administrative and judicial capacities in place is essential for the fulfilment of the obligations arising from the membership. The first two out of 35 chapters covering the overall accession negotiation process were opened at the 2<sup>nd</sup> Intergovernmental Conference between the Republic of Serbia and the European Union held in Brussels on December 14, 2015. To date eighteen chapters have been opened, and not a single in 2020, which speaks for itself, as stated by Vladimir Bilchik, the European Parliament Rapporteur for Serbia.

1) [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/serbia\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/serbia_en)

2) <https://www.mei.gov.rs/srp/srbija-i-eu/istorijat-odnosa-srbije-i-eu/>

3) <https://www.isac-fund.org/cir/publication/водич-кроз-приступање-србије-европск-3>

## Legislative alignment with the European Union

The membership in the European Union requires acceptance of all the rights and obligations the EU rests upon and of the EU institutional framework. Therefore, no negotiations are truly taking place, i.e. the essence of the EU *acquis* remains unnegotiable. Rather than that, a candidate country needs to align with EU legal, economic and social system, while only accession conditions, timelines and modalities of the candidate country's accession to the system are subject to negotiation. Candidate country accepts the EU *acquis* in the form it applies to all EU member states at the time of its accession.

The analytical examination of the EU's *acquis* (screening process) started immediately after the 1<sup>st</sup> Intergovernmental Conference to assess to what extent the Republic of Serbia was prepared for the opening of talks in certain areas, but also to gain a preliminary insight into issues expected to emerge in the course of negotiations. Screening reports by chapters include relevant guidelines, including guidelines for the tasks to be envisaged under Republic of Serbia's action plans, as well as opening benchmarks for individual chapters. Once screening reports are finalised, negotiating position is developed for each of the chapters. Screening report for Chapter 31<sup>4</sup> is still pending, even though the Brussels screening meeting was held on October 14, 2014. The main lines of action within Chapter 31 were presented at the screening, namely diplomatic action, common security and defence policy (participation in the EU military and civilian multinational operations), restrictive measures (alignment with the EU's foreign policy declarations and measures) and arms control (non-proliferation of weapons of mass destruction and disarmament policy). The alignment rate has so far been around 60%,<sup>5</sup> mainly due to failure to align with the Declarations that make any reference whatsoever to the Russian Federation. Screening reports have been provided for all chapters except Chapter 31, which can be regarded as pressure in its own right on the Republic of Serbia to break its ties with the Russian Federation.<sup>6</sup>

The 2019 Progress Report<sup>7</sup> of the European Commission states that "Member States must be able to conduct political dialogue under the foreign, security and defence policy, to align with the EU statements, to take part in the EU actions and to apply agreed sanctions and restrictive measures."

According to the report, Serbia is moderately prepared and some progress was made in the following areas:

- "The government submitted drafts of new security and defence strategies for consultation and continued preparations to allow participation of civilians in international missions and operations. In 2020, Serbia should improve alignment with EU declarations and Council decisions on common foreign and security policy; complete the review of its national security and defence strategies fully reflecting Serbia's EU orientation in these areas; continue to apply its law adopting international sanctions, including EU restrictive measures, and monitor its implementation.
- On the common foreign and security policy (CFSP), Serbia continues endorsing the global strategy for the European Union's foreign and security policy. During the reporting period from beginning of March 2018 until end of February 2019, Serbia aligned, when invited, with 46 out of 87 relevant High Representative declarations on behalf of the EU and Council decisions, representing an alignment rate of around 53%. Serbia continued not to align with the EU restrictive measures related, *inter alia*, to Russia and Venezuela.
- Serbia continued to develop intense relations and strategic partnerships with a number of countries worldwide. Frequent high-level contacts and regular bilateral visits with Russia were maintained, together with military technical cooperation, including joint military drills, sustained relations with the Collective Security Treaty Organisation (CSTO) and arms trade arrangements.
- Serbia also participated in around 20 military joint drills with the US and NATO in 2018. Serbia continued to further strengthen its political and economic relations with China. Serbia supported EU measures and documents on conflict prevention.
- Serbia continued to participate in some, but not all, international export control arrangements and instruments on non-proliferation.
- Serbia complied with the Chemical Weapons Convention and had the legislation and administrative structures in place. Serbia's 2009 application to join the Wassenaar Arrangement is still pending.
- Serbia continued to engage actively with international organisations. Serbia maintained its policy of military neutrality but cooperation and intense contacts with NATO continued.

4) <https://www.isac-fund.org/cir/publication/србија-и-преговори-у-поглављу-31-заједн>

5) <https://europeanwesternbalkans.rs/isac-bez-vecih-poboljsanja-u-uskladjivanju-srbije-sa-merama-politikama-eu-tokom-2019-godine/> and <https://www.isac-fund.org/cir/publication/анализа-усаглашавања-србије-са-спољн-8>

6) <http://rs.n1info.com/English/NEWS/a412024/Chapter-31-on-hold-in-Serbia-s-negotiations-with-EU.html>

7) [https://www.mei.gov.rs/upload/documents/eu\\_dokumenta/godisnji\\_izvestaji\\_ek\\_o\\_napretku/20190529-serbia-report\\_SR\\_-\\_REVIDIRANO.pdf](https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/20190529-serbia-report_SR_-_REVIDIRANO.pdf)

- In October 2018, Serbia hosted a consequence management field exercise, jointly organised by the Euro-Atlantic Disaster Response Coordination Centre and the Serbian Ministry of Interior. Serbia continued implementing its agreement with the EU on security procedures for exchanging and protecting classified information.
- Serbia continued to actively participate in military crisis management missions under the common security and defence policy (CSDP), notably the EU training missions in Mali, Central African Republic and Somalia, and EU NAVFOR Atalanta. Serbia is preparing the national framework for participating in civilian missions under the CSDP. This includes launching training curricula in order to provide for regular training for civilian participants in the EU-led missions.
- Serbia continued to participate in the roster of the EU Battle Groups.”

Regardless of the fact that moderate progress was noted in the 2019 report, the Republic of Serbia continued work to develop strategy documents that were adopted in late 2019, to develop the Strategy against Proliferation of Weapons of Mass Destruction and to put in place a legal framework allowing participation of civilians in EU-led multinational missions. Also, Serbia joined EU declarations up to a moderate extent, in line with its foreign policy orientation.

The 2020 Progress Report<sup>8</sup> of the European Commission stresses that Member States must be able to conduct political dialogue under the foreign, security and defence policy, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures.

- “Serbia is moderately prepared in this area.
- Some progress was made as the country’s Parliament adopted the National Security Strategy and the Defence Strategy but during the reporting period Serbia’s CFSP alignment patterns remained largely unchanged.
- In 2019 Serbia’s alignment rate with relevant High Representative declarations on behalf of the EU and Council Decisions was 60%.
- Serbia continued to participate in EU crisis management missions and operations under the common security and defence policy.
- In the coming year, Serbia should in particular: improve its alignment with EU Common Foreign and Security Policy; implement the national security and defence strategies and adopt the related action plans in a manner fully reflecting Serbia’s EU orientation in these areas.
- The political dialogue between the EU and Serbia on foreign and security policy issues continued, and the third Common Foreign and Security Policy (CFSP)/Common Security and Defence Policy (CSDP) informal political dialogue was held in Belgrade in November 2019.
- Serbia also regularly participated in the EU-Western Balkans informal political dialogue meetings. Parliament adopted new national security and defence strategies, which have evolved compared to the previous versions, in particular by references to EU accession, the EU Global Strategy and the CFSP. Action plans for their implementation are in preparation. When implementing these strategies, Serbia should move towards a policy based on the EU’s guiding principles for international action, in line with Serbia’s strategic goal of EU membership. The institutional framework enabling Serbia’s participation in the CFSP and CSDP is in place.
- On the Common Foreign and Security Policy (CFSP), Serbia continued to endorse the Global Strategy for the European Union’s foreign and security policy. In 2019, Serbia’s alignment rate with relevant High Representative declarations on behalf of the EU and Council Decisions was 60%. Serbia has not aligned with the EU restrictive measures related, *inter alia*, to Russia, Venezuela, Myanmar and Iran. In 2019 and 2020 Serbia has also not aligned, *inter alia*, with seven declarations by The High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) on behalf of the EU on Hong Kong, with the HR/VP Declaration calling to promote and conduct responsible behaviour in cyberspace and with the HR/VP declaration on Russia listing the European Endowment for Democracy as an “undesirable organisation”. While Serbia has not aligned with restrictive measures related to Belarus, in 2020 it has aligned with the HR/VP declaration on the presidential elections in Belarus and with the HR/VP declaration on the escalation of violence and intimidation against members of the Coordination Council. Serbia needs, as a matter of priority, to make additional efforts regarding its alignment with the EU CFSP.

8) [https://www.mei.gov.rs/upload/documents/eu\\_dokumenta/godisnji\\_izvestaji\\_ek\\_o\\_napretku/serbia\\_report\\_2020\\_SR.pdf](https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/serbia_report_2020_SR.pdf)

- Serbia continued to develop intensive relations and strategic partnerships with a number of countries worldwide, including Russia, China and the US. Frequent high-level contacts and regular bilateral visits with Russia were maintained as well as military technical cooperation, including joint military drills (also together with Belarus), and arms trade arrangements. However, on 9 September 2020 Serbia announced that it would freeze its participation in international military cooperation activities, including military drills, for 6 months, due to alleged pressure by the European Union. Serbia's participation in EU crisis management missions and operations under CSDP was favourably assessed, so the decision of the Serbian Government to impose 6-month moratorium on military activities and possibly withdraw units of the Serbian Armed Forces from the EU missions could be disastrous for further negotiations on Serbia's membership.
- Serbia continued to further strengthen its economic, political and security relations with China, including through major joint infrastructure and greenfield projects, joint drills of special police units, procurement of substantial video-surveillance equipment and arms and security systems purchases.
- Serbia supported EU measures and documents on conflict prevention. Serbia has joined almost all major non-proliferation, disarmament and arms control treaties promoted by the EU. Serbia should consider ratifying Protocol V on Explosive Remnants of War of the Convention on Certain Conventional Weapons (CCW). Serbia has aligned itself with Common Position 2008/944 on common rules governing arms exports. It has a transparent reporting system on its strategic exports controls. Serbia's 2009 application to join the Wassenaar Arrangement is still pending.
- In the reporting period Serbia did not align itself with the EU statements in the OPCW. Serbia also did not align itself with a number of EU statements in the UN First Committee in New York.
- Serbia continued to engage actively with international organisations. Serbia maintained its policy of military neutrality but cooperation and intense contacts with NATO continued. A second Individual Partnership Action Plan (2019-2021) was adopted. Serbia continued taking part in joint military exercises with the US and NATO. Serbian's Deputy Speaker took part in meetings of the Collective Security Treaty Organisation (CSTO) Parliamentary Assembly, in which the Serbian Parliament has observer status, in May 2019 and June 2020. Cooperation with the CSTO is included in the country's new security and defence strategies. Serbia continued implementing its agreement with the EU on security procedures for exchanging and protecting classified information. The Serbian defence budget in 2019 increased by almost 30% compared to 2018."

Although the report states that the defence budget increased by 30%, SIPRI reports that the 2019 budget increased by 326 million dollars compared to 2018 (43%). An explanation for higher defence expenditure can be found in the Republic of Serbia's commitment to military neutrality vis-à-vis the existing military and political alliances. The increased defence expenditure is explained by the fact that the neutrality entails the need to develop all military potentials and service branches. Compared with the EU member states, Serbia's defence expenditure is above average (about 2.2% GDP), with the exception of Bulgaria, a NATO and EU member, whose defence expenditure accounts for 3.2% GDP (according to SIPRI).

Serbia (source SIPRI)

year	percentage
2013	1.901
2014	1.941
2015	1.827
2016	1.748
2017	1.84
2018	1.619
2019	2.2

Bulgaria (source SIPRI)

year	percentage
2013	1.461
2014	1.316
2015	1.26
2016	1.26
2017	1.242
2018	1.476
2019	3.221

In the past period, the Republic of Serbia mainly purchased arms and military equipment from the Russian Federation, which could be a rationale for the increased defence expenditure.

The year that is drawing to an end has been marked by the COVID-19 pandemic. In such circumstances it was unrealistic to expect the opening of a new chapter in the Republic of Serbia's negotiations with the EU or any significant progress under Chapter 31, as Serbia continued to develop intense relations and strategic partnerships with a number of countries worldwide, failing to align with the EU CFSP. The cooperation with China increased during the COVID-19 crisis and was marked by pro-China and EU sceptical rhetoric by high-ranking state officials.



For the purpose of achieving foreign policy priority of becoming a fully-fledged EU member state, the Republic of Serbia is declaratively prepared to align most of its foreign and security policy with the EU positions and actions on all major issues of global, European and regional character. Although the screening report under Chapter 31 has not been provided to Serbia, progress has *de facto* been made in the Common foreign and security policy. Also, Serbia's relations with the Russian Federation, the US and China and unclear outcome of Belgrade-Pristina talks put a strain on the negotiation process under Chapter 31. Certainly, the progress in setting up capacities for deployment of civilians and developing the Strategy against Proliferation of Weapons of Mass Destruction is significant from the viewpoint of Common foreign and security policy, and this was given positive assessment in the European Commission reports. Serbia, nevertheless, is required to fully align with the EU declarations, which at this point puts an enormous foreign policy burden on Serbia for political as well as economic and other reasons. The respective positions taken by the European Union and the Republic of Serbia bring negotiations under Chapter 31 to a "no-win situation".