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SERBIA'S EUROPEAN TRADITIONS AND PERSPECTIVES

Serbia is among few European states, outside the confines of the former Soviet Union, which still remain outside the EU. This, of course, does not include Norway and Switzerland, which – each for its reasons – have opted not to formally join the EU.

Besides Croatia and Iceland, which seem to be on the EU's doorstep, Macedonia, which has been granted the status of a candidate-country, but has not entered talks on its candidacy for the past five years due to the dispute with Greece concerning the country's name, and Turkey, also a candidate-country, talks with which have been stalled for years now, probably due to a lack of readiness by a number of influential member-states to open the EU's door to a country with almost 80 million of inhabitants of Muslim religion, whose practice of European values they put in question, sometimes in half-voice, sometimes quite vocally, there are Montenegro, Albania, Bosnia-Herzegovina and Serbia, which have not started their accession talks yet.

These four countries have each signed a Stabilization and Association Agreement with the EU. The first two, Montenegro and Albania, have already formally submitted their candidacies and are expecting an answer by European institutions in order for their accession talks to start at some point in the future. Bosnia-Herzegovina is still facing an internal identity crisis and is, with the international community's help, looking for an adequate institutional arrangement which would enable it to continue down the path of European integration. Serbia, the biggest and economically-strongest among the afore-mentioned states, is facing a specific problem, since the ratification process of the SAA signed in April 2008, has not started yet in any of the EU member-states, because a single member-state – the Netherlands – believes that Serbia has not realized full cooperation with the Hague-based International Criminal Tribunal for the Former Yugoslavia, and a consensus is necessary for the SAA to be unblocked. The remaining 26 member-states believe that, by extraditing 43 of the 45 indictees to the Hague tribunal (among whom there are two former presidents of the Republic of Serbia, the war-time president of the Serb Republic in Bosnia-Herzegovina, three chiefs of General Staff of the former Yugoslav Army, the head and the deputy head of Milošević's State Security Service, as well as several police generals), by sending all the required documentation to the Hague tribunal and by closely cooperating with the Western intelligence services, by fully engaging all its police and security resources in locating the remaining two Hague fugitives, Serbia has done everything within its power and that its progress towards the European integration should no longer be hampered. Besides, if it is assessed in future that Serbia is after all not cooperating with the Hague tribunal, due

to the fact that the war-time commander of the Bosnian Serb army, General Mladić, indicted with the genocide committed in Srebrenica and other war crimes, still remains at large, there are numerous instances at which a member-state or member-states could set a new barrier to Serbia's membership in the EU and thereby exert the desired influence.

This way, Serbia is in some kind of a limbo, faced with the situation in which, despite the fact that the European Commission has positively assessed the progress it has achieved in its internal reforms, despite being recognized as a key factor for the regional stability, one which has been essentially and very responsibly securing the stability for nine years now, and last, but not least, despite its deep, historical rooting in the European civilization, as the oldest state in the Balkans (more precisely, the one which first liberated itself from the Ottoman rule), it is practically the only one which is not in a position to start its EU membership talks. Economic, social and political consequences of such a state of affairs could be very unfavourable, both on the internal and on a broader, regional plane. I strongly believe that how well the EU manages to integrate the entire Western Balkans will prove to be a decisive factor in defining future European security concerns. Or, to put it in a slightly different way: the decision about whether Europe will rapidly extend membership to Serbia will definitively affect the future of the entire Western Balkans, which, I believe, is vital to the long-term consolidation of European security. Let me quote Carl Bildt, Swedish Foreign Minister and a good connoisseur of the Balkans: "A stable Serbia will project stability in the region – an unstable one will obviously project the reverse. Its European integration is the only lasting guarantee of its peace and its prosperity."

In the weeks before us, by the end of the year, certain events will unfold which could change the stalemate Serbia has been in for 19 months now, since the SAA was signed and instantly frozen.

First such event will be the European Council's decision on visa liberalization for Serbia and two more Western Balkan countries which have met the criteria set by the road map – Macedonia and Montenegro. This decision should be taken, as has been announced, on 30 November. After almost 19 years, the citizens of these three countries will again be able to travel freely to most EU member-states, as well as to Switzerland and Norway. I expect that, in 2011, within a general overview of the UK visa policy, UK Border Agency could reach a decision which would enable it to Serbian citizens to travel freely to the UK, as well. In the days when we are observing the 20th anniversary of the fall of the Berlin Wall, for our citizens it is about the deconstruction of a "Schengen Wall", and a first serious step towards the reintegration of significant parts of the Western Balkans into Europe, to which it belongs geographically (let me just say that there are less than 200 miles from the Serbian border to Vienna), but also economically and culturally. I will be just as happy when – I hope in a few months – Bosnia-Herzegovina and Albania also meet the criteria set by the road map, and Schengen visa regime is abolished for their citizens, as well.

The second event is the submission of a report by Serge Brammertz, the Hague tribunal chief prosecutor, on Serbia's cooperation with this institution. If, in the first days of December, the report results to maintain – as is believed that it will – a positive assessment of the cooperation, including the statement that “Serbia is doing everything within its power” to locate and arrest the remaining two fugitives, I cannot exclude the possibility that the Dutch veto could be lifted, even if temporarily, and that Serbia could submit its official candidacy for EU membership in the last weeks of December. Although, of course, the submission of candidacy is a unilateral measure, which requires decisions by the European Council and the European Commission in order to be considered, the unblocking of the SAA and the submission of candidacy is of more than symbolic significance for Serbia. By submitting it, Serbia officially defines its strategic political priority and it commits itself much more firmly to continuing and deepening the economic and institutional reforms necessary in order for the country to fulfil, at the end of the process, the Copenhagen criteria required for full membership. Many European friends are encouraging Serbia on that path. I am speaking about the importance of “a much firmer commitment”, having in mind, above all, certain reservations towards the enlargement, which are present in some important capitals on the Continent, but also the necessity to send a clear message to the anti-European forces in Serbia, however marginalized they may be after the last elections, that the government and the president, who, thanks to their pro-European agenda, won both the parliamentary and presidential elections in 2008, that they are fulfilling their election promises and that, in doing so, they have a reliable partner in the EU and its member-states. This message is important due to the circumstances under which the pro-European parties twice managed to beat the radical-nationalist bloc, which had been advocating the need to turn away from the EU. Back in those days when presidential and parliamentary elections were held in Serbia in 2008, Kosovo Albanians unilaterally proclaimed independence, thereby taking away 12.3 per cent of the national territory of Serbia. I believe I am not wrong in saying that Serbian voters showed a high level of maturity by electing a government which will do its best to preserve Serbia's territorial integrity by peaceful, diplomatic and legal means exclusively, continuing down the path of the European integration process.

Which brings me to the third event, and it shall take place during the first ten days of December. That is when the International Court of Justice is holding deliberations in the proceedings aimed at providing an advisory opinion on the legality of “Kosovo's” unilaterally-declared independence, proceedings launched following the decision by the UN General Assembly. Although many important states, including the USA and 22 EU member-states (including the UK), have recognized “Kosovo's” unilaterally-declared independence, the Serbian diplomacy, rooting its efforts in the strong base in international law, but also thanks to the legitimate concerns by many countries that recognizing the Kosovo secession could represent a very dangerous precedent in international relations, well, the Serbian diplomacy

has managed to limit the number of states which have recognized the unilaterally-proclaimed independence to 63, as well as to get a huge support at the UN General Assembly for the resolution which asks the ICJ to issue an advisory opinion on whether “Kosovo’s” unilaterally-proclaimed independence is in line with international law. Out of some 130 UN members which have not recognized Kosovo, let me mention the whole BRIC (Brazil, Russia, India and China), five EU member-states (Spain, Greece, Romania, Slovakia and Cyprus), Vatican, almost whole of the Latin America (including previously mentioned Brazil, but also Mexico, Argentina and Chile), almost whole of the sub-Saharan Africa (including South Africa and Nigeria), as well as Indonesia, Egypt, Pakistan, Iraq, Tunisia, Algeria, Morocco and many other Muslim states. The argument which promoters of “Kosovo’s” unilaterally-proclaimed independence often mentioned in the past, that “Kosovo is a *sui generis* case”, which is why its unilaterally-proclaimed independence should be recognized, that argument has obviously not been received well by a significant part of the international community. The task of the ICJ, and indeed of any person analysing a concrete situation from the legal standpoint, is to apply the relevant legal rules having by definition a general character to a concrete – “unique” – situation. Referring to the “special cases” argument does not only dilute the quality of legality of a system: it replaces legality with a political element, in which the power and commitment of individual actors become more significant than the legal rights that they enjoy. Claims that situations are *sui generis* reduce the universally-recognised rights of states, and place them outside the ordinary processes of the making and the application of international law. I, of course, agree with the thesis that *every* single case is specific – as the Greek philosopher Heraclites said 2,500 years ago: “No man ever steps in the same river twice”. But that does not mean that the cramps caused by the freezing water of secessionism will not grip those who step in it somewhere else, far from Kosovo: that water is freezing cold in the Caucasus, and in the Mediterranean, as well as in the sub-Carpathian region of Central Europe, and in the Middle East, in South and Central Asia, and in Africa... That is why unilateral acts of secessionism have destructive potential, as a rule, and that is why relying on international law, together with patient, *bona fide* negotiations by those concerned, is the only sustainable mechanism for solving conflicts in which the right to preservation of a UN member-state’s territorial integrity and an ethnic group’s right to self-determination are opposed. Having said this, I would like to point out that the right of peoples to self-determination has been included in the UN Charter and several subsequent UN Declarations. However, the norm of self-determination applies to mandate and trusteeship territories, colonial territories and foreign occupations. It also applies internally – as a principle of human rights within independent states. It manifestly does not apply as a general rule legitimising secession from independent states, nor conferring rights of secession upon groups, entities or peoples within independent states.

Let me add that Serbia, back in 2008, had been a democratic state for as many as eight years, that it had been a member of the UN and the Council of

Europe, the SAA was initialled, and the human rights its citizens enjoyed were positively assessed. Milošević was a remote past, and the UN Resolution 1244, which put the Serbian autonomous province of Kosovo under UN's protection and which is still in force, guaranteed the territorial integrity of the Federal Republic of Yugoslavia, that is Serbia, as its successor, explicitly confirming that Kosovo forms an integral part of that state.

For the first time in its history, all five Permanent Members of the UN Security Council and 25 other states will take part in an International Court of Justice debate. Serbia is interested in hearing the voice of the highest institution of international justice. At the same time, in addressing the ICJ via the UN General Assembly, Serbia has manifested a responsible stance in a situation when it has been faced with an extremely huge challenge – the loss of one eighth of its territory and, above all, the historical cradle of its state. I, therefore, believe that resorting to peaceful, diplomatic and legal means in resolving conflicts of such magnitude, is a good precedent not only for the region, where in the past similar conflicts escalated usually into armed ones, but even on the global scale. I expect the International Court of Justice to make its decision, i.e. to give its advisory opinion most probably, in the middle or in the second half of 2010. In view of the fact that the unilaterally-proclaimed independence of “Kosovo” has been made in violation of the mentioned 1244 UN Security Council Resolution, the United Nations Charter and 1975 Helsinki Final Act, I believe that the opinion of the Court will be in favour of the position of Serbia that the unilaterally proclaimed independence represents a violation of international law. If I am proved right, the process of further recognition of “Kosovo”, which has been developing at a slower pace than expected, will be practically halted, and the independence of this entity will remain *sub-prime* (for example, it cannot become a member of the United Nations, OSCE or EU). However, it is in the best interest of Serbia that the Kosovo problem is resolved. Therefore, the offer Belgrade made to Priština for launching serious, substantive negotiations on the final status would regain its momentum. On the other hand, the ICJ advisory opinion could be an encouragement for Kosovo Albanians to accept the offer because that would be the only way in which they could open perspectives to the population in Kosovo for a sustainable economic and social prosperity. Serbia remains very responsible in this context – there is no issue which could not be discussed in legally-framed negotiations. However, the threat by a “*fait accompli*” or by an artificial deadline on the talks after which, if no compromise solution was reached, Kosovo's independence would be imposed, which did hang over the heads of the Serbian side like the sword of Damocles during the 2006-2007 negotiations held under Martti Ahtisaari, should be avoided this time.

In order to enjoy the benefits of the solution to come – for Kosovo and the rest of Serbia, and for the European future of the Western Balkans – we must compromise, and we must negotiate in good faith, so that there be no winners and no losers, in a way which puts the welfare and stability of the entire region, as well as the consolidation of the security architecture of all of Europe at the centre of the process. Let me quote the words of Henry Clay:

“All legislation, all government, all society is founded upon the principle of mutual concession.”

But let us wait and see the advisory opinion of the International Court of Justice. Diplomatic and all other resources Serbia has are focused on achieving two strategic goals: EU membership and preservation of the state's territorial integrity. I will return to the issue of EU membership, i.e. to the results achieved thus far and to the problems and challenges Serbia is facing in this context.

The first point I would like to single out is that Serbia was behind others, and significantly so, in the process of transition. Until 5 October 2000, the authoritarian regime of Slobodan Milošević was in full swing. It introduced party pluralism only as a matter of formality. However, by maintaining an iron grip on and nomenclature control over the principal economic sectors and media, as well as military and police apparatus, it ensured the survival of a kind of communist system for yet another 11 years compared to, let us say, Poland, Czech Republic or Hungary, 10 years compared to Albania or 9 years compared to Russia. By creating xenophobia, relying on frequently justified fears of Serbian minorities in the neighbouring ex-Yugoslav republics and by flaring up those fears, Milošević allocated huge national resources in support of the Serbian side in Croatia and Bosnia. He exposed the country to sanctions and hyperinflation, following by 79-day NATO bombardment of Serbia in spring 1999 over Kosovo. However, the image that was created among many witnesses of the “lead-like” nineties, that Milošević enjoyed the support of the majority of Serbs for the implementation of his political programme is wrong. Initially, before the conflicts broke out, in the then common Yugoslav state, he did enjoy significant popularity, which led to the victory of the Socialist Party of Serbia at the parliamentary elections in December 1990, ensuring not more than 44 per cent of turnout votes. However, not long before March 1991, huge anti-Milošević demonstrations took place in Belgrade that were only temporarily put on halt by tanks coming out to the streets. They were followed by mass protests of students and citizens against the regime in 1992 and in 1996/97, which demanded peace with the neighbours, cessation of war hostilities and destruction, the banning of the Milošević's media control, recognition of the true results of local elections which were falsified by the regime and, ultimately, the resignation of Milošević. Eventually, when he tried, once again, to falsify the results of the presidential elections in September 2000, a million of people came out to the squares and streets of Belgrade arriving from all parts of Serbia and forced him to step down.

By saying this, I do not want to deny the fact that in the nineties the regime had also a large number of followers whose voice, thanks to the heavily-censored electronic media, was very prominent. The secret police manipulated not only election results, but was setting opposition leaders against each other, thereby prolonging the Milošević's rule. However, majority of people in Serbia did not support such policy – those were decent, peaceful and reasonable people used to living in multi-ethnic communities

and to respecting the values described today as “European values”. For them, the nineties were the years of the collapse of the state in which they had been born, of the loss of their life savings, of a drastic fall in their standard of living, hyperinflation (soaring up to 90 per cent daily in late 1993 and early 1994), of economic sanctions, expansion of crime... Eventually, their voice came into play in the peaceful revolution on 5 October 2000 when Milošević was ousted. It has been more than nine years since then, and Serbia has had a democracy like all other states in the region and in Europe. The citizens of Serbia have time and again demonstrated their commitment to joining the European Union. All elections held since the democratic revolution of 5 October 2000 returned reformist majorities.

Consequently, Serbian transition began as late as in 2000 and today it could be at the stage in which Hungarian reforms were in 1998, although one has to admit that in certain domains, such as privatisation in real sector and reforms in business environment and public finance, Hungary in 1998 was ahead of Serbia today. However, the progress of Serbia’s society in the course of the first decade of this century is significant, despite the very low starting point. In 2000, Serbian GDP reached just one third of the GDP in 1990, while inflation was at the level of 111 per cent. Energetic reforms were carried out – first in financial and then in real sector, so that the economy recorded a high growth rate during the entire 2001-2008 period (on average 5.7 per cent annually), while *per capita* GDP was tripled and the average net income increased from 40 to 350 Euros. The inflation rate decreased to approximately 7 per cent. The total volume of foreign direct investments into Serbia reached the figure of 13 billion euros, representing the key factor of the robust economic growth. Let me mention, among others, Norwegian *Telenor’s* 1.6 billion euros investment in mobile telephony, US *Philip Morris’s* 600 million euros in tobacco industry, Austrian *Mobilcom’s* 570 million euros in mobile telephony, German *Stada’s* 480 million euros in pharmaceuticals, Belgian *Interbrewer’s* 427 million euros in a brewery and Russian *Gazprom’s* 400 million in oil industry. The banking sector is almost entirely in the hands of European banks (*Credit Agricole, Societe Generale, UniCredit Bank, Hypo Alpe-Adria-Bank, National Bank of Greece, Raiffeisenbank, Intesa San Paolo, Erste Bank*, etc.). The process of privatisation has been almost finished – at present, the state still owns electric-power industry, railway and some other infrastructure sectors. In the mobile phone sector, it owns 80 per cent of one operator, while two others (covering almost 55 per cent of the market) are owned by a Norwegian and an Austrian company. Due to the global recession, the sale of some companies, like the national airline company, has been postponed for a later date when a better price could be achieved. There are voices from the expert circles, to which I belong myself, who consider that the public sector in Serbia is still too large and that it should be further reduced in the years to come. As a positive example, I would mention that the indebtedness of the state is moderate (about 33 per cent of the GDP), while the budget deficit is, as a rule, below 2.5 per cent. To summarise: Serbia has accomplished all of the first generation reforms.

In 2009, the crisis did hit Serbian economy, but not so drastically as in some other states in Central and Eastern Europe. It is estimated that the GDP will fall by 3-3.5 per cent and that the unemployment rate will increase by 1 per cent point. The bad news is that unemployment reached the level of 14.5 per cent even before the outbreak of the crisis. As a matter of fact, the victory of the pro-European forces at the 2008 elections was based, to a large extent, on the belief that new investments would create prospects for new jobs. The liquidity of Serbian banking system has been maintained and Serbian banks are well capitalized and by and large profitable. Foreign exchange reserves remained stable during the crisis.

Due to the decrease of demand which caused a fall in economic activities and tax revenues, above all VAT revenues, the incurred budget deficit had to be financed partially by credits, and by the support from the European IPA funds, and partially by the reduction of public expenditures – first of all by the reduction of salaries in public sector and by laying off a number of employees. In response to the deepening recession, Serbia requested assistance from the IMF, and got an arrangement with it, as well as agreed to undertake a number of fiscal measures to reduce overall expenditure. There are first indications that the crisis in Serbia has hit the bottom. However, I assess that a way out of the recession can be expected in 2010, but the recovery will be rather modest.

Investments in infrastructure, financed by the credits of the World Bank, EBRD and EIB, Chinese and Russian governments, as well as by the budget funds, in the current and during the coming three years should not only connect Serbia, through the European corridor 10, with Hungary in the north, Bulgaria in the southeast, and Macedonia and Greece in the south, but it should also open tens of thousands of new jobs.

I shall let the Report of the European Commission of 14 October 2009 speak of the progress which Serbia has made in the political field towards meeting the Copenhagen criteria for EU membership – criteria which request the stability of institutions that guarantee democracy, rule of law, human rights, as well as respect and protection of minorities. I shall just make some short comments when necessary. I hope that you will not blame me for having to listen to the bureaucratic Brussels English for about five minutes: this is the price we pay for the sake of objectivity.

Serbia has made progress in meeting the political criteria and addressing key European partnership priorities. The government has demonstrated its commitment to bringing the country closer to the EU by undertaking a number of initiatives including the (unilateral) implementation of the Interim Trade Agreement. Cooperation with the International Criminal Tribunal for the former Yugoslavia has further improved, however ICTY indictees Ratko Mladić and Goran Hadžić are still at large. A number of initiatives were taken to consolidate democracy and the rule of law. However, further reforms are needed to ensure that the new constitutional framework is implemented in line with European standards, particularly in the area of the judiciary. Let me mention that by the end of 2009 a new network of courts of

justice will be established and about 2,500 judges elected throughout the country – from municipal courts to the Supreme Court of Cassation.

Parliament revised its rules of procedure and this has led to improvements in its work and the legislative process. Election legislation, however, has not yet been revised to bring it fully in line with European standards – namely, there still exists the practice that, once elected, a MP is required to put his/her blank resignation into an envelope and to forward it to his/her party's leadership, which is entitled to activate the resignation in cases of disobeying the party whip's instructions. Parliament has not sufficiently used its powers of oversight over the executive – the Supreme Audit Institution has been established but is still expected to produce its first audit reports.

The Commission's Report follows: The state government has demonstrated a high degree of commitment to European integration and has been active in preparing legislation across a range of areas and implementing a national programme on European integration. However, insufficient attention has been paid to effective implementation of existing laws and impact assessment. Planning of government work needs to be strengthened and greater coordination between ministries ensured.

The public administration has good overall capacity. The Serbian European Integration Office has been functioning well. However, administrative capacity on European integration within line ministries needs to be strengthened. Transparency, impartiality, professionalism and accountability have to be improved and greater priority given to fighting corruption and supporting the work of independent bodies. Independent and regulatory bodies function relatively well, within the constraints imposed by limited resources.

Serbia made progress in the fight against corruption. The law enforcement authorities have shown higher commitment to fighting corruption, leading to the arrests of several suspects, and a number of high-profile cases have been opened. Corruption, however, remains prevalent in many areas and continues to be a serious problem. Public procurement and privatisation are particularly vulnerable sectors.

The legal and institutional framework for human rights and the protection of minorities is in place and civil and political rights are broadly respected. However, existing constitutional and legal guarantees need to be fully enforced.

The Commission's Report follows: With regard to internal market, Serbia has made some progress in aligning its legislation and strengthening institutional capacities. There has been good progress in the field of free movement of goods; the adoption of new legislation on standardisation and conformity assessment has set the basis for further alignment with the *acquis*. Some progress was made in the field of consumer protection with the adoption of legislation on product safety and electronic trade. Serbia is moderately advanced in the areas of movements of persons, services and the right to establishment, while in the area of free movement of capital Serbia

needs to continue its efforts to fully liberalise current account transactions and lift restrictions on short term credit and portfolio investments.

Serbia has made good progress in the area of customs. The capacity of its customs administration was enhanced. Tax collection procedures have improved as have the enforcement capacities of the tax administration. Serbia has to further improve the collection of registered debts and to continue alignment in the area of excise duties and VAT.

Finally, some progress can also be noted in the field of social policies although the legislative framework needs to be developed further and the existing legislation properly implemented. There has been some progress in the field of public health policy, mainly in primary healthcare reform and disease prevention. Progress has been made in the areas of education and culture. In the area of science, research and innovation Serbia has made important efforts in promoting research cooperation and participating in projects under the Seventh EC Framework Programme for Research and Development. Serbia's preparations to join WTO are well advanced and a number of WTO compatible laws have been adopted.

To summarise: Serbia's performance as of late was portrayed rather fairly by the Commission's report.

As many other experts, I assess that, in the coming five years at least, we have to carry out radical reforms much more vigorously, with respect to pension insurance system, reduction of the public sector and promotion of rule of law. The position from which Serbia is approaching the submission of its candidacy for EU membership is significantly better than the one it was in when it entered the first stage of the transition nine years ago. As in most other situations in Eastern Europe, basic responsibility for the success of reforms rests upon political elite and, in general, upon the citizens of the state wishing to become "a member of the club". Allow me to quote Sir Winston Churchill: "It's not enough that we do our best: sometimes we have to do what's required." On the other hand, the EU's support to *potential candidate* and *candidate* countries alike is of paramount importance. This support does not only invigorate the pro-reform forces, but prompts the elimination of those vile voices from the past.

Let me end this lecture by pointing out my deep conviction that its heritage, its culture, its beliefs, and its history bind Serbia strongly to a constellation of nations that have established the European Union based on a common set of values deeply held and widely shared.