



# Reaching European level of the rule of law and institutional quality



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## 1. Executive summary

This policy paper is dealing with SDG 16 dedicated to promotion of peaceful and inclusive societies for sustainable development, access to justice for all and building effective, accountable and inclusive institutions at all levels. Serbia is dedicated to fulfilment of UN SDGs and formal institutional setting for coordination and implementation of necessary measures are generally in place.

Serbia is also strategically oriented to becoming EU member state and since 2014 is engaged in accession negotiations with the EU. EU accession process represents a comprehensive framework for legislative, institutional, economic, and political transformation of the candidate country in line with EU's rules, standards, and procedures. This process represents the most favourable environment for policy reforms, institutional development, and regulatory adjustments in the candidate country, such as Serbia is. EU accession process should be perceived as the framework for implementation of all national development priorities, including UN SDGs, since this process represents the most comprehensive transition agenda for Serbia. Furthermore, European Commission (EC) prepares annual reports on Serbia's performance with regards the level of readiness to acquire EU membership status and annual progress concerning regulatory and institutional harmonization with EU rules and standards, which provides regular and substantive monitoring framework.

This policy paper is dealing with limited number of issues/priorities related to the SDG 16. Peace, security, and rule of law are essential to achieve all the SDGs including SDG 16, and simultaneously represent *conditio sine qua non* for Serbia's EU accession too. We are focusing on those issues highlighted in the latest EC's 2020 Country Report, which are in correlation with Serbia's commitments in EU accession process related to Serbia's SDG16 targets 16.5, 16.6 and 16.7.

Since 2019, Serbia is experiencing slowing down of pace of EU accession negotiations. The main reason for that is the hesitancy of the authorities to implement necessary reforms in area of the functioning of democratic institutions and rule of law more decisively and unambiguously. Reporting about 2020 general elections in Serbia, 2020 EC report states that "While contestants were able to campaign and fundamental freedoms were respected, voter choice was limited by the governing party's overwhelming advantage and the promotion of government policies by most major media outlets, according to the Office for Democratic Institutions and Human Rights at the Organization for Security and Cooperation in Europe (OSCE/ODIHR). Numerous recommendations previously made by ODIHR<sup>1</sup> remain unaddressed."<sup>2</sup> The consequence of elections conducted in such environment is the composition of the National Assembly which does not reflect pluralism of political options in Serbia. Democratic deficit of the National Assembly is indicator of the seriousness of the problem that Serbia is facing when it comes to the functioning of democratic institutions. There is an urgent need to ensure more inclusive and participatory nature of democratic institutions which should be more responsive and accountable to the citizens.

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<sup>1</sup> Office for Democratic Institutions and Human Rights, OSCE.

<sup>2</sup> Serbia 2020 Report, European Commission, p. 4, October 2020.

Serbia is struggling to prove its commitment to the fight against corruption which is one of the key priorities if Serbia unequivocally wants to meet its obligations under the 2030 Agenda, including those within the EU accession process. Although some progress can be acknowledged, unresolved high-level corruption cases are burdening public perception and undermine its trust in institutions and the rule of law as the basis for future development.

Finally, in the previous period, Serbia has adopted many sectoral strategies and action plans with limited results when it comes to their implementation and effectiveness. Many measures and activities envisaged by these acts were not implemented in a timely manner. Unfortunately, public has not had the opportunity to receive the official explanation about the reasons for these delays or incomplete implementation of Government's own acts. The lack of official reaction is questioning capacity of official institutions to respect principles of competence and accountability in the process of strategic and policy planning.

In order to improve the track record in fulfilling its SDG 16 commitments (as well as to reset the EU accession process) Serbian authorities should introduce new energy and show true political commitment. One of the ways to show unambiguous commitment would be to take more assertive approach and nationalize (and localize) SDGs by adjusting the SDG targets and indicators according to national (and local) conditions, challenges, and opportunities. Particular efforts should be invested in closer monitoring and successful implementation of SDG 16 due to its close connection with Serbia's EU accession process. Special emphasis should be given to improvement of functioning of democratic institutions, fight against corruption and improvement of strategy and policy planning, as the most important elements for creation of development supportive environment.

Serbian authorities should explore the possibility to include new set of indicators in the process of measuring achievements of SDGs. Alternative, supplementary, and complementary indicators are developed by different international or local stakeholders. Thus, they are already available and could provide better data quality. Serbian authorities need to reset the PAR commitments and Rule of Law reforms to restart the EU negotiations and regain public trust in transformative power of EU accession process in line with country's strategic orientation. Improving public trust in institutions and rule of law is instrumental for sustainable development and fulfilment of SDG 16 targets. Finally, years of corrosive influence of politics on institutional and legislative framework in Serbia is requiring serious, honest reflection about country's future. Therefore, Serbian society needs to open public dialogue about SDG 16 and how to achieve *peaceful and inclusive society for sustainable development, access to justice for all and effective, accountable, and inclusive institutions at all levels*.

## **2. The importance of SDG 16 for overall sustainable development agenda**

In September 2015 United Nations Organization (UN) adopted the Agenda 2030 and defined new global Sustainable Development Goals (SDGs) committed to achieving sustainable development of its signatories in its three dimensions - economic, social and environmental - in a balanced and integrated manner. The major goal of the Agenda 2030 and definition of its 17 SDGs was "to end poverty and hunger everywhere; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the

planet and its natural resources. We resolve also to create conditions for sustainable, inclusive and sustained economic growth, shared prosperity and decent work for all, taking into account different levels of national development and capacities. It is accepted by all countries and is applicable to all, taking into account different national realities, capacities and levels of development and respecting national policies and priorities. These are universal goals and targets which involve the entire world, developed and developing countries alike. They are integrated and indivisible and balance the three dimensions of sustainable development.”<sup>3</sup>

Among other areas, signatories have agreed to work together in achieving “universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity. A world which invests in its children and in which every child grows up free from violence and exploitation. A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed. A just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”<sup>4</sup> As member state of UN, Serbia is among the countries who signed the 2030 Agenda.

It is important to acknowledge that SDGs require an enabling political, economic, legislative, and institutional environment for their achievement. This environment has profound influence on country’s ability to plan and implement public policies and achieve sustainable development agenda in an accountable method. Broad societal dialogue and consensus about sustainable development agenda is of the utmost importance for citizens of Serbia and their future.

*SDG 16 and promotion of peaceful and inclusive societies for sustainable development, provision of access to justice for all and building effective, accountable, and inclusive institutions at all levels* is particularly important for overall long-term and sustainable development of Serbia and wellbeing of its citizens.

Within the process of achieving of the SDGs in general, SDG 16 requires from the countries to strive to achieve better understanding and respect of principles of good governance and rule of law, fundamental rights and minority rights, gender equality and non-discrimination, as well as the importance of transparent policy and institutional frameworks that should enable open and inclusive dialogue with citizens on all relevant topics. Properly functioning democratic institutions and respect of the rule of law are prerequisites to achieve peaceful and striving society. They are providing guarantees against discrimination and any sort of breach of human rights and rights of minorities and ensuring positive environment for sustainable development not only of the country, but wellbeing of all members of society regardless of their individual differences, as well.

In order to achieve SDG 16, it has been divided into ten targets (plus two additional sub targets) and specific indicators list was developed in order to enable monitoring and measuring of individual countries’ achievements and progress (Table 1).

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<sup>3</sup> Transforming our world: the 2030 Agenda for Sustainable Development, <https://sdgs.un.org/2030agenda>.

<sup>4</sup> Ibid.

Table 1

SDG 16 and its targets and indicators

SDG 16 Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels	
SDG 16 Targets	Indicators
16.1. Significantly reduce all forms of violence and related death rates everywhere	16.1.1 Number of victims of intentional homicide per 100,000 population, by sex and age 16.1.2 Conflict-related deaths per 100,000 population, by sex, age and cause 16.1.3 Proportion of population subjected to physical, psychological or sexual violence in the previous 12 months 16.1.4 Proportion of population that feel safe walking alone around the area they live
16.2. End abuse, exploitation, trafficking and all forms of violence against and torture of children	16.2.1 Proportion of children aged 1-17 years who experienced any physical punishment and/or psychological aggression by caregivers in the past month 16.2.2 Number of victims of human trafficking per 100,000 population, by sex, age and form of exploitation 16.2.3 Proportion of young women and men aged 18-29 years who experienced sexual violence by age 18
16.3. Promote the rule of law at the national and international levels and ensure equal access to justice for all	16.3.1 Proportion of victims of violence in the previous 12 months who reported their victimization to competent authorities or other officially recognized conflict resolution mechanisms 16.3.2 Unsensitized detainees as a proportion of overall prison population
16.4. By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime	16.4.1 Total value of inward and outward illicit financial flows (in current United States dollars) 16.4.2 Proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments
16.5. Substantially reduce corruption and bribery in all their forms	16.5.1 Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months 16.5.2 Proportion of businesses that had at least one contact with a public official and

	that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months
<b>16.6. Develop effective, accountable and transparent institutions at all levels</b>	16.6.1 Primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar) 16.6.2 Proportion of the population satisfied with their last experience of public services
<b>16.7. Ensure responsive, inclusive, participatory and representative decision-making at all levels</b>	16.7.1 Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service, and judiciary) compared to national distributions 16.7.2 Proportion of population who believe decision-making is inclusive and responsive, by sex, age, disability and population group
<b>16. 8 Broaden and strengthen the participation of developing countries in the institutions of global governance</b>	16.8.1 Proportion of members and voting rights of developing countries in international organizations
<b>16.9. By 2030, provide legal identity for all, including birth registration</b>	16.9.1 Proportion of children under 5 years of age whose births have been registered with a civil authority, by age
<b>16.10. Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements</b>	16.10.1 Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months 16.10.2 Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information
<b>16. a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime</b>	16.a.1 Existence of independent national human rights institutions in compliance with the Paris Principles
<b>16. b Promote and enforce non-discriminatory laws and policies for sustainable development</b>	16.b.1 Proportion of population reporting having personally felt discriminated against or harassed in the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law

### 3. Importance of SDG 16 for Serbia

Serbia's commitment to achievement of the SDG 16 has to be examined in a broader context of the EU accession process. EU membership has been declared as Serbia's strategic interest and since 2014 Serbia is engaged in accession negotiations with the EU. Since start accession negotiations have been marked by relatively slow dynamism caused by internal and external reasons in both Serbia and the EU.

Exactly decade ago, during the preparations for submission of the EU membership request, in 2011 Serbia has defined 2018 as a timeline to finalize all legislative and institutional requirements for EU membership. This particular year was not defined as year of Serbia's EU accession, but as a date when Serbia will finish its preparatory reforms and become ready to assume the obligations deriving from the EU membership. The 2018 was defined in cooperation with EC, based on its report on readiness of Serbia to start EU accession negotiations, so called *Avis*. In this document EC stated that Serbia has achieved satisfactory level of harmonization of national legislation in most of the policy areas regulated by the *acquis* and specified that Serbia could fulfil requirements for the accession to the EU in short term period to be ready to assume obligations which derive from the EU membership. EC has specified five areas - judiciary and fundamental rights; justice freedom and security; agriculture; environment, and regional policy - as those in which Serbia will require medium term period to fully adjust with the EU *acquis*. Based on this projection, it is obvious that Serbia has failed to rise to the expectations. In fact, we can say that in past 10 years Serbia has lost a historic opportunity to transform itself and come closer to the EU accession. Especially since internal political situation was favourable, Government's agendas were pro-European, citizens were enthusiastic, and political opposition to the EU membership was negligible.

In order to become EU member state Serbia is required to prove: that it has established stable and functioning institutions to protect democracy, rule of law, respect of human rights and rights of minorities; that it has established functioning market economy with the capacity to cope with competition and market forces capable of sustaining the pressure of EU's internal market; and that it has administrative and institutional capacity to implement the EU *acquis* and ability to respect the obligations of EU membership. Serbia has also committed itself to the rules and procedures of EU accession negotiations as they are defined in EU's *General EU Position and Negotiation Framework presented at the first Intergovernmental Conference on the accession of Serbia to the EU by the EU Council Presidency*.<sup>5</sup> In order to become EU member state Serbia is required to fully align its legislation with the EU *acquis* and establish functional institutions and build up administrative capacity capable of implementation of EU regulations, including independent and impartial Judiciary. It is clear that EU's functionality, efficiency and stability, heavily rely on candidate's ability to respect the founding values and major principles upon which EU has been established.

Implementation of SDG 16 and its targets is in line with and fully compatible to Serbia's EU accession agenda. Serbia's EU integration process is based on three fundamental pillars - respect of the rule of law, public administration reform (PAR - Public Administration Reform) and economic reforms (ERP - Economic Reform Program). In February 2020 European

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<sup>5</sup> [https://www.mei.gov.rs/upload/documents/pristupni\\_pregovori/neg\\_frame.PDF](https://www.mei.gov.rs/upload/documents/pristupni_pregovori/neg_frame.PDF).

Commission presented Communication titled *Enhancing the accession process - A credible EU perspective for the Western Balkans*<sup>6</sup>, colloquially known as the new EU enlargement methodology. The respect of the rule of law as a central requirement in the EU accession process is confirmed and enhanced by inclusion (“mainstreaming”) of anti-corruption component in all relevant negotiating chapters. European Commission confirmed there will be stronger focus on functioning of democratic institutions, public administration reform and support to economic reforms. Dynamism and progress on these fundamental reform areas will determine the overall pace of negotiations for all candidate countries, regardless of their current status in EU accession process.

Heaving in mind the compatible nature of the two commitments, Serbia can contribute to faster and smoother EU accession process by fulfilling its priorities within the framework of SDG 16 targets. The focus should be set on those areas which are of substantial importance for the quality and efficiency of the EU accession process and which are related to Political Criteria and the Rule of Law, i.e. functioning of democratic institutions, fight against corruption and improvement of strategic and policy planning - areas which are subject of this paper.

Majority of SDG 16 targets may be addressed through EU accession related reforms in areas of Political criteria, Chapter 23 (Judiciary and Fundamental Rights), Chapter 24 (Justice, Freedom and Security), and Public Administration Reform requirements. Connection between SDG 16 and its targets with EU accession related criteria are shown in Table 2.

*Table 2*

*SDG 16 Targets and EU accession related criteria*

<b>SDG 16 Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</b>	
<b>SDG 16 Targets</b>	<b>EU accession related criteria</b>
16.1. Significantly reduce all forms of violence and related death rates everywhere	Chapter 23: Judiciary and Fundamental Rights (Fundamental rights) Chapter 24: Justice, Freedom and Security (Fight against organized crime; Fight against terrorism; Police cooperation)
16.2. End abuse, exploitation, trafficking and all forms of violence against and torture of children	Chapter 23: Judiciary and Fundamental Rights (Fundamental rights) Chapter 24: Justice, Freedom and Security (Fight against organized crime; Police cooperation)
16.3. Promote the rule of law at the national and international levels and ensure equal access to justice for all	Chapter 23: Judiciary and Fundamental Rights (Judiciary)

<sup>6</sup> [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf).

16.4. By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime	Chapter 24: Justice, Freedom and Security (Fight against organized crime; External borders; Police cooperation) Chapter 4: Free movement of capital (Prevention of money laundering)
16.5. Substantially reduce corruption and bribery in all their forms	Chapter 23: Judiciary and Fundamental Rights (Fight against corruption)
16.6. Develop effective, accountable and transparent institutions at all levels	Public Administration Reform Chapter 32: Financial control in public sector
16.7. Ensure responsive, inclusive, participatory and representative decision-making at all levels	Public Administration Reform: Public policy preparation and coordination
16. 8 Broaden and strengthen the participation of developing countries in the institutions of global governance	
16.9. By 2030, provide legal identity for all, including birth registration	Public Administration Reform Chapter 23: Judiciary and Fundamental Rights (Fundamental rights - minority rights)
16.10. Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements	Public Administration Reform: Accountability Chapter 23: Judiciary and Fundamental Rights (Fundamental rights, Fight against corruption)
16. a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime	
16. b Promote and enforce non-discriminatory laws and policies for sustainable development	

This policy paper is dealing with limited number of issues/priorities related to the SDG 16. We are focusing on those issues highlighted in the latest EC's 2020 Country Report, which are in correlation with Serbia's commitments in EU accession process related to Serbia's SDG16 targets 16.5, 16.6 and 16.7.

#### 4. State of play regarding SDG 16 in Serbia

UN 2020 information on global progress concerning SDG 16 says that “Conflict, insecurity, weak institutions and limited access to justice remain a great threat to sustainable development. Millions of people have been deprived of their security, human rights and access to justice.”<sup>7</sup> (...) The Covid 19 pandemic is especially emphasized as a cause potentially “leading to an increase in social unrest and violence, which would greatly undermine the world’s ability to meet the targets of Goal 16.”<sup>8</sup>

Examining the state of play regarding Serbia’s achievements concerning SDG 16 we have to acknowledge specificity of current situation which has been affected by Covid 19 pandemic. Covid 19 pandemic has influenced lives, freedoms, and rights of citizens of Serbia, too. National Convention on EU (NCEU), the platform established to include civil society organizations in the EU accession process of Serbia, has published *Monitoring Report on political criteria and foreign policy of Serbia during the state of emergency*<sup>9</sup> describing the state of democracy, functioning of the parliament, electoral conditions, media freedom and position of civil society during the state of emergency in spring 2020. Report is critical of numerous infringements of human rights, ill preparedness of institutions and weak planning capacities, and calls state institutions to reassess their methods in order to avoid same mistakes in the future.

Serbian Statistical Office (SSO) plays an important role in monitoring of the SDGs. Recently SSO published *Progress report on the implementation of Sustainable Development Goals by 2030*.<sup>10</sup> In the part of Report dedicated to SDG 16 it is stated that progress can be monitored towards seven targets against ten indicators. “The report presents the progress in achieving the following targets: 16.1 significantly reduce all forms of violence and related death rates everywhere, 16.2 end abuse, exploitation, trafficking and all forms of violence against and torture of children, 16.3 promote the rule of law and ensure equal access to justice for all, 16.5 substantially reduce corruption and bribery in all their forms, 16.6 develop effective, accountable and transparent institutions at all levels, 16.9 by 2030, provide legal identity for all, including birth registration, and 16.b, which provides for the promotion and implementation of non-discriminatory laws and policies to achieve sustainable development.”<sup>11</sup> Certain methodological concerns have been reported. Monitoring process is hindered by either lack of suitable indicators for measurement of progress, or by absence of long-term series of data about particular indicators.

Voluntary National Report (VNR) of Republic of Serbia on the implementation of the 2030 Sustainable Development Agenda published in 2019 is mentioning that implementation of the 2030 Agenda is “inseparable from the EU accession process”.<sup>12</sup> VNR stresses that National Program for the Adoption of the Acquis 2018-2021 (NPAA) is a key document that has a crucial role in process of harmonization of national legislation with the EU acquis and other

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<sup>7</sup> <https://sdgs.un.org/goals/goal16>.

<sup>8</sup> Ibid.

<sup>9</sup> [https://uploads-ssl.webflow.com/5e9038a5fc30d378d256622b/5f8daeff017f6683261380ef\\_MONITORING-IZVES%CC%8CTAJ-ZA-OBLAST-POLITIC%CC%8CKIH-KRITERIJUMA.pdf](https://uploads-ssl.webflow.com/5e9038a5fc30d378d256622b/5f8daeff017f6683261380ef_MONITORING-IZVES%CC%8CTAJ-ZA-OBLAST-POLITIC%CC%8CKIH-KRITERIJUMA.pdf) (in Serbian language).

<sup>10</sup> [http://sdg.indikatori.rs/media/1544/izvestaj-o-napretku-u-ostvarivanju-ciljeva-odrzivog-razvoja-do-2030-godine-u-srbiji\\_sr-i-en\\_web.pdf](http://sdg.indikatori.rs/media/1544/izvestaj-o-napretku-u-ostvarivanju-ciljeva-odrzivog-razvoja-do-2030-godine-u-srbiji_sr-i-en_web.pdf).

<sup>11</sup> Ibid. p. 221.

<sup>12</sup> Voluntary National Report of the Republic of Serbia on the Implementation of the 2030 Sustainable Development Agenda <https://www.mdpp.gov.rs/doc/DNI-2019.pdf>.

international standards especially in the areas closely related to the SDGs and Serbia's EU membership aspirations, such as: "1. Agriculture and Rural Development, 2. Environmental Protection and Climate Change, 3. Energy, 4. Cohesion Policy, 5. Industry, 6. Transport".<sup>13</sup> VNR also refer to the lessons learned, challenges and areas where additional financial, technical and other support is required. However, SDG 16 and its targets concerning the inclusiveness, transparent functioning of democratic institutions, rule of law and PAR, as a precondition for proper democratic public policy development has not been mentioned as a priority in the VNR.

General legislative framework designed to foster more peaceful and inclusive society, provide access to justice for all and build effective, accountable and inclusive institutions has largely been established in Serbia over the past two decades. Within the framework of EU accession negotiations, significant steps towards inclusion of national minorities have been developed in cooperation with Councils of national minorities. Action Plan for Chapter 23 (Judiciary and Fundamental Rights) has included majority of aspects related to access to justice. Anti-discrimination legislation has also been adopted, as well as some positive steps towards Roma inclusion. PAR strategy has been developed to facilitate the process of transformation of public administration into more accountable, efficient and professional administration. Special strategy for judiciary reform has been prepared in order to support independence, impartiality, integrity and efficiency, of judicial system and increase public's trust. Thus, legislative and institutional framework for safeguarding human rights is broadly in place. However, consistent and efficient implementation of legislation and policies still needs to be ensured, as it is mentioned in EC's 2020 Serbia Report.<sup>14</sup>

In general, it is easy to conclude that EU accession agenda was the major driving force behind the reforms in Serbia in the past decade. Unfortunately, both internal and external factors had influenced the pace of the EU accession process. The lack of clear EU accession timeline for Serbia and internal challenges within the EU that have contributed to the fact that EU enlargement policy, ones deemed as one of the most successful, has lost its transformative power. Lack of enlargement ambition on EU's side, is mirrored by lack of transformation ambition in Serbia.

When examining results of the EU accession related reforms, we can acknowledge that some progress has been made. The major breakthrough over the last decade has been achieved in harmonization of national legislative framework with the EU requirements (EU *acquis*) as direct consequence of the implementation of Stabilization and Association Agreement signed in 2008. Unfortunately, establishment of functional institutions and professional administration as a requirement for proper implementation of laws and policies has been proven as much more challenging task. Similarly, serious decline in respect of political criteria for EU accession has been noted over the past decade by numerous reports of distinguished international organizations who are reporting on respect of human and minority rights, political freedoms, media freedoms and perception of corruption. From the perspective of SDG 16 targets current situation with regards functioning of democratic institutions and respect of the rule of law is a cause for concern.

Undue influence of party politics over the functioning of administration is being raised by European Commission's annual Reports. Anecdotal examples of bad practice regarding

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<sup>13</sup> Ibid. p. 22.

<sup>14</sup> 2020 Serbia Report, European Commission, October 2020.

achievements and developments in Serbia regarding SDG 16 are evident. For example, practice of keeping of the public officials in an acting status for more than six months as regulated by the law is widely spread practice in public institutions or state-owned companies. This practice undermines officials' initiative, their integrity and eventually their accountability. Number of high-level corruption cases is becoming more and more visible both in Serbian public, and in Brussels. Also, Serbia is still waiting for its strategic development framework. Creation and adoption of development plan/strategy as a systemic outline of development agenda with priorities, timelines and resources unfortunately has not been prioritized by political leadership. Without development strategy Serbia will face difficulties in defining systemic approach to its medium- and long-term development. Furthermore, when we talk about accountability and public finance management State Audit Institution's (SAI) reports are regularly indicating hundreds of millions of Euros being used for different purpose than originally planned in the budgets of state-owned enterprises, local self-governments or other public institutions (mostly in construction, road infrastructure and environment protection area). Examples like these are showing decline in respect of rules and procedures that have been established by laws largely harmonized with EU *acquis* and standards.

Serbia's ability to fulfil the SDGs and particularly SDG 16 will continue to be affected by undue political influence on employment, appointment and career advancement of public servants and officials, lack of strategic development approach, inability to unambiguously implement measures dedicated to fight against high level corruption, and eroding division of powers and checks and balance system.

## **5. Priorities for the future regarding SDG 16 in Serbia**

EU accession maintains to be strategic goal for all Governments since 2000 on, as well as the choice of its citizens. Thus, it is natural to use the EU accession process as a vehicle and framework for its future development and fulfilment of Agenda 2030 and SDGs. There is an obvious connection between the EU accession requirements and SDG 16 targets 16.5, 16.6 and 16.7 which are (among the others) closely related to fulfilment of fundamental EU accession requirements in the areas of rule of law, functioning of democratic institutions and PAR.

In order to escape formalistic "thick the box" type of monitoring of SDG 16 achievements, Serbia should develop its own, both national and local, adjusted to Serbia's real and evidence-based needs. Serbia should do this within the EU accession process, using available technical and financial assistance and expertise from EU institutions, Member States and other international organizations.

In this paper we are proposing three priority goals which Serbia should pursue and which could serve as catalyst/accelerator to achieve SDG 16 targets, i.e. these priorities could boost general institutional and policy framework to enable better understanding and faster achievement of the SDG 16:

1. Improved functioning of democratic institutions;
2. Fight against corruption, and
3. Improved strategic and policy planning.

It is hard to imagine successful implementation of any public policy, including those dedicated to fulfilment of the SDGs, without clear division of powers, legitimate democratic institutions and stronger inclusion of citizens. Taking into consideration different reports coming from numerous international organizations, including EC's country reports, it is obvious that Serbia is facing serious challenges in functioning of democratic institutions, regulatory and independent bodies.

Lack of transparency and inclusiveness is unfortunately casting long shadow over Government's willingness and capacity to address the serious high-level corruption questions. Lack of transparency and exclusion of public scrutiny in bilateral dealings with foreign investors coming from the third countries are affecting citizens trust and lack of confidence in public institutions that should serve the public interest. Public perception of corruption<sup>15</sup> is at the high level and the absence of the high-level cases in front of the courts is contributing to it.

Finally, in order to achieve the SDGs Serbia has to enhance its policy planning and coordination of all relevant stakeholders, including public's role in these processes. Citizens voices must be taken into consideration when topics like air pollution, water resources, climate change, or healthcare issues are discussed. Issues concerning democratic legitimacy and stronger inclusion of citizens in public policy planning and making should be among Serbia's priorities. New Serbian Government (formed in October 2020) declared public dialogue as one of its priorities. Ministry for Human and Minority Rights and Public Dialogue was established as an attempt to provide institutional setting for public to become more engaged on different range of topics. It is a valiant attempt by the Government that still needs to prove its effectiveness in practice.

Priorities which have been selected should not be difficult to follow since they fit in the form of the SMART goals (Specific, Measurable, Achievable, Relevant and Time based). All three of them are specific and important for both fulfilment of SDG 16 as well as for EU accession process. The progress achieving those priorities can be measured in accordance with different sets of indicators which already exist created by international organizations or research groups (including alternative ones), local civil society organizations, or are part of the EU monitoring mechanisms designed to show track record of candidate countries during accession negotiations. Priorities are achievable and highly relevant for Serbia's EU accession process and fulfillment of SDGs in general, as well as the SDG 16. Improvement of functioning of democratic institutions, fight against corruption and improvement of strategic and policy planning could also be fitted and followed within the time frame indicated in particular Action plans or other monitoring mechanisms within the EU accession process.

### **5.1. Improved functioning of democratic institutions**

Development of functional institutions and the rule of law is essential and presents a priority number one for Serbia in order to create incentive environment and develop capacity for its sustainable development. This implies establishment of an institutional and regulatory environment that provides support to both citizens and economic actors and facilitates realization of development goals in general. Absence of functional institutions and weak rule

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<sup>15</sup> <https://www.transparentnost.org.rs/index.php/sr/istraivanja-o-korupciji/indeks-percepcije-korupcije-cpi>.

of law endangers security of people and business in general, which directly undermines the development potential of the society.

Serbia is facing serious challenge since large number of its citizens are leaving the country. According to different sources, between 20.000 to 30.000 people leave Serbia annually. Reasons for such a dramatic „brain drain“ are different, mostly due to economic and social reasons, but disillusion with the quality of institutions and poor implementation of laws that should have enabled equality of chance for all citizens must not be excluded as one of the reasons. Thus, Serbia is losing serious human capital that could have been instrumental for its future perspective. Lack of properly functioning institutions, rule of law, overwhelming politization of public policy sphere are not creating favourable and encouraging environment for these people to stay and contribute to Serbia’s long term sustainable development.

Situation concerning functioning of National assembly is the paradigm of the current institutional crises in Serbia. General elections in 2020 were boycotted by part of the opposition which resulted in unusual composition of the parliament with almost no opposition representatives among 250 members. According to EC’s 2020 Serbia Report “...parliamentary oversight of the executive remains rather formalistic and, thus, the democratic accountability of the executive branch is weak.<sup>16</sup> Parliament has become a platform for verbal attacks on political opponents, independent media and critical individuals. Recently adopted Code of conduct of members of the parliament<sup>17</sup> failed to provide guarantees that verbal attacks will be removed. Civil society organizations have protested against adopted version of the Code and demanded changes that should be result of broader social dialogue.

Relevant reports and indicators are showing that the quality of institutional framework in Serbia is currently below the European level. Institutions are failing to secure rights, freedom and values guaranteed by law and Constitution. This situation causes inequality of citizens, discrimination of weak and impunity of powerful. Serbia took 103rd place out of 214 rated countries according to the World Bank’s Worldwide Governance Indicators (WGI) project reports<sup>18</sup>, which assesses the state of governance in a country based on political stability and absence of violence, efficiency of the executive, quality of the regulatory function, rule of law, corruption control, and right to vote and accountability. In European countries category, Serbia was ranked together with Albania, and slightly above Moldova and Bosnia and Herzegovina.

The state of capacities and responsibilities of institutions is deteriorating, checks and balance between different branches of power are obscured which leads an open space for speculations about existence of “informal” or “parallel” non-transparent channels of policy making. After four years of consecutive decline (score dropped from 76/100 to 66/100), “Freedom House” changed the status of Serbia from being a “free” to a “partially free” country. Similar trends could be observed in the assessment of the level of democracy (decline from 55/100 to 49/100), from being “semi-consolidated democracy” in 2020 Serbia has been graded as a “hybrid regime”. The Rule of Law Index (“World Justice Project”) indicates that the control of the power and actions of the executive by the law and independent institutions is significantly declining (from 0.50 to 0.39), as well as the provision of fundamental rights (from 0.58 to 0.56) and transparency of state institutions (from 0.56 to 0.47). In terms of the perception of corruption,

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<sup>16</sup> 2020 Serbia Report, European Commission, p. 11, October 2020.

<sup>17</sup> [http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala\\_akta/2020/RS69-20-lat.pdf](http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala_akta/2020/RS69-20-lat.pdf).

<sup>18</sup> <https://info.worldbank.org/governance/wgi/>.

already unfavourable position of Serbia (87th place out of 198 countries in 2018) further deteriorated in 2019 (a drop from 4 places and a decrease in the score from 41 to 39).

## 5.2. Fight against corruption

The second priority for Serbia to speed up achievement of SDG 16 is necessity to improve the efforts in fight against corruption. In general, Serbia has a solid legislative base to address this issue. But so far, the efforts have been marked by lack of adequate application of legislation which creates a fertile ground for corruption and organized crime, and further discourages the entrepreneurship and country's development potential. It is clear that meeting the targets of the SDG 16 and all the other relevant SDGs will depend on whether Serbia will be able to address the deficiencies in functioning of relevant institutions and lack of rule of law that has been reported by respective international organizations as well as in EC's reports.

Fight against corruption is one of the fundamental conditions for any candidate country to join the EU. It is important not solely for meeting requirements of the EU accession process, but for the sake of returning of citizen's trust into the public institutions that has gradually corroded in recent years (and escalated during the pandemic of Covid 19). New EU's methodology for accession talks with candidate countries has extended the scope of monitoring of candidates' readiness and capabilities to fight corruption over the whole scope of 35 existing negotiation chapters (unlike previously, when fight against corruption was constituent part of the Chapter 23, Judiciary and fundamental rights).

The existing target 16.5. *Substantially reduce corruption and bribery in all their forms*, provides the strategic guideline for the Government of Serbia to follow. The indicators envisaged to follow achievements regarding the target 16.5 are: 16.5.1, Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months; and 16.5.2 Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months. Unfortunately, due to lack of data (available for 2010), Serbia is not reporting on progress on this important target. It is hard to imagine proper implementation of Agenda 2030 in areas like environmental protection or energy, or any other policy area, without clear dedication of public institutions and more importantly concrete results in fight against corruption.

Having in mind the importance of this issue, it is of utmost importance and priority for Serbian authorities to "nationalize" indicators that could provide credible data on concrete progress. Especially since fight against corruption is one of priorities in EU accession negotiations. Serbia has been obliged to prepare Action Plan (AP23) for Chapter 23 as an opening benchmark for start of negotiations in this particular Chapter. There is a whole segment in the AP23 with measures and activities which could be used as alternative/additional set of indicators which could provide valuable data for the Agenda 2030 implementation reports. Absence of creative use of existing data is clearly showing how important principles of coordination and cooperation are for the efficient reporting of public administration, and how lack of implementation of these principles could undermine the credibility of Government's intention to fight the corruption.

Efficient fight against corruption is crucial and essential precondition for sustainable development of Serbia. Strengthening effectiveness, transparency, and accountability of public officials, companies and institutions should improve public trust and confidence in their functioning which is mostly dedicated to provision of public services. Civil society organizations (CSO) in Serbia are natural partners in this process and there is a wide area of issues where closer cooperation should be explored and implemented. There are numerous positive examples of how CSOs can provide valuable inputs to improve the fight against corruption and make it more efficient. To cite one of them - Transparency Serbia recently invited Government and National Assembly of Serbia to include the list of priorities related to transparency, accountability, integrity and fight against corruption in general, in their respective plans of activities to address these issues more efficiently.<sup>19</sup>

### 5.3. Improved strategic and policy planning

The third priority concerning the achievement of SGD 16 targets in general would be to improve strategic and policy planning in Serbia. It is one of the crucial areas for successful long-term development of Serbia as well as one of requirements of broader PAR within the EU accession process. Strategic and policy planning is one of the core prerequisites for successful fulfilment of the Agenda 2030. It is impossible to think about achieving SDGs without clear strategic path and policy guidelines. Better planning of public policies will certainly have a positive impact on track-record and final results.

Current status with regards Serbia's planning capabilities is sketchy. Serbia is champion having a number of different sectoral strategies which have been adopted in past 20 years. Unfortunately, Serbia is still missing one systemic and overarching strategic document that should provide major strategic guidelines regarding its future development.

The Law on planning system and its implementing legislation has been adopted in 2018 in order to improve and organize the public policy planning process in Serbia. Public Policy Secretariat has been awarded major role taking care of the quality control of public policy planning documents (mandatory consultations during Government adoption process). However, in everyday practice line ministries are often submitting drafts which fail to incorporate PPS's opinions and comments since they are not legally binding. This has been noted by EC in its 2020 Country report as well. One of the potential benefits of the law on planning system could be introduction of the Unique Information System (UIS) that is supposed to enable better planning, monitoring, coordination and reporting about planning efforts. Once operational, UIS should provide direct links between the public policy and budgetary planning as well.

Despite the adoption of the Law which stipulates different types of planning documents, Serbia still does not have an overarching Development Plan which is supposed to be hierarchically the highest planning document in Serbia. In December 2019 President of Serbia and Prime Minister announced 14 billion EUR "Serbia 2025" program, which contains a plan of investment projects for the further development of the country over the next five years."<sup>20</sup> Public did not have opportunity to find out more about the details of this program, neither was it discussed with

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<sup>19</sup>[https://www.transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/Prioriteti\\_u\\_borbi\\_protiv\\_korupcije\\_u\\_Srbiji.pdf](https://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Prioriteti_u_borbi_protiv_korupcije_u_Srbiji.pdf).

<sup>20</sup> <https://www.srbija.gov.rs/vest/en/148956/serbia-2025-project-worth-14b.php>.

relevant stakeholders in the public. Development plan, as defined by the Law, should cover 10-year development strategy and decide on priority development goals and provide guidelines for their achievement. Unfortunately, Serbia is yet to develop and adopt such a document prioritizing its own development goals. This is a cause for serious concern.

Serbia's ability to achieve Agenda 2030 goals and fulfil SDG targets will depend on its ability to improve strategic coordination and policy planning. This is essential from the perspective of the EU accession process as well. Serbia will need to prepare its development plans prior to the accession to the EU in order to fulfil requirements for participation in EU's regional and cohesion policy and become eligible to use Union's structural funds. This is one of the most important EU policies which enables members states who are less developed or suffer from the effects of economy restructuring to use EU structural funds to mitigate pressure on their national budget.

In order to start to reap the benefits of public policy planning it will be important to improve the awareness of policy makers about the value of systemic approach to the strategic planning. Legislative and institutional frameworks are providing positive environment. However, *ad hoc* official announcements of political projects and plans are prevailing. Uneven practice of implementation of the law and undue political influence which often disregards expert opinion and existing procedures is still present and undermines systemic efforts to introduce strategic policy planning as a regular procedure in public policy making.

## **6. Conclusion and Recommendations - How to move forward?**

All the above mentioned three priorities are crucial if Serbian political leadership wants unambiguously to improve Serbia's chance to fulfil Agenda 2030 and reach SDGs, and by doing so to speed up its EU accession process. As mentioned earlier, legislative framework largely exists, but major issue is lack of its proper implementation. It is frustrating to read and listen numerous reports coming from EC and other relevant international organizations, repeating the mantra about failure to implement existing legislation. Lack of political will to secure administrative, institutional and sometimes budgetary framework for proper implementation of legislation has become evident. Due to lack of progress in negotiation chapters dedicated to the rule of law, in 2020 Serbia failed to open any negotiation chapter. It is a high time to move the badly needed changes and reform agenda forward.

Moving forward will not be possible without full ownership and political commitment of the Government and other relevant stakeholders (President, National Assembly, Judiciary, media, civil society...). After reaching the consensus about need to improve functioning of democratic institution, fight against corruption and improvement of strategic and policy planning, there will be a more difficult phase how to actually implement these changes. Unfortunately, in past couple of years Serbian administration suffered from a big turnover of staff which may have a negative impact on administration's capacity to implement new policies. Thus, weakened administrative capacity may represent an obstacle on the path of implementation of priorities.

Being a candidate country that negotiates its accession agenda with the EU, Serbia may expect EU's technical and financial support for achieving the above-mentioned priorities. Especially since those priorities are well compatible with the EU accession requirements. But political

leadership should waste no time and present its post-pandemic development plan based on three priorities as soon as it is possible. This plan should include EU accession driven priorities, as well as SDGs. Serbia should begin the implementation of this plan immediately, and priorities we have presented in this paper - improvement of functioning of democratic institutions, fight against corruption and improvement of strategic and policy planning - should be high on the priority list.

## **6.1 Policy Recommendations**

In order to improve track record in fulfilling the SDG 16 (as well as to reset the EU accession process) Serbian authorities should focus on following recommendations:

- **Nationalize SDGs**

Serbia should nationalize (and localize) SDGs by taking active measures to adjust the SDG targets and indicators according to national (and local) conditions, challenges, and opportunities. Adjustments of SDGs, targets and indicators should be performed within the wide process of public consultations with all relevant stakeholders included. Particular efforts should be invested in closer monitoring and successful implementation of SDG 16. Based on priorities defined in this paper, special emphasis should be given to improvement of functioning of democratic institutions, fight against corruption and improvement of strategy and policy planning, as the most important elements for creation of well-regulated development environment.

- **Include new indicators**

Serbian authorities should explore the possibility to include new set of indicators in the process of measuring achievements of SDGs. Official data provided by Statistical Office is valuable but insufficient in measuring achievement of SDG 16 targets. Alternative, supplementary, and complementary indicators are required to provide better quality of information. These indicators are already available and developed by different international and local organizations. If designed and adjusted properly, alternative indicators could facilitate better public policy choices and Serbia's faster EU accession as well.

- **Rebuilding the institutions and the rule of law**

There is a dire need to improve public trust in institutions and rule of law as credible safeguards for equal rights and opportunities for all citizens. The reforms and policies that Serbia needs to undertake to improve the quality of its institutions and implementation of rule of law principle have already been defined by the EU and to some extent reflected in national legislation, through the Public Administration Reform Strategy, Action Plans for Chapters 23 and 24, and other strategic documents. Serbian authorities need to reset the PAR commitments and Rule of Law reforms to restart the EU accession negotiations and regain public trust in transformative power of EU integration process.

- **Public dialogue**

Serbian society is today perceived extremely polarized on different issues. The culture of dialogue has been significantly undermined by concentration of political power that caused

corrosion of democratic institutions and system of checks and balance, and lack of media freedom. Formation of Ministry for Human and Minority Rights and Public Dialogue might be the positive signal that was needed to kick start the dialogue. Serbian authorities should recognize the importance of broad societal consensus about SDG 16 and necessity to start public dialogue about *promotion of peaceful and inclusive society for sustainable development, access to justice for all and effective, accountable, and inclusive institutions at all levels*. These are major topics upon which Serbia's development agenda is depending and that should bring all relevant stakeholders to consensus on how to move forward.



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