**JOINT DECLARATION**

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The EU-Serbia Civil Society Joint Consultative Committee (JCC) is one of the bodies set up within the framework of 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 **Ana Milićević-Pezelj**, member of the EESC and Executive Secretary of the Union of Autonomous Trade Unions of Croatia (SSSH), and **Boško Savković**, Secretary General of the Serbian Association of Employers.

The members of the JCC held consultations with CSOs from Serbia on enabling civic space and the state of democracy in Serbia. They discussed the state of play and the work ahead in Serbia's accession negotiations with the EU, as well as the rule of law and the functioning of democratic institutions and independent bodies in the country. The JCC took note of the state of social dialogue in Serbia.

# **State of play of EU-Serbia relations and the accession process**

## The JCC notes that, since the last meeting, Serbia has opened Chapter 9 (Financial Services), which brings the total number of chapters open to 17 (two of which have provisionally been closed). The JCC reiterates its call for increased efforts from the Serbian authorities towards meeting the benchmarks set for the opening and closing of the chapters, especially the interim benchmarks in the rule of law chapters (Chapters 23 and 24) and political criteria.

## The members of the JCC welcome the findings from the European Commission's "Serbia 2019 Report", accompanying the "2019 Communication on EU Enlargement Policy" published in May 2019. The JCC invites the Serbian authorities to analyse the findings from this report very carefully and to implement its recommendations.

## The JCC calls on the new European Parliament and the new European Commission to continue their support for the EU enlargement policy and to improve their toolbox regarding engagement with the Western Balkans. It also invites the upcoming Croatian Presidency of the Council of the EU to bring new impetus to the enlargement process at the EU-Western Balkans Summit, to be held in May 2020.

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## The JCC acknowledges with concern Freedom House's 2019 report describing the state of democracy in Serbia as "partly free" due to "deterioration in the conduct of elections, continued attempts by the government and allied media outlets to undermine independent journalists through legal harassment and smear campaigns, and President Aleksandar Vučić’s de facto accumulation of executive powers that conflict with his constitutional role". According to the World Press Freedom Index produced by Reporters without Borders, Serbia has fallen an additional 14 places (having already fallen 10 places in 2018 compared to 2017) and now ranks 90th in the world (out of 180 countries and territories). The members of the JCC were disappointed to observe that the report clearly states that "Serbia has become a place where practising journalism is neither safe nor supported by the state"[[1]](#footnote-1).

## The JCC calls upon the Serbian authorities and the EU institutions to address the elements of state capture identified in the 2019 Communication on EU Enlargement Policy. It reiterates its call on the EU institutions to monitor more effectively the reforms in the area of the rule of law in the EU candidate countries by commissioning independent analysis of mechanisms that endanger democracy and lead to the capturing of public institutions for political purposes[[2]](#footnote-2).

# **Rule of law and functioning of democratic institutions**

## The JCC expresses satisfaction that the current Finnish Presidency of the Council of the EU has held a thematic debate on the rule of law at the level of the General Affairs Council and that there are clear signs that the Commission's Communication "Strengthening the rule of law within the Union: a blueprint for action", produced in July 2019, will serve as a basis for new legislative and policy initiatives. The JCC invites the new European Parliament and the new European Commission to ensure substantial follow-up action regarding recent policy initiatives to strengthen the rule of law and fundamental rights in the EU, as well as in the Western Balkans.

## The JCC also expresses hope that, during the process of appointing the new commissioner responsible for enlargement policy, special attention will be paid to examining the candidate's ability to credibly promote the rule of law and fundamental rights. The JCC is pleased to learn about new monitoring initiatives on the part of the European Commission in the area of judicial reform and anti-corruption in the enlargement countries, such as justice surveys and a new justice dashboard methodology, which should provide a more thorough insight into the actual quality of reforms.

## The members of the JCC echoed the EESC's viewpoint, as emphasised in its opinions and the reports of its Permanent Study group on Fundamental Rights and the Rule of Law, that it is important to establish a new annual reporting mechanism on the rule of law and fundamental rights that would bind all EU Member States, and that the protection of the rule of law and fundamental rights should be adequately financed in the new EU budget. The JCC stressed that only by consistently addressing challenges within its Member States can the EU act as a credible and staunch promotor of the rule of law in Serbia's EU accession negotiations.

## The members of the JCC agree with the European Commission's assessment in the Serbia 2019 Report that the polarised political scene in Serbia is having a negative impact on the work of democratic institutions, in particular the parliament. They also agree that there is an urgent need to create space for genuine cross-party debate and conditions for meaningful participation by the opposition in the parliament. The JCC welcomes the recent efforts of the Faculty of Political Science of the University of Belgrade and several Serbian NGOs, as well as the European Parliament, to facilitate dialogue between the ruling coalition and the opposition, and it encourages the continuation of these mediation and dialogue mechanisms. The aim of the dialogue should be to achieve an operational and binding agreement on the measures aimed at fully implementing the ODIHR's recommendations on the election process, at least six months prior to the elections.

## The members of the JCC are worried about the trend of abuse of public office by representatives of the executive during the electoral campaigns in Serbia and the lack of reaction from the relevant state institutions (Anti-Corruption Agency, prosecution, Regulatory Authority of Electronic Media). It calls for the urgent implementation of recommendations from the ODIHR and national CSOs on improving the legal framework for conducting elections and electoral campaigns, particularly all the recommendations on the separation of party and state, well ahead of the next parliamentary elections that are scheduled to take place in 2020. The JCC suggests that the Government of Serbia and the EU invite the ODIHR to publish its opinions regarding all suggested changes to electoral legislation, and to publicly release its assessment regarding the fulfilment of the ODIHR's recommendations from previous election processes, based on consultations with relevant national CSOs.

## The JCC reiterates its concern regarding the recently adopted Personal Data Protection Act, since it does not provide guidance on its implementation and introduces a number of unjustified exceptions regarding the privacy of data collected by security institutions. The JCC once more condemns irresponsible handling of private data by public authorities and the unauthorised leaking of sensitive personal data of citizens, CSOs, media and trade union activists who call attention to problems concerning governance.

## The JCC calls upon 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 due time, thus enabling Serbian citizens, journalists, independent experts and human rights activists to take part in the democratic oversight of the government-led reform processes.

## Concerning the strategic framework for public administration reform, the JCC once more recommends that the Serbian government start consultations with CSOs on strategic documents as early as possible, and that it advertise these consultations widely, in order to give an opportunity to all interested CSOs to participate in them. It should also provide publicly available reports on these consultations, clearly addressing all inputs received, in line with the newly adopted law on the planning system. Concerning policy development and coordination, the JCC recommends that the Serbian government fully implement the law on planning systems, which introduces mechanisms for regular public consultations – even early on in the policy-making process – when preparing reforms and legal proposals.

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## The JCC notes that the Serbian government has taken some steps towards addressing the problematic practice of appointing and reappointing acting managers to senior civil service positions. The JCC asks the Serbian government to ensure that the state administration is depoliticised further, especially with regard to the hiring of new staff.

# **Independent bodies in Serbia**

## The members of the JCC insist upon full respect for the independence of the judiciary and other institutions that are responsible for maintaining the rule of law, fighting corruption and respecting fundamental rights. They express concern that the amendments proposed by the Serbian government to the Constitution of the Republic of Serbia will not create the preconditions for an independent judiciary, free from political influence, and condemn the attacks by high-level politicians and pro-government CSOs on professional associations of lawyers, judges and prosecutors who have criticised these proposed amendments. The JCC stresses that constitutional amendments should allow for merit-based judicial recruitment and careers and therefore the institution in charge of appointing, promoting, training, organising and disciplining judges should be independent and efficient, and composed of members who are free from political interference, including from the legislative and the executive.

## The JCC is in full agreement with the assessment of the European Commission's Serbia 2019 Report that the role of independent bodies in Serbia needs to be urgently guaranteed and supported and that independent regulatory bodies need to be empowered to exercise their monitoring and oversight role proactively, effectively and at full capacity (e.g. appointment of members of the board of the Anti-Corruption Agency and deputy Protector of Citizens). It agrees that the role of independent bodies needs to be fully acknowledged, their recommendations followed up appropriately, their capacities strengthened, including their budgets and staff, and their functional independence guaranteed in practice.

## The members of the JCC once again invite the Serbian authorities to secure the conditions for the independence of the Regulatory Authority of Electronic Media (REM), as well as other independent regulatory bodies and associations of liberal professions, and to ensure the implementation of their decisions. They point out that the independence of the REM needs to be strengthened to enable it to safeguard media pluralism and to effectively tackle hate speech and discriminatory terminology.

## The JCC calls on the Serbian government to complete the procedure for amending the law on the Protector of Citizens and for the newly adopted law on the prevention of corruption to be properly implemented in a way that does not decrease the existing level of protection. The JCC stresses that the role of the Anti-Corruption Agency, as a key institution for more effectively fighting corruption, needs to be strengthened. Moreover, the agency needs to have a more robust mandate when it comes to identifying and preventing corruption and carrying out its obligations in a timely fashion in terms of monitoring the way that parties and election processes are funded. It invites the Serbian authorities to cooperate with and respond to the Agency's reports and instructions as provided for under the law.

## The JCC acknowledges some progress in the reduction of the use of urgent procedure and once more invites the Serbian government to clarify the conditions under which laws could be passed using an urgent procedure.

## The JCC notes that the Serbian Parliament has finally discussed the Ombudsman's annual report in its plenary, as well as those of other independent bodies; however, it is not pleased with the quality of the debate or the lack of obligation to implement their recommendations. The JCC reminds the Serbian authorities of the key role the Ombudsman plays and of their obligation to address and implement his recommendations. It notes with concern that NGOs participating in the national preventive mechanism feel that cooperation with the Ombudsman's office has decreased in recent years.

## Regarding the draft proposed amendments to the Law on Free Access to Information of Public Importance, the JCC calls upon the Serbian government to enable free access to information for citizens, without unnecessary restrictions (in terms of labelling information as classified or restricting its access when it comes to state-owned enterprises, the Treasury and the National Bank of Serbia).

# **Enabling civic space and the state of civic dialogue in Serbia**

## The JCC shares the European Commission's assessment in the Serbia 2019 Report that no progress was made towards establishing an enabling environment for the development and financing of civil society and that further efforts are needed to ensure systematic cooperation between the government and civil society.

## 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.

## The JCC calls upon the Serbian Government to adopt and implement the new Media Strategy in a transparent manner, without unnecessary delay, addressing all key concerns highlighted by independent journalists' associations. The JCC welcomed the recent establishment by representatives of 20 CSOs of the Three Freedoms Platform for the protection of civic space in Serbia, in order to protect and promote freedom of association, assembly and information.

## As far as the legal framework for enabling civil society is concerned, the members of the JCC reiterate their recommendations from the previous meetings regarding a pending need to adopt a new national strategy for ensuring an enabling environment for CSOs and an accompanying action plan, as well as improvement with regards to freedom of association and freedom of assembly, volunteering, charity development and public funding for CSOs.

## When it comes to the institutional framework for participation in decision-making processes, the members of the JCC reiterate the need for improvement in terms of strengthening mechanisms for cooperation with civil society and enforcing obligatory common standards for the effective inclusion of CSOs in consultation processes in public institutions.

# **The state of social dialogue in Serbia**

## The members of the JCC reiterate the need for Serbian authorities to conduct genuine, and not merely formal, tripartite social dialogue within the Social and Economic Council (SEC), as well as 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. The JCC invites social partners to cooperate closely with the EU Delegation in Serbia, as well as directly with the EU institutions.

## The members of the JCC agree with the assessment of the European Commission's Serbia 2019 Report that social dialogue in Serbia remains weak, in particular regarding the involvement of social partners in policies relevant to economic and social development. The JCC once again invites the Serbian authorities to focus, in close cooperation with the social partners and other CSOs, on structural reforms in the area of social policy, tax systems, education and employment, with the aim of reducing poverty and inequalities, which are still extremely high in Serbia. When adopting key reforms and legislation, the JCC reminds the Serbian authorities of the importance of conducting quality debates and analysis within the Serbian Parliament.

## The members of the JCC stress that early inclusion of social partners in the drafting of laws with line ministries is needed in order to increase the quality of information and enable a discussion of greater quality within the SEC. They stress that the recommendations and opinions of the SEC should also include those opinions that are not in agreement with the majority position, in order to allow the members who voted against or abstained to express their views to the relevant decision-makers. The JCC asks for law proposals debated by the SEC to be accompanied by recommendations and opinions from the SEC when submitted to the parliament.

## The JCC emphasises that social dialogue is, first and foremost, carried out by the social partners. Nevertheless, others may be included in it in an appropriate way. Whether via committees or broader social forums, social dialogue could include representatives of the academic community, NGOs, expert groups, professional associations, and organisations for unemployed people, self-employed people and consumers, all of whom have the interest and knowledge to make the transition process more efficient, transparent and as fair as possible. The representatives of these institutions/organisations could participate without voting rights in the work of specialised standing committees.

## The members of the JCC stress the need to strengthen collective bargaining as a *sine qua non* condition for effective tripartite social dialogue, especially in the private sector. They invite the SEC to discuss, at least once a year, the state of collective bargaining in Serbia as well as the status and implementation of collective agreements at different levels.

## The JCC invites the prime minister and ministers that are members of the SEC to actively participate in the work of the SEC and to attend the sessions, particularly those discussing the freedom of the trade union association, the exercise of workers' rights and other matters of interest for the advancement of economic and social development. The JCC emphasises the responsibility of the Serbian government for the functioning of effective bipartite and tripartite social dialogue.

## The JCC once again highlights the role of the social partners in digital transformation and calls on the Serbian authorities to include them in a better and more effective way, including through collective agreements, in the policy-making process. The members of the JCC stress that social dialogue will be of crucial importance in the efforts to alleviate the effects of the digital revolution on the future of work and labour relations. The JCC calls once again on Serbian authorities to gradually adapt their labour and social legislation, in close cooperation with the social partners, to the digitalised society.

## 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.

## The JCC agrees that the Copenhagen political criteria for accession should become a permanent part of the JCC's meeting agenda, along with ensuring an enabling environment for civil society.

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The next JCC meeting will be held in Brussels in February 2020 (tentative date 28 February).

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1. <https://rsf.org/en/serbia> [↑](#footnote-ref-1)
2. A good example for such a mechanism could be the "Priebe report" from 2015, which helped to overcome the serious situation in North Macedonia. For more information, see: [↑](#footnote-ref-2)