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Enlargement Strategy and Main Challenges 2014-2015

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4.23. Chapter 23: Judiciary and fundamental rights

Judicial system

In the area of **judicial reform**, the reinstatement of previously dismissed judges and prosecutors was finalised. Several key acts, such as the law on seats and territorial jurisdiction, amendments to the law on the organisation of courts, the law on judges and the law on public prosecution offices, were adopted. A new network of courts of general jurisdiction started operating in January 2014. However, special legislation related to the judicial network in Kosovo, the deadline for which was set by the law on seats and territorial jurisdiction as 31 December 2013, has not yet been adopted.

A Strategy Implementation Commission, led by the Ministry of Justice and composed of 15 representatives of major stakeholders, was set up in September 2013 to monitor and measure progress in the implementation of the 2013-2018 national strategy and the related action plan. However, the commission has not yet been instrumental in securing timely and adequate implementation of judicial reform. Various delays in the implementation of the action plan occurred. Work on constitutional amendments to improve the position of the judiciary, on legal changes to address the quality and consistency of judicial practice and judicial education is at an early stage.

Regarding the **independence** of the judiciary, the High Judicial Council and the State Prosecutorial Council adopted respectively in July and May 2014 appraisal rules for judges and prosecutors. The two Councils continued to share responsibility with the Ministry of Justice for budget planning, execution and monitoring. An important number of Court Presidents have been appointed on a permanent basis following several nominations, albeit in the absence of clear criteria. The law on judges and public prosecution was amended in June 2014 and provides that the High Judicial Council and the State Prosecutorial Council will propose only one candidate, rather than three, to parliament for each judicial and prosecutorial post. This is a positive step, but only as a transitional solution: the constitutional and legislative framework still leaves room for undue political influence affecting the independence of the judiciary, particularly in relation to the career of magistrates. Constitutional amendments on the composition and method of election of members of the two Councils and allowing for judicial review of dismissal decisions are needed to strengthen the independence, representativeness and hence legitimacy of these self-governing bodies. Some judges from higher and appellate courts were confronted with direct attempts to exert political influence over their daily activities without the High Judicial Council properly defending their independence. The practice of publicly commenting on trials and announcing arrests and detentions in the media ahead of court decisions risks being detrimental to the independence of the judiciary and raises serious concern.

The **impartiality** of judges is ensured through the constitutional and legal framework. However, practical implementation is hampered by the fact that the system of random allocation of cases is not yet automated in all courts, which provides scope for circumventing the system.

In relation to **accountability**, 24 disciplinary charges against prosecutors were filed in 2014. The number of disciplinary charges against judges increased in 2013 to 540 and 8 new proposals for disciplinary measures were submitted. Four of them have been processed and there has been one case of dismissal based on a criminal conviction. The High Judicial Council nominated new members for its disciplinary bodies in January 2014 as some mandates expired in December 2013. It also adopted measures to facilitate the performing of disciplinary functions by reducing ordinary workload. Nevertheless, Serbia still needs to implement a comprehensive system of regular individual and periodical evaluation of judges and prosecutors. Effective implementation of codes of ethics, disciplinary rules and legislation on conflicts of interest and the lifting of immunity for certain posts are needed to ensure full accountability of judges and prosecutors.

As regards the **efficiency** of the judiciary, the judicial budget (including the prison system) was €269 million in 2014, a 13% increase on 2013. The Constitutional Court declared unconstitutional the provisions of the Law on the Judicial Academy stipulating that the High Judicial Council and the State Prosecutorial Council could propose only graduates of the Academy's initial training as candidates for first election to judicial office. The Academy's legislative and institutional framework needs to be adapted to allow it to become the compulsory point of entry to the judicial profession while ensuring compliance with the ruling. Training capacity and expertise should be significantly increased.

In December 2013, the Supreme Court of Cassation adopted a national backlog reduction programme with the objective of reducing the number of cases older than two years by 80% nationwide by the end of 2018. The law on mediation in dispute resolution was adopted in May 2014 but has not yet entered into force. The backlog of court cases remained a concern, with 2.8 million cases pending at the end of 2013. The figure for cases older than two years is particularly worrying (at over 1.7 million out of which 1.2 million are enforcement cases). Migration of case files to mirror the delegation of competences under the new court network has not been finalised. The Administrative Court continued to face an increasing volume of new cases. It resolved 18 277 cases, but received 21756 new ones in 2013. The backlog of the Constitutional Court also remained significant in 2013, with more than 16000 pending cases (as compared with 12000 at the end of 2012). The current system of collecting court statistics is not efficient and does not allow making a meaningful analysis of the performances of the Serbian Judicial system. There is also a need to further improve the expertise of judges in certain areas, especially in taxation and financial matters, consumer protection, state subsidies, competition, asylum and human rights protection.

The appointment of the first generation of public notaries took place in July. The Chamber of notaries and its managing and disciplinary bodies were established. The number of notaries will need to increase substantially in order to meet the demand. While the introduction of public notaries is a positive step, concerns were raised as to the selection and appointment procedures, which should be improved. The law should be implemented by taking into consideration the need to ensure quality services and access to justice. The number of bailiffs increased, but remains insufficient to meet the target set by the law for its implementation.

Persistent differences in the workload among judges, lack of adequate premises and equipment still constitute serious obstacles to judicial efficiency. A proper case methodology to measure workload and to ensure a more equal distribution of cases among judges and prosecutors as part of the reform of the court network is required.

Inconsistency in case-law continues to be a concern, especially in appeal courts, and represents a challenge to the principle of equality before the law. Efforts are needed to foster more consistency and coherence through judgments made by the most authoritative courts in the system.

As regards **access to justice**, following the general introduction of the adversarial system in criminal proceedings from October 2013, concerns about procedural safeguards remain, especially in the absence of a free legal aid system. The draft law on free legal aid remains to be adopted. A unified case management system remains to be established. Differences in workload, the high average duration of proceedings, the significant backlog of cases, the absence of a free legal aid system and the lack of enforcement of final judgments and indemnity claims are major obstacles in practice. The system of awarding compensation to victims of crime through criminal or civil proceedings is not functional.

In the area of **domestic processing of war crimes**, implementation of the protocol on cooperation signed in January 2013 substantially improved cooperation between the special prosecutors of Serbia and Bosnia and Herzegovina. Cooperation and exchange of information with Croatia and EULEX continued. It is important that Serbia continues to strengthen its efforts

on regional cooperation in this regard. In the reference period, Serbia opened investigations in four cases and brought charges against ten people, and five judgments were rendered in first instance, with thirteen convictions. A first-instance ruling in a complex case of war crimes in Kosovo against Albanian civilians acknowledged for the first time the responsibility of members of the Yugoslav army, who were in the first instance sentenced to up to 20 years in prison. Despite consistent efforts by the war crimes jurisdictions, the number of investigations against high-level officers still remains low, and courts continued to pass lenient sentences in such cases. Only few victims of war crime have access to effective compensation under the current legal framework. Serious weaknesses in the witness protection system have not been addressed and assistance to victims has not improved. The Commissioner for Public Information denounced the practice of anonymising the names of convicted persons in judgments made available to the public. (*See Political criteria — Regional issues and international obligations.*)

Anti-corruption policy

Serbia further implemented the recommendations of the Council of Europe Group of States against Corruption (GRECO). Implementation of the strategy and action plan for 2013-2018 has yet to mirror the strong political impetus to fight corruption. Several measures have been delayed. An efficient mechanism for monitoring implementation of the anti-corruption strategy and action plan needs to be ensured. Adequate resources and human capacities for implementation of the Strategy and action plan need to be allocated. The new inter-ministerial coordination mechanism put in place in August and the appointment of a new State Secretary for the fight against corruption, in the Ministry of Justice and Public Administration, are positive initial steps but their impact on the ground remains to be assessed. Adequate capacity tools and resources need to be ensured to strengthen the Anti-Corruption Agency with a view to fulfilling its mandate. In addition, the agency should reflect on proactively enhancing its role as a key institution in the fight against corruption. This implies in particular developing and ensuring sound working conditions with the Ministry of Justice and other relevant institutions.

Almost half of the relevant authorities did not fulfil their obligation to report to the Anti-Corruption Agency on the implementation of the national strategy in their field of competence, without it being entitled to engage their responsibility. As a result, the agency's first report to parliament, in June, on the implementation of the strategy and action plan does not give a clear and comprehensive picture. Amendments to the legislation enabling the Agency to perform monitoring in accordance with the Strategy remain to be adopted. A mechanism to hold public bodies accountable while reporting on implementation of anti-corruption measures needs to be introduced.

On the prevention side, the Anti-Corruption Agency received almost double the number of requests to investigate conflicts of interest compared to the previous year (1402 requests in 2013 compared to 872 in 2012); however very few cases were finalised. The Agency filed 56 misdemeanour requests, which is a substantial increase from the previous years when only 9 such requests were filed. There were 451 procedures begun in 2013 to check the property and revenues of public officials, of which the majority (252) referred to officials who had not submitted a report on their property and income by the deadline set by law. Serbian legislation in the area of conflict of interest (including provisions defining conflict of interest) needs to be amended to meet the European and international best practices to ensure all cases of conflict of interest are addressed and deterrent sanctions imposed. The agency stepped up asset declaration checks, and filed a total of 168 requests for misdemeanour proceedings relating to asset declarations in 2013, of which 142 were for failing to submit reports on time. It also filed nine criminal charges in 2013, and an additional 14 criminal charges in the first four months of 2014 out of which 9 due to reasonable suspicion that a public official did not report property or gave false information about the property, with an intention to conceal facts. Moreover, the problem of lack of dissuasiveness of sanctions needs to be addressed.

The agency continued to monitor the funding of political activities, including funding for the early elections that took place in 2014. In 2013, the agency submitted 335 requests for misdemeanour proceedings, of which the majority (303 cases) related to the failure of political organisations to submit reports on expenses for the 2012 election campaign. In connection with these cases, only 28 judgments have been passed, of which 8 are final. In the first months of 2014, the agency issued 10 decisions pertaining to the loss of funds from public sources for political entities which were fined for misdemeanour under the Law on Financing Political Activities. In-depth verification of political parties financing needs to be carried out by the agency. A track record of enforcing asset declarations and checks on party funding still needs to be established. Cases of illicit wealth need to be addressed in line with the provisions of the action plan for the fight against corruption so as to make illicit enrichment a criminal offence. The OSCE/ODHIR recommendations on financing electoral campaigns need to be addressed.

The Anti-Corruption Agency stepped up risk analysis of draft legislation. Training and education activities in 2013 were fewer than previous year (only 417 people attended various educational programmes, as compared with 3 679 in 2012). Overall, the agency's capacity for collection and analysis of data needs to be improved and its access to relevant databases ensured.

The Anti-Corruption Council continued to be active in exposing and analysing cases of systemic corruption, in its advisory role to the government. However, its recommendations are insufficiently dealt with and followed up by the government and it is under resourced. This situation needs to be addressed. In addition, appointment of new Council members should be ensured.

Transparency of public procurement procedures has improved with the use of the upgraded public procurement portal. New requirements introduced by the Law on Public Procurement and the national strategy and action plan for the fight against corruption remain to be fully implemented. Comprehensive risk analyses for areas vulnerable to corruption such as health, construction, privatisation and education, justice and law enforcement are needed. Corruption in local level administration needs additional attention.

Civil society still plays a limited role in the implementation of the anti-corruption agenda. Effective whistle-blowing protection mechanisms have yet to be established. The government adopted a draft law in October 2014, which remains to be adopted by parliament. Internal control departments lack equipment, resources and human capacity. Independent supervision and capacity for early detection of wrongdoing and conflicts of interest in state-owned companies, privatisation procedures and public expenditure remain underdeveloped. The Commissioner for Free Access to Information of Public Importance and Personal Data Protection recorded an increase in the number of requests for access to data on public procurement, privatisation, concessions, public-private partnerships and other related procedures that have an impact on the budget. The legal framework needs to be strengthened to ensure adequate follow-up and effectiveness of the Commissioner's decisions.

In relation to law enforcement, the Prosecution for Organised Crime and Corruption has raised indictments against 168 persons in 2013, which is an increase from the 81 indictments raised in 2012. Leaks to the media about ongoing investigations, in breach of the presumption of innocence, are an issue of serious concern and should be investigated and processed in line with the law. The number of investigations launched in 2013 by the Special Prosecutor for Corruption and Organised Crime in high-level corruption cases remained about the same as last year (at 147 new investigations, compared with 140 in 2012). Final convictions remained rare and high-profile cases remained at risk of political interference. Further efforts are needed to establish a track record of investigations, prosecution and final convictions, in corruption cases, including high-level cases. Law enforcement bodies and prosecution need to become more proactive. Lack of internal capacity and expertise in financial investigations and asset recovery, together with a lack of technical equipment for special investigative measures, hamper the effectiveness of investigations. Interinstitutional cooperation between law enforcement agencies has improved to

a certain extent, but needs to be developed further. The independence of all investigative and judicial bodies dealing with investigations into corruption needs to be strengthened.

Most cases formerly handled under Article 359 (abuse of office) of the criminal code were re-qualified under the new Article 234 (abuse of a position) applicable to private operators: out of the 2411 cases (involving 4455 persons) that were processed under former Article 359 and that were re-qualified, 2202 cases (involving 4168 persons) were re-qualified under new Article 234. This illustrates a continuing tendency to overuse these offences in the context of business disputes, which is harmful to the business climate and legal certainty. The comprehensive review of the criminal code being conducted to ensure that corruption and economic crimes are precisely defined and can be effectively investigated and processed needs to be completed without delay. The criminal code needs further amendment in this respect.

Fundamental rights

Serbia has ratified all the main **international human rights instruments** and is on track with reporting to the UN human rights mechanisms. Nevertheless, implementation needs to be more consistent.

During the reporting period, the **European Court of Human Rights** delivered 29 judgments on 73 applications against Serbia. In 27 judgments the Court found that Serbia had violated the European Convention for the Protection of Human Rights and Fundamental Freedoms. The majority of judgments refer either to violation of the right to a fair trial due to the length of the procedure or to the non-enforcement of domestic judgments. As of September 2014, there were 4690 pending allocated applications before the Court regarding Serbia, and 110 cases pending before the Committee of Ministers in charge of supervising the execution of judgments. More attention needs to be paid to safeguarding procedural rights connected to arrest, detention and fair trial, in accordance with Serbia's obligations under the ECHR. Important developments have taken place at EU level strengthening procedural safeguards and victims' rights and to which Serbia will need to gradually align (including on rights, support and protection of victims, on translation and interpretation, on the right to information and on access to a lawyer), in addition to preparing for implementing the European protection orders in criminal and in civil matters upon accession.

In relation to the **promotion and enforcement of human rights**, the government's Office for Human and Minority Rights, but also relevant parliamentary committees, independent bodies and civil society organisations, have carried out various activities to promote respect for human rights, tolerance and anti-discrimination. The Office continued with training courses for legal practitioners, police officers and social workers on the rights of the LGBTI population. However, the implementation of relevant international instruments is still insufficient, particularly at the local level. The role and the position of the Office need to be strengthened. A national mechanism for monitoring the implementation of the UN Human Rights Bodies' recommendations, enabling an overview on recommendations still to be met, remains to be established.

As regards the **prevention of torture and ill-treatment**, the administrative capacity of the Ombudsman, acting as the national preventive mechanism against torture, needs to be strengthened. Penalties are not proportionate to the gravity of the crimes of ill-treatment and torture. Proper legal safeguards for prevention of torture and abuses in social institutions have yet to be adopted. The legislation on detention in police custody, the prevention of torture and the internal complaints system needs to be improved. The internal non-judicial mechanism for reviewing complaints needs to be strengthened in order to be effective. There have been no positive developments in changing the unlawful practice of using district prison facilities for police detention.

Concerning the **prison system**, a new strategy and action plan for the further development of the correctional system 2013-2020, were adopted. New laws on enforcement of criminal sanctions

and on alternative sanctions and measures are in force since September 2014. This should improve the level of protection of human rights in enforcement of sanctions. Pilot programmes for vocational training in three main prisons (Pozarevac, Nis and Sremska Mitrovica) were successfully conducted. The number of alternative sanctions, such as home imprisonment monitored by electronic tagging and community service orders, remains to be further increased. The probationary service network needs to be expanded. Serious overcrowding in maximum security wards, difficult access to treatment programmes and quality healthcare remain matters of concern.

Concerning **freedom of expression**, a package of three laws — the Law on Public Information and Media, the Law on Electronic Media and the Law on Public Service Broadcasting was adopted in August, following an inclusive consultation process with the active participation of media associations during the preparatory phase albeit under urgent procedure. The laws' adoption represents a significant positive development. Their implementation will be crucial for achieving the goals of the 2011 Serbian media strategy. The commission specially tasked to look into unresolved cases of murdered journalists from 1999 and 2001 has made progress in its work, with new details relating to one particular murder surfacing and three persons charged so far. The Regulatory Body for Electronic Media has stepped up activity related to content monitoring but its independence needs to be strengthened. Access to information of public interest is generally functional, although disclosure of some documents followed only after intense public pressure.

However, there are concerns about deteriorating conditions for the full exercise of freedom of expression in Serbia. More generally, there is a growing trend of self-censorship which, combined with undue influence on editorial policies, and a series of cases of intervention against websites, are detrimental to freedom of the media and adversely affect the development of professional and investigative journalism. In this respect, efforts are expected to identify and prosecute suspects of violations of internet freedoms. Pending the full implementation of the newly adopted legislative package, the Serbian media continued to operate in a blurred legal environment which delayed the state's withdrawal from media ownership, one of the cornerstones of the 2011 media strategy. Significant involvement of professional associations is necessary in regulating the position of journalists and ensuring their employment rights. The sustainability of public broadcasting services in minority languages, including sustainable financing of RTV, should be ensured. *See also Chapter 10: Information society and media.*

Threats and violence against journalists, including cases of physical assault at local level, still remain a concern. While some criminal charges were filed for incitement to ethnic, racial and religious hatred and intolerance, final convictions remain rare.

Media campaigns based on anonymous or leaked sources, detailing investigations, announcing arrests and quoting investigation documents undermine trust in judicial institutions, violate personal data laws and challenge the presumption of innocence. A track record of investigation and convictions in these cases has to be established. More generally, media owners and top editorial staff should pay more attention to abiding by professional standards, with support from the Press Council.

Freedom of assembly and association is in general upheld. 98 political parties, including 57 representing minorities, were registered as of April 2014. The holding of the pride parade without major incidents and the government's good preparatory work in this respect marked a substantial step towards the effective exercise of freedom of assembly. The activities of extreme right-wing organisations and violent groups of so-called sports fans continued to be a cause of concern. Public officials should publicly and more systematically condemn or react to threats, physical assaults and cases of incitement to violence and hate speech from extremist groups against non-governmental organisations (NGOs), prominent human rights defenders, journalists, bloggers or individual citizens. A track record of investigation and convictions has yet to be established. The public assembly law has yet to be fully aligned with the Constitution.

As regards **freedom of thought, conscience and religion**, in addition to seven communities recognised as traditional religious communities, several religious organisations have been registered. However, the lack of transparency and consistency in the registration process continues to be one of the main obstacles preventing some religious groups from exercising their rights. Some disputable provisions of the rulebook on the register of churches and religious communities may constitute a breach of the principle of state neutrality towards the internal affairs of religious communities. Access to church services in some minority languages is not fully guaranteed in practice.

Concerning **women's rights and gender equality**, parliament ratified in October 2013 the Council of Europe 'Istanbul Convention' on fighting violence against women. The catalogue of criminal offences has yet to be harmonised with the Convention. The Gender Equality Directorate in the Ministry of Labour, Employment and Social Policy has been transformed into a division within the Department for planning and development affairs. Adequate resources and better coordination of the national machinery for promotion of gender equality need to be ensured. An Action plan for the implementation of the national strategy for prevention and combating violence against women remains to be adopted. The number of women killed by their partners increased. Emergency protection orders are not issued promptly, no national women's helpline is in place; the number of shelters is insufficient and there are no centres for victims of sexual violence. The mechanisms for coordinating the collection and sharing of data between all relevant actors in the system need to be improved. Labour legislation needs to be fully implemented, particularly regarding the dismissal of pregnant women and women on maternity leave, sexual harassment and inequality in promotion and salaries.

In the area of **children's rights**, the governmental council of children in charge of monitoring children's rights was re-established in January 2014 and has met twice. An active role of this Council is expected as to bring effective progress in practice. Roma children and children with disabilities remain the most discriminated against, with Roma children still overrepresented in special schools, segregated classrooms and in the state care system. The legal limit of 50 children in residential care institutions is disregarded. Young Roma girls face specific risks to their right to sexual and reproductive health, such as marriage at a young age. Lack of resources is an obstacle to the inclusion of children with disabilities in mainstream schools at local level. Community-based services should be expanded and service delivery, bringing together health, education and social welfare, should be ensured. A new national strategy for the prevention of and protection from violence against children should be designed. Even though most juvenile offenders are not sentenced to closed institutions, alternative sanctions need to be improved and measures aimed at reintegrating juvenile offenders and reducing recidivism are rarely implemented in practice. Measures for the protection of children as victims in criminal cases are not properly implemented. International Labour Organisation's Worst Forms of Child Labour Convention (No 182) remains to be effectively implemented.

Regarding **socially vulnerable persons and/or persons with disabilities**, the system of social services is still largely institutionalised and community-based support services at local level remain very limited. People with disabilities face obstacles in their everyday activities due to lack of physical access to public transportation, public and private buildings and various services and products. Social inclusion of people with disabilities needs significant improvement, particularly with regard to employment, education and availability of community-based services. A law on the use of sign language has yet to be adopted. Placement and treatment of people with mental disabilities in institutions is still not regulated in accordance with international standards. Oversight of living conditions and of the way people are admitted to institutions needs to be strengthened. The procedure for depriving people with psychosocial and intellectual disabilities of their legal capacity and the related safeguards need to be aligned with international standards, as it leaves room for abuse.

Serbia's **anti-discrimination** legislation is generally in line with European standards on combating racism and racial discrimination. Further alignment is expected as regards several provisions such as the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to ensure reasonable accommodation for employees with disabilities. An action plan for the implementation of the anti-discrimination strategy was adopted in October 2014. The Equality Protection Commissioner's office opened its first regional office in Novi Pazar and has continued to be active in raising awareness on discrimination. The Commissioner's office reported a rise in the number of complaints, partially due to better awareness of discrimination and of protection mechanisms among citizens, and increased confidence in the office's work. However, the Commissioner's office still lacks adequate premises and its capacity needs to be improved. Women and persons with disabilities remain discriminated against. The groups most discriminated against remain the Roma, sexual minorities and persons with HIV/AIDS, some of whom often face hate speech and threats. Hate-motivated offences are not always properly investigated, prosecuted and sanctioned. Further steps are needed to align with the EU equal opportunities *acquis*.

Awareness and protection of the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons have started to improve, but this needs to be sustained. The Ministry of Interior appointed a liaison officer for the LGBTI community, with whom dialogue improved. This contributed to the pride parade being held in Belgrade on 28 September without major incidents. Discriminatory statements in Serbian society still prevail, however. A continued and more visible political commitment to promoting a culture of respect and raising awareness is needed. Discrimination based on sexual orientation is still regularly reported in employment. LGBTI activists continue to be subject to threats and hate speech, and a track record of investigations and convictions where appropriate remains to be established.

Labour and trade union rights are guaranteed by the Constitution and broadly respected. The Labour Law from July 2014 only briefly addressed these rights. Alignment with the European Charter for Fundamental Rights and conventions of the International Labour Organisation need to be ensured when it comes to strikes, abolition of forced labour, right to organise collective bargaining and freedom of association, while a new Law on Trade Unions remains to be adopted. The procedures and criteria for determining the representativeness of social partners, notably trade unions, need to be agreed in a transparent way. The work of the Economic and Social Council is not systematic; its meetings are held at random and often delayed, while consultations on draft laws within the Council's remit remain sporadic. As a result, tripartite social dialogue came to a stalemate. At local level, there is no tripartite social dialogue.

With regard to **property rights**, the deadline for submission of claims under the Law on Restitution expired in March 2014. As a result, the total number of claims rose from 40000 to about 75 000, thus significantly increasing the workload of the Agency for Restitution. By mid-August, the agency had adopted 13 500 first-instance decisions. While most of them have been approved by the Ministry of Finance as the second instance decision body, a number of them — mainly on agricultural land and real estate of privatised companies — were overruled. Nevertheless, by this date about 3 500 ha of agricultural land and forest, almost

2600 apartments and business premises and 580 ha of land for construction had been returned to the original owners. A working group mandated to draft a special law on the restitution of Holocaust-era Jewish property was set up in February, but has remained dormant so far.

The legal framework for the protection of **minorities** and cultural rights is in place and generally upheld, in line with the Framework Convention on National Minorities to which Serbia is party. Close cooperation between the Office for Human and Minority Rights and the National Minority Councils has been established. A traineeship programme offering opportunities in the state administration to members of underrepresented minorities has continued. The Third Opinion on Serbia of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities was published in June. It assessed the overall legal framework

in Serbia favourably, while pointing to the need for several improvements, particularly the need for Serbia to ensure a comprehensive and strategic approach to the integration of national minorities in Serbian society and several gaps in implementation that still need to be addressed. Amendments to the Law on National Minority Councils aimed at eliminating shortcomings in the electoral procedure were adopted in May and elections are scheduled for October. However, a comprehensive revision of the law remains to be carried out, in line with the Constitutional Court ruling of February. The Republican Council for Minorities is not functioning, and local councils for inter-ethnic relations remain under-used. Attention is needed to consistent implementation of the legislation throughout Serbia especially in the areas of education, the use of languages, and access to media and religious services in minority languages, whenever there is demand from minorities. This should not affect learning of the official language, which is an important factor in the social inclusion of minorities. National minorities' representation in public administration bodies, particularly at local level, remains to be improved overall. Serbia has been invited to adopt by the end of 2015 a dedicated action plan on the protection of national minorities throughout Serbia, including in the areas of education, use of minority languages, access to media and religious services in minority languages, and representation in public administration.

The Autonomous Province of *Vojvodina* continued to provide a high degree of protection for minorities and the inter-ethnic situation remained generally good, despite sporadic incidents. Measures to promote the learning of minority languages by police officers have been put in place. The 2013 annual report by the Provincial Ombudsman reported that 67 out of a total of 1253 (5.35 %) complaints were related to minorities and of this number the majority, 30 complaints (44.78%), concerned official use of language and script.

Concerning the *municipalities of Presevo, Bujanovac and Medvedja*, after a first meeting in October with the Prime Minister and the chairman of the government's coordinating body on the implementation of a comprehensive programme of integration and economic recovery, local ethnic Albanian leaders decided in November to suspend their participation in these talks over disagreements about the new law on the court network. One ethnic Albanian party took part in the general elections in March, while the other parties boycotted them. New scholarships for university and high-school students were provided, as were investments in infrastructure and grants to local entrepreneurs. Members of the Albanian national community remain underrepresented in public employment. Further commitment from the government is needed to foster the area's economic development.

Regarding the *Sandzak* area, the situation continued to be stable for most of the reporting period but tensions arose in September. Classes in the Bosniak language started to be held in primary schools. The Bosniak community continues to be underrepresented in the local administration, judiciary and police. The issue of the election of the Bosniak national minority council remain unsolved but elections are scheduled for October 2014. The area remains one of the most underdeveloped and requires additional commitment from the central authorities to boost economic development.

The action plan for the national strategy to improve the status of the **Roma** in Serbia to 2015, adopted in June 2013, has started to be implemented. The new set of recommendations formulated during the June 2013 EU-Serbia seminar on Roma inclusion produced some positive results, and contributed to a broader awareness of the challenges. Legal provisions to register 'legally invisible persons' are being implemented and producing encouraging results. Support given to 170 teaching assistants and 75 health mediators continued to produce a further positive impact on the ground. Cooperation with EU-funded initiatives has improved: the multi-sectoral EU programme for Roma inclusion received full support from various relevant institutions, while cooperation with local authorities on providing housing and other forms of assistance has shown some progress. The appointment of the Minister of Labour and Social Affairs as a chairperson of the Council for the improvement of the Status of Roma is expected to strengthen government coordination, which needs improvement.

However, the Roma continued to face difficult living conditions. Those living in the many informal settlements across the country are subject to high levels of discrimination in access to social protection, health, employment and adequate housing, including basic sanitation, water and electricity. Compliance with international standards on forced evictions and relocations still needs to be ensured. The legal provision allowing social welfare centres to be used as a temporary address for registration purposes is implemented unevenly across the country. The school drop-out rate for Roma children remains high. Despite some improvements, the Roma population, and especially Roma women, remain the most discriminated against in the labour market. Roma women and children are still frequently subject to family violence, which often goes unreported. Governmental coordination, together with operational cooperation between the various ministries and bodies relevant for Roma inclusion, remain to be further improved. Adequate financial and human resources, together with better involvement by local authorities in implementing the Roma strategy, are needed.

According to UNHCR, there are around 43763 **refugees** and 204049 **internally displaced persons** (IDPs) in Serbia. There are 14 remaining collective centres hosting 268 refugees and 901 IDPs. The programme to support municipalities that adopted local action plans to improve the situation of refugees and IDPs has continued, and the housing situation of displaced persons has improved somewhat. Local Councils for Migration Management and Durable Solutions have been set up in 129 municipalities, while 137 municipalities have adopted local action plans so far, including the allocation of specific municipal budget lines to implement the plans (in addition to the state budget and donors' funds). Nevertheless, the living conditions of many refugees and IDPs are still difficult. Many are unemployed and live in poverty. The Law on Permanent and Temporary Residence, which allows IDPs to apply for residence at social welfare centres, still needs to be implemented more consistently to allow IDPs without proper documentation to obtain basic rights.

As regards access to information and **protection of personal data**, the trend of increasing numbers of requests from citizens continued in 2013, with the public becoming better informed of their rights. The office of the Commissioner for Free Access to Information of Public Importance and Personal Data Protection should dispose adequate resources for the tasks of the Commissioner. The legal framework remains to be fully aligned with EU standards. Video surveillance, biometrics, the security of data on the internet, and the processing and protection of sensitive data, especially by some new professions such as bailiffs or notaries as well as direct marketing, must comply with EU data protection legislation. The power to acquire data from electronic communications in criminal cases remains to be brought in line with data protection rules. No progress was made in adopting the action plan to protect personal data.

Conclusion

Limited progress was made in the area of the judiciary and fundamental rights.

As regards judicial reform, intensive legislative activities took place. Appraisal rules for judges and prosecutors were adopted. An important number of Court presidents were appointed on a permanent basis. The implementation of the notary system remains to be further assessed.

Implementation of the national judicial reform strategy is at an early stage and requires effective and reliable monitoring and coordination mechanisms. Significant efforts are needed to enhance the constitutional and legal framework for the independence, accountability, efficiency and quality of the judiciary. Clear measures conducive to a more predictable and sustainable judicial environment and career of magistrates remain to be adopted and fully enforced. The disciplinary system needs to be substantially reinforced.

Despite strong political impetus to fight corruption, corruption remains prevalent in many areas and continues to be a serious cause of concern. The implementation of the strategy on the fight against corruption has not yet yielded concrete results. The ratio of convictions remains low. Recent strengthening of institutional coordination and leadership, including the setting-up of a

monitoring mechanism, has yet to produce effective results. Attention needs to be paid to providing the Anti-Corruption Agency and the Anti-Corruption Council with sufficient resources and to following up their recommendations. A sustainable solution is urgently needed for the excessive recourse to bringing cases for the offence of 'abuse of position' in the private sector through revision of the economic section of the criminal code. The legal framework for whistleblower protection and conflicts of interest still needs to be amended. A track record of asset declarations and checks on party funding needs to be established.

Regarding fundamental rights, proactive steps have been taken to create an enabling environment that guarantees fundamental freedoms. The holding of the pride parade in Belgrade on 28 September without major incidents, following good preparatory work by the government, marked a substantial step towards the effective exercise of human rights in general and LGBTI rights in particular. An action plan for the implementation of the antidiscrimination strategy was adopted in October 2014. A new strategy for the correctional system has been adopted but further efforts remain necessary to improve conditions in the prison system. Three laws under the media strategy have been adopted with a view to improving the situation in the media sector. However, there are concerns about deteriorating conditions for the full exercise of freedom of expression. Public officials rarely condemn or publicly react to threats, physical assaults and cases of incitement to violence and hate speech from extremist groups against non-governmental organisations (NGOs), human rights defenders, journalists, bloggers or individual citizens. A track record of investigation and prosecution for these cases needs to be established. The legal framework for the protection of minorities is broadly in place but its consistent implementation across the country needs to be ensured, notably in the areas of education, the use of languages, and access to the media and to religious services in minority languages. The positive steps taken to improve the situation of the Roma need to be stepped up, particularly in education, housing and employment. The situation of refugees and IDPs needs to be further improved. The legal framework on data protection remains to be aligned with the EU *acquis*.