



## JOINT DECLARATION

The EU-Serbia Civil Society Joint Consultative Committee (JCC) is one of the bodies set up under the Stabilisation and Association Agreement between the European Union and Serbia. The JCC enables civil society organisations (CSOs) from both sides to monitor Serbia's progress towards the European Union, and to adopt recommendations for the attention of the government of Serbia and the EU institutions. The JCC understands the notion of civil society as encompassing organisations of employers, trade unions and other economic, social and civic interests.

The JCC is made up of 18 members, nine from each side, representing the European Economic and Social Committee (EESC) and Serbian civil society. During its current term, the JCC is co-chaired by **Mr Laurențiu Plosceanu**, member of the EESC and President of the Romanian Construction Entrepreneurs' Association (ARACO) and Vice-president of the General Union of Romanian Industrialists (UGIR), and **Mr Boško Savković**, Secretary General of the Serbian Association of Employers.

The meeting was held virtually. The JCC discussed the current state of play in EU-Serbia relations and the accession process negotiations with the EU, the European Commission's Serbia 2020 report and the civil society situation in Serbia and rule of law.

### 1. State of play in EU-Serbia relations and the accession process

1.1 The JCC regretfully notes that since the last meeting Serbia has not opened any new negotiating chapters, the number of chapters open remaining at 18 (of which two have been provisionally closed). The JCC reiterates its call for increased efforts from the Serbian authorities "to demonstrate political will and significantly accelerate its reform efforts and deliver concrete and tangible results<sup>1</sup>" in the *Fundamentals* area, such as the rule of law (Chapters 23 and 24) and functioning of democratic institutions, public administration and economic reforms.

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<sup>1</sup> Joint press statement of EU-Serbia Stabilisation and Association Council meeting in December 2020  
<https://www.consilium.europa.eu/media/47650/joint-press-statement-eu-serbia-sac.pdf>

- 1.2 The JCC congratulates the European Union for the support provided to Serbia in the context of the global COVID-19 pandemic, including EUR 93.4 million in bilateral assistance to cover urgent health needs and economic and social recovery, EUR 455 million for a regional economic reactivation package and EUR 1.7 billion provided to the region by the European Investment Bank. Moreover, the JCC welcomes the adoption by the European Commission of a package of EUR 70 million under IPA II to help fund the access of Western Balkans partners to COVID-19 vaccines procured by EU Member States, enabling Serbia to begin vaccinations in parallel with the EU Member States.
- 1.3 The JCC calls on the European institutions and the Member States to continue to be supportive of the EU enlargement policy. In that respect, members of the JCC welcome three extremely important 2020 Commission Communications (on accession methodology, enlargement policy and a comprehensive Economic and Investment Plan for the Western Balkans)<sup>2</sup>. Moreover, it invites the current Portuguese Presidency and the upcoming Slovenian Presidency of the Council of the EU to continue to inject stronger impetus into the enlargement process and to host the Intergovernmental Conference (IGC) with Serbia as soon as possible, so as to discuss the way forward in line with the new accession methodology.
- 1.4 The JCC welcomes the fact that the Serbian authorities accept the revised methodology and encourages them to pursue their efforts and commitments to Serbia's European future and clearly demonstrate their strong political will to accelerate reforms, particularly as regards the Fundamentals cluster. It recalls that progress on Fundamentals will determine the overall pace of negotiations and stresses the vital role of civil society in its implementation.
- 1.5 The JCC welcomes the positive trends in the Serbian economic sector, and the way in which Serbia responded to the impact of COVID-19 on the economy. Serbia created a set of support measures that involved fiscal facilities and direct payments, and measures for preserving liquidity in the private sector.
- 1.6 The JCC supports the proposed Economic and Investment Plan, including the creation of a Common Regional Market and the accompanying Green Agenda, as economic restructuring efforts and investments in connectivity, sustainable development, energy and digital transformation are extremely important for the region's development. It points out, however, that the process needs to ensure economic growth and prosperity and social security for Serbian citizens, and must genuinely benefit the people.
- 1.7 The JCC congratulates the WB business community, Western Balkans Six Chamber Investment Forum (WB6 CIF)<sup>3</sup>, for its action on advocating for a better business environment through regional cooperation and promotion of the region as a unique investment destination. The JCC

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<sup>2</sup> *Enhancing the accession process - A credible EU perspective for the Western Balkans* COM(2020) 57 final; *An Economic and Investment Plan for the Western Balkans* COM(2020) 641 final; *2020 Communication on EU enlargement policy* COM(2020) 660 final.

<sup>3</sup> Founded in 2017 with the idea to provide a regional voice to more than 350,000 companies in the region, WB CIF is an initiative gathering the Chamber of Commerce and Industry of Serbia as a driving force together with Chambers of Commerce in Albania, Kosovo, Bosnia and Herzegovina, North Macedonia and Montenegro.

welcomes its efforts on initiatives aiming to create a regional economic area in the Western Balkans, such as the Regional Common Market Action Plan. The WB6 CIF participated in the drafting of the plan and is continuously involved in its activity. Moreover, during the COVID-19 pandemic, the region worked together to swiftly and efficiently establish Green Lanes at critical border/common crossing points, ensuring an unobstructed flow of goods throughout the crisis. The JCC welcomes the Green Lanes initiative as a successful example of cooperation, motivating the region to embark on new regional initiatives aimed at bringing the Western Balkans closer to the EU internal market. The JCC calls on the EU Member States to start the implementation of the Common Regional Market Action Plan 2021-2026, which will interconnect the WB Green Lanes with EU Green Lanes, to further enhance the flow of goods from the WB region to the EU and vice versa.

- 1.8 As anticipated in its March declaration, the JCC notes OSCE/ODIHR's findings that "*elections were administered efficiently, despite challenges posed by the COVID 19 pandemic*", but also regrets that, despite the inter-party dialogue in Serbia mediated by the European Parliament and certain improvements in electoral process, "*dominance of the ruling party, including in the media, was of concern*"<sup>4</sup>. It calls upon the Serbian authorities to address all outstanding electoral issues, accelerate efforts to meet all ODIHR recommendations and strengthen their engagement in the second phase of inter-party dialogue in view of the announced 2022 election.
- 1.9 The JCC expresses its concern that the new Serbian Parliament cannot reflect genuine pluralism without any real opposition to the ruling party. It repeats the call for stopping the use of "inflammatory language against political opponents and representatives of other institutions expressing diverging political views during parliamentary debates"<sup>5</sup>. Such circumstances enhance the vital importance and role of a strong and active civil society, which needs to be provided with the necessary space and conditions for its voice to be heard and truly taken into account, especially in parliamentary oversight of the executive. Combined within larger platforms such as the National Convention for the EU, the civil society can bring additional pressure to bear if the behaviour of state institutions deviates from the proclaimed goals and democratic principles.
- 1.10 The JCC calls for concrete proposals and tangible results of action from the newly formed Ministry for Human and Minority Rights and Social Dialogue. Moreover, it welcomes the gender-balance efforts made by the new Serbian government, but calls for more specific commitments to be undertaken, including the adoption of the long awaited Gender Equality law as benchmark in the accession negotiations, addressing gender-based violence, the growing incidence of femicide, the gender pay gap, and sexual harassment in the workplace.
- 1.11 The JCC welcomes the fact that the Serbian authorities reengaged in the EU-facilitated dialogue with Kosovo<sup>6</sup> with the aim of reaching an understanding and ultimately a comprehensive legally

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4 <https://www.osce.org/files/f/documents/a/3/466026.pdf>

5 Serbia Country Report, p. 11

6 This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

binding agreement that will pave the way towards membership of the European Union, and endorsed the EU declaration condemning the Belarusian authorities for conducting a violent crackdown in the aftermath of the August presidential election. The JCC considers that more consistent and stronger steps should be taken in efforts to progressively align with the EU's Common Foreign and Security Policy.

- 1.12 The JCC reiterates its demand on the Serbian authorities and the European Commission to ensure that all relevant information on the accession process, including external evaluation reports and expert analyses, are publicly available in good time, hence enabling Serbian citizens, journalists, independent experts and human rights defenders to take part in democratic observation of the Government-led reform processes.

## 2. **Serbia report**

- 2.1 The JCC welcomes the European Commission's 2020 Serbia report, takes note of the Joint statement following the meeting of the members of the EU-Serbia Stabilisation and Association Council on 17 December 2020 and looks forward to the upcoming Report on Serbia by the European Parliament.
- 2.2 As highlighted in its previous declarations, the JCC agrees with the analyses of Serbia's progress on its path to accession, including the positive economic indicators, but also as regards an objective lack of progress in tackling rule of law issues, judicial and public administration reforms, freedom of expression, strengthening genuine social dialogue, fighting corruption and organised crime and its general ability to assume membership obligations.
- 2.3 The JCC stresses the need for the Serbian authorities to show real commitment and step up their efforts in aligning Serbian foreign policy and values with those of the European Union, while adopting a more positive rhetoric and rightly communicating to the citizens of Serbia the substantial financial support provided by the EU, and the advantages and strengths of a path towards the European Union membership as opposed to alternative third country partnerships. It also calls on the European Union institutions to strengthen the visibility of their action in Serbia.
- 2.4 The JCC calls on the Serbian authorities to carefully analyse the content of the report and establish a clear roadmap for their future action, while empowering its civil society to contribute to its efficient implementation by adopting the long overdue National strategy and action plan to create an enabling environment for CSOs, using more strongly and systematically the National Convention on the EU and CSO focal points in public institutions and local self-governments.
- 2.5 Members of the JCC echo the EESC's viewpoint, as emphasised in the opinions and reports of its Permanent Study group on Fundamental Rights and the Rule of Law, on the importance of the 2020 Rule of law report, the annual reporting mechanism on the rule of law and fundamental rights in all EU member states. The JCC stresses that only through its consistent internal actions addressing challenges within the EU and its Member States can the EU act as a credible and staunch promotor of the rule of law in Serbia's EU accession negotiations.

### 3. State of play on Fundamentals in Serbia

- 3.1 As the rule of law and freedom of expression are central values on which the EU is founded, at the heart of both the Enlargement Process and the Stabilisation and Association Process, the JCC expresses satisfaction that special emphasis is put on the Fundamentals cluster in the revised enlargement methodology and calls on the European Commission and Member States to assist Serbian society in addressing the elements of state capture identified in the 2019 Communication on Enlargement Policy.
- 3.2 The JCC welcomes the adoption by the Serbian authorities of the revised Action Plan for Chapter 23 and Chapter 24 in July 2020, after consultations with CSOs and comments from the European Commission, but regretfully notes that the final version of the document includes only a small number of comments submitted by the civil society, and expresses concern over rejection of comments in the field of de-politisation of the judiciary and police, as well as anti-corruption, recommending that they be taken into account.
- 3.3 The JCC looks forward to the results of the upcoming assessment by the European Court of Auditors on the effectiveness of EU measures to support the Rule of law in the Western Balkans, as a non-negotiable prerequisite for EU membership for accession.
- 3.4 The JCC stresses that important lessons should be learned from the unprecedented circumstances arising from the COVID-19 pandemic as regards their management by the Serbian authorities, some of which has led to protests and dissatisfaction over a lack of transparency as regards statistics ahead of the June election, media treatment and public access to procurement and other documents during the state of emergency.
- 3.5 The JCC strongly calls once again on the Serbian authorities to create the conditions for powerful, autonomous and fair functioning of independent institutions, especially those of the Protector of Citizens (Ombudsman), the Commissioner for Information of Public Importance and Personal Data Protection, The Commissioner for Equality, the State Audit Institution, the Agency for Prevention of Corruption and the Regulatory Body for Electronic Media. Appointments to these bodies and the action they take must be transparent and entirely unbiased, with clear criteria agreed with civil society and professionals during a consultation process. The JCC expresses concern regarding the potential downgrading of the accreditation of the Serbian Ombudsperson by the Global Alliance of National Human Rights Institutions (GANHRI), no longer in full compliance with the Paris Principles relating to the Status of National Institutions, and calls on the Ombudsperson and the Government to urgently address the shortcomings identified by GANHRI<sup>7</sup>.
- 3.6 The JCC reiterates its concerns about political influences over the judiciary and calls for urgent action on completing the required constitutional reforms for strengthening its independence, including in appointing judges and prosecutors.

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<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20December%202020%20-%2024012021%20-%20En.pdf> (pages 28-31).

- 3.7 The members of the JCC reiterate their call for the Serbian government to properly and transparently implement the amended Law on the prevention of corruption in force since 1 September 2020. The JCC stresses that the role of the Anti-Corruption Agency, as a key institution for a more effective fight against corruption, needs to be strengthened not just on paper, rendering it completely independent and bestowed with a more robust mandate when it comes to identifying and preventing corruption. It invites the Serbian authorities to cooperate with and respond to the Agency's reports and instructions as provided for under the law and extend the Agency's deadlines to intervene in potential election abuses.
- 3.8 The JCC reiterates its call on the European as well as the Serbian authorities to take into account and respond accordingly to the Human Rights Watch report<sup>8</sup> stating that little improvement was made in human rights protection in Serbia in 2019, that war crimes prosecutions in domestic courts lacked political will, that the asylum system in Serbia remains flawed, that Serbian journalists continued to face attacks and threats, that media plurality was compromised by the media aligned with the ruling party and that Serbia's treatment of minorities and persons with disabilities was an issue of concern.
- 3.9 Regarding the draft proposed amendments to the Law on Free Access to Information of Public Importance, the JCC reiterates its request to the Serbian government to enable free access to information for citizens without unnecessary restrictions, including labelling information as classified or restricting its access when it comes to state-owned enterprises, the Treasury and the National Bank of Serbia.
- 3.10 The JCC reiterates its concern regarding the Personal Data Protection Act since it does not provide guidance for its implementation and ignores acute problems, such as video surveillance and processing of biometric data. The JCC once more condemns the irresponsible handling of personal data by public authorities and the unauthorised leaking of sensitive personal data of citizens, CSOs, media and trade union activists who highlight problems in governance.
- 3.11 The JCC regretfully notes that the degradation of media freedom and freedom of expression continues, as reported by Reporters without Borders, Freedom House and the Independent Journalists' Association of Serbia (NUNS), particularly accentuated during the state of emergency and in the framework of measures taken during the pandemic. The JCC strongly condemns attacks, arrests and unjustified violations of the rights of journalists, media organisations and CSOs.
- 3.12 The JCC reiterates its satisfaction with the adoption of the new Media Strategy in January 2020 and its Action Plan in December 2020, but calls for its tangible implementation, a much stronger independence for the Regulatory Body for Electronic Media, and more particularly of its management structure (Council and the REM Office), a clearer and impartial methodology and transparent media funding. The JCC welcomes the intention expressed in the media strategy to improve legislation in this sector through the foreseen amendments of the three 2014 laws.

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<sup>8</sup> <https://www.hrw.org/world-report/2020/country-chapters/serbia/kosovo>

The JCC regrets that the pre-election and pandemic-related media coverage demonstrated a significant degree of media imbalance and biased reporting and calls for the Serbian authorities to take urgent action to remedy the situation. The JCC calls on the Serbian authorities not to repeat the mistakes on the implementation of the previous 2011 Media strategy, many aspects of which were subsequently ignored, including the requirement to end state control of the media.

- 3.13 The JCC calls for the recognition of the principle of decent work, based on contracts, safety, as well as decent and timely pay, and adequate addressing of labour market issues such as regulation of teleworking and the informal economy. The JCC calls on the Serbian authorities to take the necessary measures and actively involve the social partners to ensure decent working conditions for their citizens in a healthy corruption-free business environment and a higher employment protection level (EPL) in order to address the key challenges of the Serbian labour market, the biggest one being the ongoing trend of brain drain and labour emigration.
- 3.14 The JCC expresses its concern about the vision promoted in the National Strategy for Employment 2021 – 2026 proposed by the Serbian Government. The Working Group for Social Policy and Employment of the National Convention on the EU evaluated this proposal as a step backwards, since there were no means for strengthening social dialogue, the number of vulnerable groups targeted for the inclusion in the labour market was decreased to only four, and insufficient planned allocations for the Active Employment Measures projected at only 0.2% of GDP in 2026. The NCEU also mentioned a lack of measures to encourage social inclusion and poverty reduction, while the Employment Strategy completely lacks the use of employment policy in the context of sustainable development.

#### 4. **Overview of the situation of the civil society in Serbia**

- 4.1 While supporting the obligation for all Serbian public administration bodies to submit an annual plan of public calls for financing CSOs to the office for cooperation with civil society, the JCC calls for better monitoring of their implementation in practice and a better definition of criteria for public financial support. The JCC stresses that the COVID-19 pandemic and the reallocation of funds under the state of emergency cannot be used as grounds for suspension of grant procedures for CSOs, thus weakening their position.
- 4.2 The JCC regretfully takes note of a continuously shrinking space for civil society in Serbia and accrued activity of government organised civil society organisations (GONGOs), as observed by organisations such as CIVICUS, which categorise civil society space in Serbia as *obstructed*, placing it among the countries with the most serious obstacles for free development of CSOs in the Balkans. The JCC expresses concern with regard to a number of specific examples of such obstacles, including the July 2020 request from the Serbian Administration for the Prevention of Money Laundering for banks to provide data on the financial transactions of a number of organisations, media and individuals, without providing justification or legal grounds for suspicion. The JCC aligns with the United Nations Human rights experts concerns as expressed on 11 November 2020 and the subsequent concerns of the Financial Action Task Force (FATF)<sup>9</sup>

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<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35813>

and MoneyVal<sup>10</sup> and strongly condemns unjustified uses of the Serbian Law on the Prevention of Money Laundering and the Financing of Terrorism to infringe the ability of civil society to lawfully exercise its freedoms of expression and of assembly and the right to participate in public affairs.

- 4.3 The JCC strongly condemns the attacks on CSOs by representatives of the government, parliament and government-funded media, and invites the Serbian authorities to do everything in their power to bring to justice the perpetrators and those that have ordered these attacks.
- 4.4 The JCC stresses again that one of the most important obligations of a candidate country concerns an enabling environment for CSOs to participate in the necessary reforms, not only in processes related to negotiations but also in all decision-making processes at all levels of government. In that respect, the JCC takes note of the decrease in the number of laws adopted by urgent procedure and calls for the trend to be continued and further strengthened, as the urgency of the procedures excludes public debate and the possibility of making amendments, both necessary for any democratic legislative procedure. The JCC reiterates its call for longer periods for public consultations, and better consideration and follow-up of comments on draft laws. After adoption, the implementation has to be suitably monitored and evaluated, with strong participation of civil society.
- 4.5 Members of the JCC reiterate the need for the early inclusion of the social partners in drafting of laws with line ministries, enabling a better quality discussion within the Social and Economic Council (SEC). They stress that the recommendations and opinions of the SEC should also include the opinions that are not in agreement with the majority position in order to allow for the members who voted against or abstained to express their views to the relevant decision-makers. The draft National Employment Strategy 2021 – 2026 did not envisage any measures for strengthening the capacity of the social partners nor the SEC itself. The JCC asks for law proposals debated by the SEC to be accompanied by recommendations and opinions of the SEC when submitted to the Parliament.
- 4.6 The members of the JCC reiterate the need for the Serbian authorities to conduct genuine, and not only formal, tripartite social dialogue within the SEC, and to consult the National Convention on the EU and other relevant civil society platforms in a more comprehensive and systematic way at all stages and in all relevant chapters of the EU accession negotiations.
- 4.7 The JCC instructs its co-chairs to forward this joint declaration to the EU-Serbia Stabilisation and Association Council, the EU-Serbia Stabilisation and Association Parliamentary Committee (SAPC), the European External Action Service (EEAS), the European Commission and the government of Serbia.

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<sup>10</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35807>

In accordance with the EU-Serbia JCC's Rules of Procedure, the present joint declaration was adopted by 17 votes in favour, 0 votes against, with 1 abstention.

The next JCC meeting is to be held in Belgrade in the second half of 2021. As agreed in the previous meetings, the assessment of the enabling environment for civil society and fulfilment of the Copenhagen political criteria for accession are a permanent part of the JCC's meeting agenda.

Brussels, 5 February 2021

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