



EU Split on Fast-Track Serbian Membership

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As Commission appears to ease up on war crimes, others are voicing alarm. By Anna McTaggart, with Aleksandar Vasovic in Belgrade and Gjeraqina Tuhina in Brussels (Balkan Insight, 16 March 2007).

Divisions within the European Union on how to deal with Serbia have surfaced. While the Commission and some member states look eager to speed up Belgrade's membership bid, others are angered by what they see as undue leniency.

Sources in the EU's Council of Ministers have told Balkan Insight they were furious with the enlargement commissioner, Olli Rehn, for saying on March 6 that candidate status for Serbia in 2008 was "ambitious but under the best conditions it can be possible".

Rehn's statement broke with the EU's earlier line, which held that countries first need to sign an association agreement with the bloc before there can be any talk of applying for membership.

Owing to Belgrade's failure to hand over key war crimes suspects, Serbia has yet to begin this formal process of EU integration. Last year, Brussels froze talks on a preliminary Stabilisation and Association Agreement, SAA.

But following a meeting last week between Serbia and representatives of the EU Presidency, Council and Commission, prospects of reopening talks with Serbia on an SAA were looking up. In an apparent climb-down, the Commission in particular emphasised the need to see Belgrade's "commitment" to delivering General Ratko Mladic and the others to the International Criminal Tribunal for the former Yugoslavia, ICTY, rather than the actual handover of the suspects.

Following the EU Troika meeting in Brussels, Rehn offered new incentives to Serbia, openly discussing an accelerated schedule for membership candidacy, as well as tailored standards for judging the war crimes cooperation necessary to conclude an SAA.

"We have outlined certain benchmarks that are needed in order to get things moving again," Rehn said after meeting with Serbian president Boris Tadic, naming "a clear commitment in the new government's programme on arresting and transferring remaining fugitives".

Referring to negotiations to produce a ruling coalition ongoing in Serbia since parliamentary elections held on January 21, Rehn recommended that "the competent authorities be well coordinated... [meaning] .. that Serbia would provide [the ICTY with] full access to documents from the first day of the new government".

The emollient tone of his message raised alarm bells in the prosecutor's office at the ICTY.

"It remains to be seen what these benchmarks mean but the language is certainly worrying," said its spokesperson, Olga Kavran.

"Cooperation with Serbia has for some time been practically at nil so a lot would have to happen," added Kavran. "The status quo is unacceptable."

War crimes experts are worried about what they see as signs of a softer approach being adopted over Serbia's obligations to deliver genocide suspects.

On March 14, the ICTY's chief prosecutor, Carla de Ponte, also condemned the international community's "muted" response to a ruling last month by the International Court of Justice.

This found Serbia guilty of failing to prevent genocide in Bosnia and Herzegovina in 1995 and ordered it to arrest Mladic, the alleged architect of the massacre at Srebrenica.

The diverging European responses highlight the various different approaches now being adopted towards Belgrade.

While all EU member states and institutions are keen to bring Serbia back into the integration process, thus encouraging stability, democratic reform and better regional economic integration, they are split on how far they should go in bending previously agreed rules.

The Copenhagen criteria, demanding democracy, respect for human rights and a market economy, remain the EU's benchmark in handling would-be member states, with the Stabilisation and Association process acting as a milestone for countries of the Western Balkans.

To date, signature of an SAA has been an essential step before candidacy and negotiations can be considered.

"It is ridiculous to talk about candidate status if we do not even have SAA agreement," one Council official told Balkan Insight. "Once we have an agreement signed and in place, then we will talk about the possibility of candidate status for Serbia."

Moreover, the Netherlands, Belgium and France have made it clear they will not back down on the war crimes issue as a precondition to SAA negotiations.

Other countries are more ambiguous, however. Britain, which was unflinching on war crimes when it came to Croatia's SAA and candidacy, has been noticeably quiet in applying the same criteria to Serbia.

Italy and Slovenia have also not disguised their readiness to take a more pragmatic approach, based on recognition of Serbia's territorial problems over Kosovo and its generally tortured reform process.

"There is clearly no consensus on removing ICTY conditionality," said Judy Batt, senior research fellow at the Paris-based Institute for Security Studies. But "all member states are very keen to see Serbia resume SAA negotiations, creating momentum for an alternative track for the country", she went on.

Advocates of a more flexible approach hope it will kick-start new talks and allow Serbia to submit a candidacy application as early as next year.

Vladimir Gligorov, of the Vienna Institute for International Economic Studies, said if SAA talks resume quickly, "the agreement could be signed soon and candidate papers submitted during Slovenia's [EU] presidency". He added, "Slovenia is backing Serbia's membership aspirations."

Serbian analyst Nebojsa Spaic also sees recent statements as "a goodwill gesture aimed at preserving democratic political structures [in Serbia] and making a small concession over Kosovo".

Kosovo is a factor in the EU's calculations. There are hopes in Brussels that reasserting the EU's commitment to Serbian membership will act as a counterweight to the imposition of a solution on the province's final status that Serbs oppose.

Another factor behind the softening of the EU's approach on Serbia is the failure so far to achieve concrete results.

The decision to make cooperation with the Hague tribunal pivotal worked with Croatia. When ratification of its SAA and start of negotiations were postponed over failures to hand over a Hague fugitive, Zagreb took determined and successful steps to track down General Ante Gotovina.

But conditionality has not had the same effect in Serbia. The key indictee, Mladic, remains at large, and in all other areas of ICTY obligations, Serbia has practically refused to cooperate.

"Our requests for assistance, such as the delivery of documents, have been a long time in being met, with any response piecemeal and very difficult to extract," said Kavan. "We have had nothing at all on the arrest of five fugitives who we believe are in Serbia's jurisdiction."

This stalemate has left Serbia lagging behind much of the Western Balkans when it comes to EU integration, leading some to advocate a change in tactics.

"The problem of the current approach is that it ignores the potential of conditionality to change a whole system," said Gerald Knaus, of the European Stability Initiative, a think-tank that advocates wider European integration.

"That only comes with candidacy and the pre-accession phase," he added. In comparison, Knaus says the SAA "has a very limited ability to inspire real change, because its limited economic provisions are already long implemented through other mechanisms, and they engage only a handful of civil servants".

Knaus believes the issue of war crimes justice might be better tackled by shifting conditionality to the negotiation phase. This would at least allow Serbia to start screening its system for compatibility with the EU's *acquis communautaire*, and offer it a real perspective of membership. "Otherwise, the country and its administration will remain reluctant to cooperate," he maintained.

Similar concerns for the continued engagement of Serbia were clear in Rehn's recent statements. Speaking to journalists several days after the Troika meeting, he characterised the Commission's moves as "fair play", rather than "appeasement", stressing the importance that the EU show it is "consistently committed to a European perspective for Serbia".

Many are frustrated by Serbia's current position because from an economic and administrative point of view, it is in a good position to negotiate membership.

Sources in the Commission have told Balkan Insight that the only thing blocking Serbia's progress is the political element.

"If they move really fast, 2008 as a target date for gaining candidate status is not impossible," said one official.

With contacts ongoing between the EU and Serbia, even if negotiations are not formally underway, an SAA could be concluded in a matter of weeks.

"As far as we are concerned we are ready to resume talks tomorrow," said Srdjan Majstorovic, deputy head of the Serbia's EU integration office.

"The administration has the capacity to do that, as the EU Commission noted in its annual report, and I believe talks can be completed within two months."

However, even the most flexible approach is unlikely to bear fruit unless Serbia quickly forms a government that then demonstrates at least a basic desire to cooperate with the ICTY.

"The EU can certainly be flexible on how and when conditions are met but integration presumes the capacity of states to meet certain conditions - values as well as the 'acquis' - and so it can't go forward on the basis of some states applying the rules and some not," explained Batt.

In his pronouncements on Bosnia and Herzegovina's EU integration progress, Rehn has taken a markedly harsher tone.

On March 14, he said the EU would "not conclude SAA negotiations [with Bosnia and Herzegovina] before

concrete progress has been made on key conditions, especially on police reforms and cooperation with the war crimes tribunal”.

Rehn complained that Bosnia and Herzegovina’s reform agenda had “stagnated and the political climate turned sour, leading to nationalist rhetoric and tensions. Frankly, we’ve had enough”.

Knaus agreed that if the idea gained currency that Brussels was offering Serbia a form of special treatment, the results would be “devastating”.

But rather than holding back on Serbia, he believes candidacy ought also to be offered to Albania, Bosnia and Montenegro.

In the meantime, the formation of the new government in Belgrade remains crucial if Serbia is to make real progress with EU integration.

“If new people enter the government, if it reasserts its willingness to apprehend Mladic, and if they do this with a clear timeframe, the talks can resume,” said Vladimir Gligorov.

The failure of the outgoing government to take any meaningful action on Mladic means that Serbia’s foreign partners now expect significant personnel changes in relevant government departments. “If there is no change, the case for Serbia will be significantly weakened,” said Batt.

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